

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

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10

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**DAY 212**

20

**PROCEEDINGS RESUME ON 12 FEBRUARY 2020**

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

**ADV KATE HOFMEYR:** Good morning Chair.

**MS MEMELA:** Thanks. Are you ready?

**ADV KATE HOFMEYR:** Yes we are indeed Chair.

**CHAIRPERSON:** We have to make progress today.

**ADV KATE HOFMEYR:** Yes.

**CHAIRPERSON:** We just have to make progress today. Okay. Ms Memela you are still under oath let us get going.

10 **ADV KATE HOFMEYR:** Thank you Chair.

**MS MEMELA:** Thanks Chair.

**ADV KATE HOFMEYR:** Chair during the hearing yesterday afternoon Ms Mbanjwa interjected at a point to raise a concern that I had deliberately failed to read out to Ms Memela an exculpatory part of Ms Mbeki's affidavit. And you will recall that I responded at the time to say that the transcript would show.

**CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** That contrary to Ms Mbanjwa's accusation I had in fact read out the final sentence of that part of Ms Mbeki's affidavit.

20 Chair the accusation is not only one that impugns my integrity as an evidence leader in this commission but it also casts a shadow on the processes of the commission. Because the nub of the accusation is that there are evidence leaders in this commission who deliberately fail to put relevant exculpatory parts of the facts available to it to a witness who is being questioned. And it is for that reason that I address it this

morning Chair. Chair you have said many times before in these proceedings that the evidence leaders of this commission are not here to prove a case. That it is our role to enable the commission to conduct its fact finding mission. Chair the commission has many tools available to it to do that. It has compulsion powers. It can summons documents and witnesses and testify before it. It has an extensive investigative arm that tirelessly pursues lines of investigation and analysis teams. Chair evidence leaders in this commission have a single tool with which to do their work and that is in the questions that

10 we put to witnesses. Chair those questions I submit must be designed to uncover the truth and as a result the questioning will at time be robust. It will involve taking witnesses to documents when documents do not bear out the evidence that they are giving. It will involve pointing out contradictions in a witness' testimony. And it will also involve taking witnesses to the versions of other persons where those versions are distinct or contradict the version of the witness. Sometimes those versions will be uncomfortable but they must be put when they are directly at odds with what the witness is saying in the testimony. But the one thing Chair that an evidence leader should

20 never do in their questioning is deliberately fail to put relevant exculpatory information evidence to a witness that they are questioning. It is – that was the charge that was made against me yesterday. It was serious and Chair it was patently false. And I say that because I am going to now hand up the copies of the transcript of yesterday. I will make available copies to my learned friends – I –

Chair I am not paginating them they are the transcripts.

**CHAIRPERSON**: Yes no that is fine. Ja.

**ADV KATE HOFMEYR**: And I will just direct you to the relevant parts.

Chair the excerpt from the transcript begins at page 161 of 217 pages.

You can see that it was a long day on the basis of the total number of pages.

**CHAIRPERSON**: Yes.

**ADV KATE HOFMEYR**: But where we pick it up is at line 10 because that is where I begin to quote from Ms Mbeki's affidavit. And at that  
10 point I was reading into the record and for Ms Memela's benefit what Ms Mbeki had said at paragraph 25 of her affidavit. You will see the transcript includes that entire paragraph that I read in and then if you go over the page to page 162 you will see at line 9 at page 162 I read in the very sentence that I was accused of deliberately having failed to read in. That sentence was the sentence where Ms Mbeki in her affidavit said:

20 "I admitted that I indeed had been alerted by the team that a lot of the issues that I was raising were already raised, discussed and resolved the previous day."

Chair I take it that that puts the matter to rest and we can proceed with the questions.

**CHAIRPERSON**: Yes. Yes. Ms Mbanjwa did you – do you see that?

**ADV LINDELWA MBANJWA**: I see it Chair and I withdraw. And I thank my colleague for pointing it out.

**CHAIRPERSON:** Hm.

**ADV LINDELWA MBANJWA:** And the reason was not because there was any malice on my part it is because of the questions and cross-examinations that followed.

**CHAIRPERSON:** Hm.

**ADV LINDELWA MBANJWA:** Which made me then assume that. Although there was an exculpatory line that is the bottom line the concentration was on the middle.

**CHAIRPERSON:** Hm.

10 **ADV LINDELWA MBANJWA:** Fair enough I apologise to Ms Hofmeyr.

**CHAIRPERSON:** Hm.

**ADV LINDELWA MBANJWA:** But the reason was because of the line of questioning.

**CHAIRPERSON:** Hm. Okay alright.

**ADV LINDELWA MBANJWA:** As it pleases.

**CHAIRPERSON:** Thank you. Well I just say that it should take quite something before one colleague accuses another of deliberately doing something wrong. Sometimes it is oversight but one would expect that when one says deliberately one has double checked. But the issue has  
20 been sorted out, you have apologised, you have withdrawn. That is the end of the matter.

**ADV LINDELWA MBANJWA:** Thank you Chair. Once more I understand your point and I ..[not speaking into the microphone]

**CHAIRPERSON:** Yes. Yes no that is fine. Thank you.

**ADV KATE HOFMEYR:** Thank you Chair.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** Ms Memela we concluded yesterday's evidence when we were looking at the cash position of SAAT at the time that they were being asked to make this payment of the 4.1 million US Dollars to AAR. And we were at that point in Exhibit DD22G. And the relevant page is 3188.

**MS MEMELA:** 31?

**ADV KATE HOFMEYR:** 3188.

**MS MEMELA:** 88. I am here Chair.

10 **ADV KATE HOFMEYR:** Thank you. So just before we got to the cash position yesterday we had been looking at certain correspondence in April of 2017 just to orientate you and that was where after a flow of emails you wrote back to the SAAT team to indicate to them that according to the contract those were the opening words of your first paragraph of your email SAAT was required to pay this deposit and then you went into explaining how there had been negotiations around staggering that payment. It did not have to be all three months at once. There would be one month and then follow ups. But what the emails in May indicate is that that had still not been adequately  
20 addressed by May. And so there were follow ups – follows up from AAR and where I would like to pick it up is at page 3188. There is an email there sort of third of the way down from yourself to Ms Mosese, Mr Eria and Mr Vosloo. And you say there:

“Dear Makgotso thanks so much for the feedback  
hopefully the payment was made yesterday as you

instructed.”

And then you say:

“Under security deposit? How far are we with that?”

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** And then if you go back a page. Actually it is two because this is a strange way in which the flow has been placed in the bundle but the next follow up is at 3183.

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** If you go all the way back to 3183. There is  
10 some interchange around emails from AAR talking about them – year end and the need for them to have the payment before that.

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** And then at the top of page 3183 you will see Mr Eria writes to you.

**MS MEMELA:** Are we – sorry Chair are we in 3813 now?

**ADV KATE HOFMEYR:** 3183

**CHAIRPERSON:** Yes.

**MS MEMELA:** 3183

**CHAIRPERSON:** Ja 3183 – 3183.

20 **MS MEMELA:** Okay.

**ADV KATE HOFMEYR:** You will see Mr Eria there at the top of the page on the 4 May 2017.

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** Says the following to you.

“Hi Nontsasa we are committed to pay the 431 May

2017 both BPTH and the second third of the deposit.  
However I cannot say how the group cash position  
would be at that time. By end May 2017 we would  
have paid”

I think he is wanting to say:

“What we would have paid would be 67% of the  
deposit not 75% as requested. Considering our cash  
situation this is the best we can do. I hope they will  
understand.”

10 **MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** And then that is then followed up at 3181.

**MS MEMELA:** 3182?

**ADV KATE HOFMEYR:** 3182 yes would you like to – oh yes because  
you then forward it to Mr Price and you – that is an AAR person, is that  
right?

**MS MEMELA:** Yes.

**ADV KATE HOFMEYR:** And you say:

“Dear Nick below is the response from our CFO  
please consider.”

20 Mr Price comes back above that page again still on the 4 May and  
thanks you for coordinating this and the payment up to 67% of the  
deposit plus the PBH invoice is agreed.

“The only final ask from me is relating to when the  
payment is made. The end of May is our financial  
year end it must be received in time for that. Could



you ask for the payments to be made by the 21 May so that we are assured the funds will be received before the end of the month? Many thanks for your continued support and progress of this issue.”

And then at 3181 at the bottom of that page Ms Memela you write to Mr Eria again.

“Hi Dev. Their last request their last request is the date of payment do you think we can adhere to this date?”

10 **MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** And then Mr Eria responds on the 5 May to yourself and says:

“Hi”

Well it is to yourself but also to Ms Mosese and he says:

“Hi Makgotso please out from SAAT Treasury how many days it takes for the funds to reach...”

Apologies Chair.

**CHAIRPERSON:** I have lost you or you have lost me.

**ADV KATE HOFMEYR:** No it is because I am going so fast.

20 **CHAIRPERSON:** The problem is that with these emails sometimes you have got to go

**ADV KATE HOFMEYR:** Back.

**CHAIRPERSON:** Forward

**ADV KATE HOFMEYR:** I know.

**CHAIRPERSON:** Sometimes you have to go back.

**ADV KATE HOFMEYR:** Chair and you know as I was doing it I was realising it was too fast but it is my effort to move swiftly today.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** Chair we are now at 3181.

**CHAIRPERSON:** Oh okay.

**ADV KATE HOFMEYR:** That is where I might have lost you.

**CHAIRPERSON:** Well I was still at 3182.

**ADV KATE HOFMEYR:** Yes indeed. So let us just recap.

**CHAIRPERSON:** Okay.

10 **ADV KATE HOFMEYR:** Because I was going too fast.

**CHAIRPERSON:** Ja.

**ADV KATE HOFMEYR:** At 3182 Ms Memela has forwarded the response from Mr Eria to the AAR representative because now the issue is when are they going to be able to get the payment through. And the AAR representative thanks Ms Memela for forwarding it and they explain why they need the payment early because of their financial year end.

**MS MEMELA:** Ja.

20 **ADV KATE HOFMEYR:** And then at page 3181 Ms Memela sends an email to Mr Eria, Ms Mosese and Ms Mthembo and says:

“Hi Dev their last request ...

This is at the bottom of the page Chair.

“Their last request is the date of payment. Do you think we can adhere to this date?”

And above that is Mr Eria’s response on the 5 May 2017 to Ms Memela

and Ms Mosese. He says:

“Hi Makgotso please find out from SAA Treasury how many days it takes for funds to reach AAR’s bank account after we affect the EFT. Considering our cash position I would like to pay as late as possible so that they can get the money by the 30<sup>th</sup>.”

Ms Memela do you recall being involved in that chain of correspondence at the time?

**MS MEMELA:** I recall.

10 **ADV KATE HOFMEYR:** And do you accept that at the time that SAAT was required to make this payment it had an impact on the cash position of SAAT?

**MS MEMELA:** Do I understand it?

**ADV KATE HOFMEYR:** Yes.

**MS MEMELA:** That it had an impact?

**ADV KATE HOFMEYR:** Do you accept that it did?

**MS MEMELA:** Chair I promised yesterday.

**CHAIRPERSON:** Please keep to your promise.

**MS MEMELA:** Ja.

20 **CHAIRPERSON:** Yes. You say yes I accept or no I do not accept and [indistinct].

**MS MEMELA:** No I do not accept and – yes.

**CHAIRPERSON:** Ja okay.

**ADV KATE HOFMEYR:** And why is that?

**MS MEMELA:** Remember the question yesterday was about the

guarantee right that what was my understanding if like we were to give the guarantee versus the cash right. And I said because I do not have a financial background but the understanding of a guarantee is that even if SAAT were to give a guarantee that is my understanding now is that there should be money that is put there by SAAT regardless. So there is no difference anyway. In terms of like the cash – cash – given cash to AAR and then SAAT having cash at the bank and sending the guarantee. That cash still belongs to SAAT. So that is my understanding regardless of the fact that I did say that I do not have  
10 the financial background. This is something that should be answered by a finance person.

**CHAIRPERSON:** Ja but she just wanted your own.

**MS MEMELA:** Okay.

**CHAIRPERSON:** Understanding.

**MS MEMELA:** For me it does not make any difference Chair.

**CHAIRPERSON:** Ja.

**ADV KATE HOFMEYR:** Do you understand how the draw down was going to work if all that had been provided was a guarantee?

**MS MEMELA:** Do I understand if the – what the draw...

20 **CHAIRPERSON:** The draw down.

**ADV KATE HOFMEYR:** How the draw down would have worked?

**MS MEMELA:** I do not.

**ADV KATE HOFMEYR:** Let me explain it from the provisions of Clause 4.26 of the contract. You will recall that when we looked at it yesterday Clause – I understand we need to go to Clause 4.26.

**CHAIRPERSON:** Yes okay.

**MS MEMELA:** Is it the same file?

**ADV KATE HOFMEYR:** No. It is in DD22F.

**CHAIRPERSON:** I do not propose to go there.

**MS MEMELA:** Yes me too Chair.

**CHAIRPERSON:** But when you read it I will – ja.

**MS MEMELA:** Ja. I am fine.

**CHAIRPERSON:** Ja.

**ADV KATE HOFMEYR:** You are happy oh good.

10 **MS MEMELA:** It is just like I mean the clause says.

**CHAIRPERSON:** Yes.

**MS MEMELA:** Ja.

**CHAIRPERSON:** Ja.

**MS MEMELA:** But if she – she wants to go there she can. I am okay with that.

**CHAIRPERSON:** Ja.

**ADV KATE HOFMEYR:** Certainly. So all I am going to do is paraphrase the clause but in anyone wants to be looking at it at the same time it is in DD22F at page 2325. So what the clause provided  
20 for was payment of the deposit by way of an irrevocable standby letter of credit from the bank. And what the clause went on to say was that must be given to JM and AAR and as and when there are any late payments by SAAT under the agreement. Then what AAR is entitled to do is draw down off the strength of the letter of standby credit from the bank that amount to make up the late payment. And it is followed up

because there is an obligation on the part of SAAT to make good any draw down which is then taken from the basis of the standby letter of credit from the bank. And that is the reason why I say there is a completely different situation from a cash flow perspective for SAAT when it has to pay over – over three months in 2017 4.1 million US Dollars which we were told at the time by Mr Human was around R60 million as compared with a letter of credit sitting only able to be accessed by JM and AAR in the event of late payment.

**MS MEMELA:** So Chair I do not know if I understand Ms Hofmeyr properly. I think she was explaining to me so that I understand. The letter of credit.

**CHAIRPERSON:** Yes.

**MS MEMELA:** Will just sit there with no money – sitting at the bank.

**CHAIRPERSON:** No she is not saying that.

**MS MEMELA:** Oh okay.

**CHAIRPERSON:** She is says – she says if there is a letter of credit.

**MS MEMELA:** Hm. It gives assurance.

**CHAIRPERSON:** Ja but she says the way it is going to work is that AAR will not have access to that.

20 **MS MEMELA:** Hm.

**CHAIRPERSON:** Unless there is a late payment.

**MS MEMELA:** There is – ja. Yes.

**CHAIRPERSON:** If there is no late payment.

**MS MEMELA:** It will sit there.

**CHAIRPERSON:** Ja.

**MS MEMELA:** Hm.

**CHAIRPERSON:** Okay.

**MS MEMELA:** Okay.

**CHAIRPERSON:** Whereas if you give them cash you have given them cash before there is any need.

**MS MEMELA:** Before there is any...

**CHAIRPERSON:** Ja.

**MS MEMELA:** Okay I get it.

**CHAIRPERSON:** Ms Hofmeyr.

10 **ADV KATE HOFMEYR:** Thank you Chair.

**CHAIRPERSON:** Is that right?

**ADV KATE HOFMEYR:** Indeed Chair I am indebted.

**CHAIRPERSON:** Okay alright.

**MS MEMELA:** Thank you Chair. It is clear.

**ADV KATE HOFMEYR:** Given that contrast do you accept then that it is more onerous on SAAT to have to pay over in three tranches in 2017 R60 million than a situation in which AAR only has access to that money in the event of late payment by SAAT of invoices.

**MS MEMELA:** Chair I will put it this way.

20 **CHAIRPERSON:** Ja.

**MS MEMELA:** It was not onerous to SAAT.

**CHAIRPERSON:** Yes.

**MS MEMELA:** To pay that amount.

**CHAIRPERSON:** Ys.

**MS MEMELA:** Because remember failure to pay that amount would

bear consequences to SAAT.

**CHAIRPERSON:** Hm.

**MS MEMELA:** SAAT their function is to service aircrafts.

**CHAIRPERSON:** Yes.

**MS MEMELA:** And servicing aircraft like you use the spares that is supposed to be provided by AAR. And like SAAT not paying that amount of money AAR like had that – what you call – entitlement to keep or not give us the like the component so that we can work on the aircraft.

10 **CHAIRPERSON:** Hm.

**MS MEMELA:** And that causes an aircraft on the ground which department that gets blamed if the aircraft is on the ground is procurement. They will always say Nontsasa because she is not a technician she does not understand these things. We do not understand why she is sitting at procurement anyway. And it would start there from the failure to pay. So that is why you see when she is reading all these emails I understand the – like she is trying to make everybody understand but like I mean another person would interpret it as Nontsasa as pushing so hard for AAR to pay only to find out that I  
20 was pushing for their company so that they get the component. Because AAR made it very clear from day 1 that it is their policy as well to get the deposit. So we – we [indistinct] and show that like we get the component on time because remember this was a big contract. One supplier, international supplier comes in the other one is going out. Be it [indistinct] so because like I mean they have also lost the case in



court. And there will be lots of sabotage there and then the aircraft will be on the ground but like nobody is going to check if like I mean finance has paid – not paid everybody is going to look at procurement because procurement is the one that purchases all these components. Yes so I am talking about those kinds of – I understand what Ms Hofmeyr is trying to understand but it terms from the finance point of view but like the consequences that the company would face are matched.

**CHAIRPERSON:** Okay. Ms Mbanjwa you have your hand up. I just  
10 want to say that today you will have to have very good reasons for objections. I want us to get going.

**ADV LINDELWA MBANJWA:** Thank you Chair. Chair I will not be long. I had already explained my objections yesterday but I repeat this question is unfair to be put to this witness. And secondly Ms Hofmeyr does not have the knowledge to phrase this question and I will explain just now why. She says, do you understand...

**CHAIRPERSON:** No how do you know what Ms Hofmeyr – what knowledge Ms Hofmeyr has and what...

**ADV LINDELWA MBANJWA:** Yes.

20 **CHAIRPERSON:** Knowledge she does not have.

**ADV LINDELWA MBANJWA:** Yes Chair. I just want to explain myself. If I have used a wrong language let me say she is not in a position to know how the draw down works. This is a...

**CHAIRPERSON:** How do you know that Ms Mbanjwa?

**ADV LINDELWA MBANJWA:** I want to give Chair if Chair can just give

me time. This is a financial arrangement.

**MS MEMELA:** Hm.

**ADV LINDELWA MBANJWA:** It is common cause in this hearing that Ms Memela is supply chain. There is a person at SAAT who is the Chief Financial Officer or who is at finance. Then it is that person who can come if it is necessary for the commission.

**CHAIRPERSON:** No Ms Mbanjwa no.

**ADV LINDELWA MBANJWA:** To explain.

**CHAIRPERSON:** No, no, no. Ms Hofmeyr is asking Ms Memela to give  
10 her own understanding. She does not have to be an expert. She does not need to be a financial person to give her own understanding. She is not being asked to give expert evidence. She can say as far as I know this is what happens. Or my understanding is the following. It might be correct, it might not be correct but it is my understanding.

**ADV LINDELWA MBANJWA:** The danger – the danger Chair of putting a technical question to a person who does not have expert knowledge of that technical [speaking over one another].

**CHAIRPERSON:** She will say I do not know.

**ADV LINDELWA MBANJWA:** But she has been saying this.

20 **CHAIRPERSON:** And then we will move on.

**ADV LINDELWA MBANJWA:** But Chairperson she has been saying I do not have the financial and if it is...

**CHAIRPERSON:** She has been giving her understanding.

**ADV LINDELWA MBANJWA:** And my other concern Chairperson which I have.

**CHAIRPERSON:** Hm.

**ADV LINDELWA MBANJWA:** I do not want to stress.

**CHAIRPERSON:** Yes.

**ADV LINDELWA MBANJWA:** I have raised my concerns.

**CHAIRPERSON:** Ja.

**ADV LINDELWA MBANJWA:** Why I think Ms Hofmeyr is not the person to ask this question.

**CHAIRPERSON:** Hm.

**ADV LINDELWA MBANJWA:** The other second thing is if a person is  
10 asked a question a person should be asked a question which is within  
her knowledge. This question is not in...

**CHAIRPERSON:** But if it is not she will say, I do not know and that is acceptable.

**ADV LINDELWA MBANJWA:** As it pleases Chair.

**CHAIRPERSON:** Okay let us get going.

**ADV KATE HOFMEYR:** Thank you Chair. Ms Memela you have given  
your evidence already on whether you regard the payment of the R60  
million as having a negative impact on the cash position of SAAT. What  
I would like to now move to is who stood to benefit from the payment of  
20 the R60 million in cash? Because what I would like to put to you for  
your comment is the following. You see if SAAT pays R60 million in the  
middle of 2017 to AAR you will recall that the arrangement between  
AAR and JM Aviation is that JM Aviation is entitled to 5% of all revenue  
derived under the contract. Do you recall that?

**MS MEMELA:** Yes but that is – I mean I do not understand how...

**CHAIRPERSON:** Yes should – yes should be enough.

**MS MEMELA:** I remember that Chair but ja.

**CHAIRPERSON:** Ja but wait for the next question.

**MS MEMELA:** Alright.

**CHAIRPERSON:** Ja. Yes is a good enough answer

**ADV KATE HOFMEYR:** So that means – thank you Chair.

**CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** That means that when SAAT paid over the total of R60 million.

10 **MS MEMELA:** For the deposit.

**ADV KATE HOFMEYR:** For the deposit.

**MS MEMELA:** Okay.

**ADV KATE HOFMEYR:** Indeed. It was revenue generated pursuant to the contract for AAR and in terms of the JV agreement between AAR and JM Aviation, JM Aviation has an entitlement to 5% of that payment. The consequence of which was that it was entitled to received R3 million. That situation does not arise if there is a standby letter of credit from the bank that can only be drawn down in the event of non-payment. Do you have a comment on that?

20 **MS MEMELA:** I do Chair.

**CHAIRPERSON:** Yes.

**MS MEMELA:** And I will not take long. But my understanding of the deposit – security deposit is that as much as like I mean it would have been paid cash and stuff but it still belongs to SAAT right. It is just that it is paid over to guard against any other maybe failure to deliver

from the SAAT side. So for me that cannot be defined as a revenue. I will make an example of like the rental process where like I mean the tenant pays the deposit and then you have to keep that deposit in the – what interest bearing account. So that like I mean if there is nothing that happened during this contract you are able to pay back the amount. So I am – I do not see that as the revenue. That is my understanding.

**ADV KATE HOFMEYR**: Did you make enquiries from AAR that that is how they were treating the 4.1 US Dollars – million US Dollars?

10 **MS MEMELA**: Chair why?

**CHAIRPERSON**: The answer will be yes I did or no I did not.

**MS MEMELA**: No Chair.

**CHAIRPERSON**: Ja.

**MS MEMELA**: Because I promised that I would be crisp, no.

**CHAIRPERSON**: Okay.

**ADV KATE HOFMEYR**: Thank you. Ms Memela then I would just like to move to your particular role in this contract and preceding procurement process because you have emphasised your role in supplier development.

20 **CHAIRPERSON**: Hang on a second.

**ADV KATE HOFMEYR**: Is that correct?

**CHAIRPERSON**: Ms Memela do you need some – a few minutes?

**MS MEMELA**: No, no Chair I am fine.

**CHAIRPERSON**: Are you okay?

**MS MEMELA**: Hm.

**CHAIRPERSON:** No if you do need time to take medication or anything.

**MS MEMELA:** No I am okay Chair.

**CHAIRPERSON:** Just let me know.

**MS MEMELA:** I am okay.

**CHAIRPERSON:** Okay, alright.

**MS MEMELA:** I did not think you would notice.

**CHAIRPERSON:** I did notice. I am watching.

**MS MEMELA:** I am sorry.

10 **CHAIRPERSON:** Okay alright.

**ADV KATE HOFMEYR:** I was moving Ms Memela to your particular focus on supplier development.

**MS MEMELA:** Ja.

**ADV KATE HOFMEYR:** In relation to this tender and you actually highlighted for us the other day that it was a critical criteria of this bid that the bidders commit to supplier development. Do you recall taking us to that?

20 **MS MEMELA:** It was one of the elements of the tender Chair. There is a difference between the critical criteria and I took this commission through the elements and I said here are the critical criteria phase 1. Phase 2 is BEE and price. Phase 3 is reciprocal supplier development and I did even explain that okay at valued 10% each, 10% each.

**ADV KATE HOFMEYR:** Yes so supplier development was a critical criteria, correct?

**CHAIRPERSON:** She just wants to confirm that you agree that you said

that is a critical criteria.

**CHAIRPERSON**: No. Okay Chair I have just explained again.

**CHAIRPERSON**: Well I must say that after you explained.

**MS MEMELA**: Let me explain.

**CHAIRPERSON**: I was not sure either.

**MS MEMELA**: You were not clear as well.

**CHAIRPERSON**: Ja. Ja. But if you say yes it was a critical requirement that will be – if it was or no it was not.

**MS MEMELA**: No Chair. There was a critical criteria.

10 **CHAIRPERSON**: Yes.

**MS MEMELA**: It was under Phase 1. Right.

**CHAIRPERSON**: Okay what was under Phase 1?

**MS MEMELA**: Phase 1 will be the capability of each bidder.

**CHAIRPERSON**: Ja.

**MS MEMELA**: They will be able to provide like the type of parts that SAAT is looking for and all these technical things.

**CHAIRPERSON**: Okay. Hang on.

**MS MEMELA**: Like I mean...

20 **CHAIRPERSON**: Hang on. Just say – just say to Ms Hofmeyr yes it was a critical requirement or no it was not a critical requirement?

**MS MEMELA**: Okay it was not a critical criteria it was part of the elements of the tender.

**CHAIRPERSON**: Okay.

**ADV KATE HOFMEYR**: Okay let us – I really did not anticipate a debate on this but let us go to the page of the critical criteria in the

RFB. It is at DD22.

**MS MEMELA:** DD22.

**ADV KATE HOFMEYR:** E.

**MS MEMELA:** E?

**ADV KATE HOFMEYR:** Yes. At page 2062.

**MS MEMELA:** Page sorry?

**ADV KATE HOFMEYR:** 2062.

**MS MEMELA:** 2062.

**CHAIRPERSON:** Yes.

10 **ADV KATE HOFMEYR:** Do you see ...

**CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** That there is a block on that page that says Phase 1 Critical Criteria?

**MS MEMELA:** Oh. Yes Chair.

**ADV KATE HOFMEYR:** Do you see that it includes Supplier Development?

**MS MEMELA:** Yes. I - I see.

**ADV KATE HOFMEYR:** So was your answer just now incorrect?

**MS MEMELA:** *Ja*. Okay.

20 **CHAIRPERSON:** You ...

**MS MEMELA:** I see also they put ...

**CHAIRPERSON:** You accept it was?

**MS MEMELA:** *Ja*. It was incorrect.

**CHAIRPERSON:** *Ja*.

**MS MEMELA:** *Ja*.



**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** Right. Let us look at what the critical criteria said about Supplier Development. Chair, this is about the fourth line from the bottom within that table.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** You will see a line that says “Supplier Development” ...

**CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** And then there is an asterisk ...

10 **CHAIRPERSON:** Huh-uh.

**ADV KATE HOFMEYR:** And it says:

“It must equal to 10 percent of the contract value.”

**MS MEMELA:** The contract value, *ja*.

**ADV KATE HOFMEYR:** And then in brackets is says:

“(Include proposal).”

**MS MEMELA:** *Ja*.

**ADV KATE HOFMEYR:** Do you see that?

**MS MEMELA:** I see that.

**CHAIRPERSON:** Hm.

20 **ADV KATE HOFMEYR:** If you go then just over two pages to the definitions, because remember there was an asterisk that said we must look at the definitions.

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** You will find the definition at page 2-0-6-4.

**MS MEMELA:** Okay.

**ADV KATE HOFMEYR:** Do you see that?

**MS MEMELA:** I see that.

**ADV KATE HOFMEYR:** Ms Memela, just before we look at the definition of Supplier Development. You have emphasised throughout your evidence that you had a particular focus on Supplier Development in this tender. What I am interested in knowing is when you receive the CFST recommendation - you indicate in your evidence you had reviewed it.

10 Did you take particular or did you pay particular attention to the Supplier Development aspects of the bids when you ...

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** Signed off?

**MS MEMELA:** When I signed off? Chair, when - when the recommendation to a submission is - is delivered to me for me to look - look at. As I have said ...

**CHAIRPERSON:** From CFST?

**MS MEMELA:** From the CFST.

**CHAIRPERSON:** *Ja.*

20 **MS MEMELA:** It - it - what - a brief summary of what the - the process that they have gone through evaluating and adjudicating and whatever. In the adjudication or like CFST Team there is a Senior Manager Supplier Development who is responsible for running that part in there when they are doing the evaluation and stuff.

As I have said that also like from the legal and contracts management point of view there is also Ms Mbeki who is responsible for

that part. So of course like I mean when they voted. They are voting now overall story like on - on the elements that they have rated when they were vote - when they were voting.

So it is not like - I do not remember the submission, but like - it is not like they - they just write about Supplier Development on its own and then I have to look at that.

**CHAIRPERSON:** Is your answer that you do not remember whether you paid particular attention?

**MS MEMELA:** I do not remember - I do not remember, but like  
10 remember Chair I - I had said to you when you asked about the submission. I pay attention to everything to ensure that it is flowing and everything that needs to be there before it gets to the Board is in there.

**CHAIRPERSON:** Okay. So you do not remember whether you paid particular attention to - to it?

**MS MEMELA:** I do not remember whether I paid particular attention to it.

**CHAIRPERSON:** Okay.

**MS MEMELA:** Yes, but I - I remember that they had put that okay the -  
20 the - what do you call? The - the JV Partner for Air France was Kwane Capital.

**CHAIRPERSON:** Yes. Ms Hofmeyr.

**ADV KATE HOFMEYR:** And were you aware that it was a critical criteria of the bill - of the bid. Apologies. That a proposal on Supplier Development had to be provided with the bid.

**MS MEMELA:** Yes.

**ADV KATE HOFMEYR:** And if we go then to the definition of Supplier Development. I just want us to look at what it says that proposal ought to have included.

**MS MEMELA:** Okay.

**ADV KATE HOFMEYR:** You will find that at page 2-0-6-4 in the same bundle. You will see at the bottom of that page there is a block headed:

10                   “Supplier Development must form 10 percent of the  
Contract Value and it must entail the following:”

There is an introduction in that paragraph about ...

**MS MEMELA:** Can I read it?

**ADV KATE HOFMEYR:** Certainly. Why do you not read the ...

**CHAIRPERSON:** Yes.

**MS MEMELA:** Can I read it Chair?

**ADV KATE HOFMEYR:** Full paragraph?

**CHAIRPERSON:** *Ja.* Read it.

**MS MEMELA:** Okay.

20                   “SAAT has embarked on a Supplier Development  
Program with a list of nominated suppliers being  
approved by the SAAT Board to promote the  
development of our local economy. SAAT considers  
any mentorship partnerships, skills transfers,  
knowledge transfers, assistance in developing a  
local company to become sustainable in an area

that a local company currently does not have capability. SMME job creation, training and development and/or any sustainable economic growth through revenues accumulated over the fulfilment period to be possible initiative that are considered as Supplier Development. Other initiatives include research and development and/or technology transfer. As a result bidders are requested to supply a proposal on how and what they would impart in terms of skills training, technical information etcetera to a local South African vendor. Bidder to indicate what value they would place on each area of development based on the above which they will be imparting to the local vendor.”

**ADV KATE HOFMEYR:** Thank you. Ms Memela, do you know then why after AAR and JM Aviation were awarded the bid. You will recall the Board made the decision on 9 May and I think the letter communicating to them that they were successful went on about 13 May. I think you authored that letter.

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** Why was AAR and JM Aviation allowed to submit their Supplier Development proposal after that date on 1 July 2016?

**MS MEMELA:** Chair - Chair, there is no - for instance - timeframe in

terms of submitting the proposal. As long as it is going to be adhered by the - both parties within the timeframe, but like let me first address this. Remember the CFST initially awarded Air France and even on Air - Air France I do not know if Ms Hofmeyr was going to ask me about Air France, but even Air France had not submitted that proposal.

So like they were also going to be given a chance to submit that proposal, because remember the proposal should be submitted after both parties like maybe visit each other. Go and check what is in there, because remember they are talking about skills development,  
10 technology transfer and no how.

That is when they will find out that okay like maybe this local company needs training on this and they need support from us from this side. So that - that is when they will be able to put together that proposal and then they will sign it and say okay. This is what we are putting down. That like we going to be doing for this local supplier.

**CHAIRPERSON:** Yes.

**MS MEMELA:** *Ja.*

**CHAIRPERSON:** But you say there - there is no timeframe specified timeframe within which ...

20 **MS MEMELA:** Yes.

**CHAIRPERSON:** Such a proposal was required to be submitted to be submitted?

**MS MEMELA:** Yes. My understanding Chair as much as I do not sit there. Ms Hofmeyr read here saying Supplier Development must equal to 10 percent of the contract value and then it says include a proposal.

Right.

**CHAIRPERSON**: Yes. *Ja*.

**ADV KATE HOFMEYR**:

**MS MEMELA**: So like there is in that bracket - there is nothing that says okay. Make sure that you include a proposal within the - the tender period ...

**CHAIRPERSON**: Yes.

**MS MEMELA**: And I can tell you now sir ...

**CHAIRPERSON**: No, no, no.

10 **MS MEMELA**: Chair, if they do that then they will be ...

**CHAIRPERSON**: No, no, no. I think - I think you have given the answer.

**MS MEMELA**: Okay. Thanks.

**CHAIRPERSON**: Let us see what Ms Hofmeyr ...

**MS MEMELA**: Alright.

**CHAIRPERSON**: Has to say. You said there is no timeframe within which ...

**MS MEMELA**: Okay. Thanks.

**CHAIRPERSON**: They were required to do so. Okay.

20 **ADV KATE HOFMEYR**: Ms Memela, this is the request for bid document. Is it not that we are looking at?

**MS MEMELA**: This is the request for bid document that is used by the CFST. Yes.

**ADV KATE HOFMEYR**: Yes and on this page we are being told - this is 2-0-6-2 - what the evaluation criteria are of the bid and under "Critical

Criteria” bidders are told - if we look at this block. That supply - that they have a requirement for Supplier Development which must equal 10 percent of the contract value and include proposal. How could that not mean that they must include their proposal when they bid?

**MS MEMELA:** Chair, okay again I will be ...

**CHAIRPERSON:** Well you see ...

**MS MEMELA:** Just putting my opinion.

**CHAIRPERSON:** Yes.

**MS MEMELA:** *Ja.*

10 **CHAIRPERSON:** *Ja.* What - what she is - what Ms Hofmeyr is doing is questioning your - your answer. You say there was no timeframe within which they were required to put in a proposal. So she is saying, but this was part of the request ...

**MS MEMELA:** Evaluation.

**CHAIRPERSON:** For bids ...

**MS MEMELA:** Hm.

**CHAIRPERSON:** And therefore it - it must be that that information is supposed to be there when the bid is put in. That - that is what she is suggesting ...

20 **MS MEMELA:** Oh.

**CHAIRPERSON:** And what is your answer to that?

**MS MEMELA:** What is my answer to that? Okay Chair. My understanding as much as this is the knowledge of the CFST. My understanding is that like the bidders maybe they were given an opportunity to give commitment. I am not sure if there was that



commitment from Air France, from AAR. I know - I - I do know that there was no such commitment from Lufthansa, but like if they give commitment.

At least like I mean the proposal will be worked on based on the commitment that they have made that we commit to the Supplier Development that like this is what we are going to work on. Once they understand, because Chair it is just like I mean we are running out of time and you have asked me to give crisp - this is broader than how it looks.

10 **CHAIRPERSON**: Yes.

**MS MEMELA**: I will give you the - the example.

**CHAIRPERSON**: Huh-uh.

**MS MEMELA**: For instance like that we once asked Air France and Israel Aerospace to give us what is it that they can give back to the country and stuff and then they just gave us three page promising this and that and that and when you sit back and look at it, because they do not know. They do not have a background about South Africa or any of these local suppliers. What is their need and stuff?

20 They just came up with that from their head, because they have not sat down. So it - it is not a good idea to do the proposal at that stage, because you have not sat with these people now after the agreement has been done. So that is my understanding.

**CHAIRPERSON**: Ms Hofmeyr.

**ADV KATE HOFMEYR**: How do you choose between the bidders then on Supplier Development if they do not include in their bid precisely

what they are going to do for Supplier Development and what value they are going to ensure gets translated to the beneficiaries of that development?

**MS MEMELA:** But like I mean the 10 percent - if they say Chair they are committing to give 10 percent towards Supplier Development. They are giving 10 percent towards reciprocal work. Already they have committed. They are all now after that like to put on the proposal is to just list down - break down what is it that is going to be done specifically.

10 **ADV KATE HOFMEYR:** But assume all of the bidders said yes. I will commit 10 percent. How do you choose between them if they have not been required with their bid to submit their proposal?

**MS MEMELA:** Hm.

**ADV KATE HOFMEYR:** Bearing in mind those important elements that you read out. You need to explain ...

**MS MEMELA:** Huh-uh. No.

**ADV KATE HOFMEYR:** Benefit is going to be translated and what value will be received.

**MS MEMELA:** Chair, remember ...

20 **CHAIRPERSON:** Yes.

**MS MEMELA:** Remember ...

**CHAIRPERSON:** Hm. Hm.

**MS MEMELA:** The evaluation - my understanding they are not evaluating based on the list of what the suppliers have - have promised and listed down. That okay I am going to build school in - in that rural

area. I am going to build toilets and - and hospitals. It is not about that. It is about committing and then like once we know exactly what is the need of the local suppliers, because remember we are managing these suppliers.

We will be able to say okay. This is what is needed from you. You understand. So like I am - it - it works like that. So it is not like I mean when Ms Kate says - you can see even they comply. It says yes or no. Right. Did you see the - that form that she took us to?

**CHAIRPERSON:** Hm.

10 **MS MEMELA:** It says yes or no. So like once they commit to that ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** It is up to the company now to say okay. This is what you have committed on. Here is the local supplier. Let us - let us discuss and then like they put ...

**CHAIRPERSON:** (Intervenes).

**MS MEMELA:** Down ...

**CHAIRPERSON:** Yes.

**MS MEMELA:** The proposal and like go all over.

20 **CHAIRPERSON:** What - what I would have expected and I suspect it might be the same expectation that Ms Hofmeyr would have ...

**MS MEMELA:** Hm.

**CHAIRPERSON:** In the context of tenders. Is that when the request for bids says Supplier Development is a critical requirement and says what is written here should be 10 percent of the value of the contract and so on.

**MS MEMELA:** Hm.

**CHAIRPERSON:** I would have expected that what is being required is that if you want to bid for this tender.

**MS MEMELA:** Huh-uh.

**CHAIRPERSON:** One of the things that must be dealt with in your proposal is - in your bid is - is the Supplier Development and that one of the things that you will be competing with other bidders on is how good is what you are putting on the table in terms of Supplier Development. So if your - your - if what you say on supply - Supplier  
10 Development is vague and so on and somebody else ...

**MS MEMELA:** Huh-uh.

**CHAIRPERSON:** Has got a very clear picture of what they are going to do. You stand a better chance of - of getting more - more points than the other one who has got just vague statements.

**MS MEMELA:** Ja.

**CHAIRPERSON:** As to how they will contribute.

**MS MEMELA:** But Chair ...

**CHAIRPERSON:** That is what I would expect.

**MS MEMELA:** Okay Chair.

20 **CHAIRPERSON:** What do you say?

**MS MEMELA:** Let us say now sitting around the table the people that are doing the - busy with the CFST the evaluation - the adjudication. They are sitting there. Let us say now it is possible what - what you think might have happened. Like - like they are here - the proposals made by these multinational companies.

That okay we are going to do this for the supplier that we have come with and we are going to do that and that and that. How without the local supplier sitting in that table will those people internal at SAAT know that indeed what is written there in that proposal is something that is needed by the supplier?

**CHAIRPERSON**: But you see that the bidder needs to address exactly that. The - well the bidder needs to say the people who will adjudicate this bid. What will they be needing in order for me to give me maximum points? They will be needing to know whether I already have a local  
10 supplier that I will work with.

**MS MEMELA**: Huh-uh.

**CHAIRPERSON**: They will need to know whether I have had discussions with this local supplier about what this local suppliers needs ...

**MS MEMELA**: Hm.

**CHAIRPERSON**: And I have evaluated their suggestions of where I can help ...

**MS MEMELA**: Hm.

**CHAIRPERSON**: And I have made up my mind that this is where I will  
20 help. So when I put in my bid. I am clear about that and I - if I - if necessary I attach a letter from the local supplier that says indeed these are the things that we need desperately.

**MS MEMELA**: Chair ...

**CHAIRPERSON**: So you make your bid as a bidder ...

**MS MEMELA**: Hm.

**CHAIRPERSON:** Full and complete on this issue.

**MS MEMELA:** Chair, it is about committing to the supplier. I - I can - you see the - the elements that are listed there as critical criteria. I will just make an example now of one of them. Being - it says:

“The supplier must be a 24 hour/365 days of service.”

So now what is expect - expected there by Ms Hofmeyr from the Supplier Development. Imagine if you were - she was to ask okay. Did you make sure that the supplier delivered within 24 hours exactly?  
10 I mean that is managed by a certain person to ensure that like I mean delivery is on time. You understand.

So like I mean there is somebody who is responsible for managing that Supplier Development to push and ensure that this - these suppliers are doing exactly what like they - they are supposed to be doing ...

**CHAIRPERSON:** But ...

**MS MEMELA:** Chair ...

**CHAIRPERSON:** Huh-uh.

**MS MEMELA:** Let me give an example of the NIP obligation.

20 **CHAIRPERSON:** Huh-uh.

**MS MEMELA:** Before the Supplier Development ...

**CHAIRPERSON:** Huh-uh.

**MS MEMELA:** Which is like I mean now will - will be controlled by SAAT. The NIP Obligation - these multinational companies were expected to pay 30 percent of the value of the contract. Right. Back to

DTI and if that was the case also for Supplier Development for NIP Obligation that was done afterwards. Once the multinational company wins.

Then we will write a letter to DTI and say okay. Bridgestone, Air France and who or whoever have - have won this tender. Take over. Now what they do. The first thing that they do they - they enter into a - an MOU. That does not really state what the 30 percent will be - will be used to do, because like DTI through these multinational companies.

They have to go through research and check within the  
10 country that 30 percent what can it be used to - to develop maybe certain communities and stuff. So like these are the things that are done afterwards. After the tender has been done.

**CHAIRPERSON:** Is my understanding correct that your evidence is therefore to the effect that at the time when the proposal is - the bid is put in.

**MS MEMELA:** Huh-uh.

**CHAIRPERSON:** There is not much information. You as SAAT were expecting the bidders to put in ...

**MS MEMELA:** Yes.

20 **CHAIRPERSON:** Under Supplier Development.

**MS MEMELA:** (Intervenues).

**CHAIRPERSON:** All you needed is a commitment ...

**MS MEMELA:** Commitment.

**CHAIRPERSON:** That they will - what would be the commitment you j- you would need? What - what would you say?

**MS MEMELA:** For instance you see Chair.

**CHAIRPERSON:** It will be a commitment that says what?

**MS MEMELA:** You see - you see Chair. There - there is ...

**CHAIRPERSON:** Is it a commitment to - to put aside 10 percent of the value to supply - to Supplier Development ...

**MS MEMELA:** No.

**CHAIRPERSON:** Generally or is it much more detailed than that?

**MS MEMELA:** I - I - since I am saying I do not sit in the CFST. It might be - maybe I do not know. Maybe there is a letter. Maybe  
10 Ms Hofmeyr - Hofmeyr can share with us since she is asking more about AAR that eventually won. If there was a proposal from Air France.

**CHAIRPERSON:** But you see I will - I will let Ms Hofmeyr continue - continue now. You see my - my understanding ...

**MS MEMELA:** Yes. *Ja*.

**CHAIRPERSON:** Would - would be that you need to put in your bid how good ...

**MS MEMELA:** Huh-uh.

**CHAIRPERSON:** Your proposal is on how you will contribute to  
20 Supplier Development. You might say to me ...

**MS MEMELA:** Hm.

**CHAIRPERSON:** Maybe that is how - that is the impression what is written here gives, but at a practical level we at SAAT accepted that - accepted proposals or bids that did not have much. As long as it was clear that the company or the bidder was committing to contributing the



10 percent ...

**MS MEMELA:** *Ja.*

**CHAIRPERSON:** Required. That - that would be enough at the stage of putting in the bid. The rest would be discussed when they have won.

**MS MEMELA:** Well Chair for - for me from where I am sitting.

**CHAIRPERSON:** Yes.

**MS MEMELA:** The people that sit around that table ...

**CHAIRPERSON:** Hm. CFST.

**MS MEMELA:** CFST Members.

10 **CHAIRPERSON:** Hm.

**MS MEMELA:** Most of them - as you have seen some of the affidavits ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** Are technicians ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** That have been working at SAAT for over 35 years without ensuring or maybe pushing these multinational suppliers to give back to this country. So you - you see that - that is where my - my uncomfot comes from. That like I mean we would expect the CFST  
20 Members that have been sitting at SAAT for 35 years like with NIP Obligations applicable already at that time.

Not doing anything to make sure that these people are giving back to the country. We have a - a country like China to buy - those people do not compromise when they give you a contract. You must give back to their country. So like the NIP Obligation people and

Supplier Development is for that. So like now those people that are sitting there they did not even understand what Supplier Development is about.

They did not even understand what NIP Obligation - in fact they were against it completely. So for - for us to expect them to be the one who decide and evaluate in detail what is a proposal. Of course any multinational suppliers, because they have been working with them for long ...

**CHAIRPERSON:** Hm.

10 **MS MEMELA:** And they will just put whatever that makes everybody happy ...

**CHAIRPERSON:** So ...

**MS MEMELA:** At that - in that table.

**CHAIRPERSON:** So is my understanding correct that what you are saying is that the way that SAAT applied this or the CS ...

**MS MEMELA:** CFST.

**CHAIRPERSON:** CFST applied this was that they would only discuss with the bidder after the bidder has won?

20 **MS MEMELA:** After the bid - after they have committed and then like the bidder has won. Then like ...

**CHAIRPERSON:** Has won, yes.

**MS MEMELA:** Remember then there will be an involvement of this local supplier.

**CHAIRPERSON:** Yes.

**MS MEMELA:** At least they will be able to give them information. Here

is our need. Here is the gap.

**CHAIRPERSON:** Yes.

**MS MEMELA:** These people like this 10 percent they can give it to transfer of skills.

**CHAIRPERSON:** Yes.

**MS MEMELA:** We need the computers for us to be able to help them transfer like supply parts and stuff.

**CHAIRPERSON:** Would that be done before the actual contract is signed or would it be done after the contract has been signed?

10 **MS MEMELA:** It will be done after the contract is done. No, no. It - it could be done before the contract is signed ...

**CHAIRPERSON:** *Ja.*

**MS MEMELA:** Because remember the award for instance maybe it will be made - it will be signed May and then the contract commences in October.

**CHAIRPERSON:** Hm.

**MS MEMELA:** So somehow if it happens.

**CHAIRPERSON:** Hm.

20 **MS MEMELA:** The contract like it could be done with - before the contract gets signed, but at the end of the day even if it is not done there ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** Like there should be maybe valid reasons why it was not finalised by then.

**CHAIRPERSON:** Hm. Okay. Alright.

**MS MEMELA:** *Ja.*

**CHAIRPERSON:** Well I - I can tell you, but we will - Ms Hofmeyr may have questions. I can tell you it seems to me much more sensible to say put your proposal ...

**MS MEMELA:** Yoh.

**CHAIRPERSON:** And deal with Supplier Development fully ...

**MS MEMELA:** Okay Chair.

**CHAIRPERSON:** But I understand ... (intervenes)

**MS MEMELA:** Maybe then I - I am not ...

10 **CHAIRPERSON:** Understand.

**MS MEMELA:** I may - I may sound like I am - I am defending ...

**CHAIRPERSON:** No, no, no. You - you ...

**MS MEMELA:** The CFS - CFST, but I am saying Chair ...

**CHAIRPERSON:** No, no, no. No. You are saying ...

**MS MEMELA:** Oh.

**CHAIRPERSON:** What you understood to be happening and why it was happening.

**MS MEMELA:** Oh. Okay.

**CHAIRPERSON:** Yes.

20 **MS MEMELA:** No, but I just wanted to add that ...

**CHAIRPERSON:** Yes.

**MS MEMELA:** Like remember that - that was - this was a new program at SAAT.

**CHAIRPERSON:** *Ja.*

**MS MEMELA:** Like unlike the likes of Transnet, because we are

following their lead also. Unlike the likes of Eskom that have already started doing this like already had certain frameworks ...

**CHAIRPERSON**: No. That is fine.

**MS MEMELA**: In place and stuff.

**CHAIRPERSON**: That is fine.

**MS MEMELA**: So for - for SAAT it was a teething phase.

**CHAIRPERSON**: That is fine.

**MS MEMELA**: *Ja.*

**CHAIRPERSON**: Ms Hofmeyr.

10 **ADV KATE HOFMEYR**: So Ms Memela, just to clarify. Is it your evidence that there - the CFST Team did not evaluate the different proposals on Supplier Development that had been provided by the bidders?

**MS MEMELA**: No. I did not say that. I said like I am sure they evaluated their commitment and the fact that this form says yes or no.

**ADV KATE HOFMEYR**: That ...

**MS MEMELA**: If they say - if - if they say yes then like they will evaluate that based on yes. Like as you see that also on the operational or technical ones where it says BR rate 70 percent. They  
20 will say yes. Remember also there the BR is something that like you have to go down and give it a breakdown for everybody to understand, but as long as they say yes. You - you keep them to that commitment.

**ADV KATE HOFMEYR**: So the issue is whether they have said yes?

**MS MEMELA**: Yes.

**ADV KATE HOFMEYR**: And then the proposal ...

**MS MEMELA:** I am not sure - remember

**ADV KATE HOFMEYR:** Happens afterwards?

**MS MEMELA:** Remember - remember Ms Hofmeyr I do not sit there. So like I am not sure maybe that is why I was saying maybe in your - in your files you may have like some letters for Air France or for other bidders. Like seems like now you are asking about AAR and JM, but like I mean remember the initial bidder that was awarded was by the CFST and - and Supply Chain Management was Air France.

So you see Chair like I will understand if this question was  
10 coming - okay. Ms Memela Air France had put this proposal ...

**CHAIRPERSON:** Well no, no.

**MS MEMELA:** And stuff and then like now here is AAR.

**CHAIRPERSON:** No, no. I am going to stop you Ms ...

**MS MEMELA:** *Ja.* I ...

**CHAIRPERSON:** Ms Memela, I am going to stop you. You see you may not have sat in CFST Meetings, but you were the Head of Procurement and therefore one would expect that you would know how procurement processes were dealt with ...

**MS MEMELA:** *Ja.*

20 **CHAIRPERSON:** And one would expect that you would know for example what this kind of requirement - how it was applied or it was adjudicated, because as Head of Procurement you would be expected - I - I would imagine - to guide quite a lot of people within SAAT to say on procurement issues ...

**MS MEMELA:** Hm.

**CHAIRPERSON:** This is what - this is what we - we require as SAAT and these are our policies. This is legislation. If there is this requirement which is said to be critical one would expect that you would know how it is supposed to deal with - to be dealt with. So that if ...

**MS MEMELA:** Hm.

**CHAIRPERSON:** For example CS - CFST did not deal with it the way it should be dealt with.

**MS MEMELA:** Hm.

10 **CHAIRPERSON:** I would expect that you would be the person to say you people are not acting in compliance with this requirement the way you deal with your - with your work.

**MS MEMELA:** Okay.

**CHAIRPERSON:** That is my expectation.

**MS MEMELA:** That is your ...?

**CHAIRPERSON:** Yes.

**MS MEMELA:** Okay. Chair, I see Ms Hofmeyr is focusing on Supplier Development. No, no. I want to ... (intervenes).

**CHAIRPERSON:** Okay. Comment on what I have just said.

20 **MS MEMELA:** Yes. I am giving an example. Just bear with me. There is - there ...

**CHAIRPERSON:** But remember ...

**MS MEMELA:** No. I want something that is the same.

**CHAIRPERSON:** That is fine ...

**MS MEMELA:** Yes.

**CHAIRPERSON:** But I want you to focus on - on commenting whether my expectation ...

**MS MEMELA:** That one.

**CHAIRPERSON:** My expectation ...

**MS MEMELA:** Yes.

**CHAIRPERSON:** Of what ...

**MS MEMELA:** Yes.

**CHAIRPERSON:** Would be expected from you.

**MS MEMELA:** From me.

10 **CHAIRPERSON:** As HOD of Procurement whether it is correct.

**MS MEMELA:** Yes Chair. I - I like giving examples. So like there is reciprocal work. There also it has a bracket that says include proposal.

**CHAIRPERSON:** No. Start by saying yes I agree ...

**MS MEMELA:** Hm.

**CHAIRPERSON:** That would be expected from me as HOD or no. I - I do not agree. That would not be expected. Then if you need to give an example then - then I can follow. Let us clear that part first.

**MS MEMELA:** Okay. You said what would be expected from me as an HOD is to do what?

20 **CHAIRPERSON:** Is - is to know what the - the requirements are for proper procurement processes at SAAT and if there is a critical requirement such as this you would be expected to know what it is, number one. You would be expected to know how it is adjudicated.

**MS MEMELA:** Huh-uh.

**CHAIRPERSON:** So that if CFST for example did not apply it the way it



should be applied. You would be able to say no, no, no. CS - CFST you are not applying this the way it should be applied. That is my expectation.

**MS MEMELA:** Yoh.

**CHAIRPERSON:** That expectation maybe wrong, because maybe that is not what your job description was, but that would be what I would expect from Head of Procurement. Is my expectation correct or not?

**MS MEMELA:** Your expectation - yoh. Must I tell a Judge he is incorrect? I do not feel comfortable saying that.

10 **CHAIRPERSON:** You can tell me it is incorrect.

**MS MEMELA:** I - I do not ...

**CHAIRPERSON:** You can tell me it is incorrect ...

**MS MEMELA:** I do not want to put it that way Chair.

**CHAIRPERSON:** Because - because I do not know the policies. Yes.

**MS MEMELA:** I do not want to put it that way. Your - your expectation ...

**CHAIRPERSON:** *Ja.*

**MS MEMELA:** Is reasonable.

**CHAIRPERSON:** Hm. Okay.

20 **MS MEMELA:** I think I - I might be ...

**CHAIRPERSON:** Okay. Okay.

**MS MEMELA:** Yes.

**CHAIRPERSON:** Okay.

**MS MEMELA:** It is reasonable and justifiable ...

**CHAIRPERSON:** Hm. Hm.

**MS MEMELA:** But ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** You said like I mean from the HOD SCM is expected to know the processes of procurement that have to be followed.

**CHAIRPERSON:** Hm.

**MS MEMELA:** That ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** Is one thing that like I am not even - like it is something that like I follow or maybe

10 **CHAIRPERSON:** Hm.

**MS MEMELA:** Adhere to all the time.

**CHAIRPERSON:** Hm.

**MS MEMELA:** Remember like I mean the process of procurement are ...[intervenes]

**CHAIRPERSON:** Hm. Hm.

**MS MEMELA:** Stated in the PPPFA.

**CHAIRPERSON:** Hm.

**MS MEMELA:** The Constitution 2-1 - 2-1-7, the PFMA and stuff like that.

20 **CHAIRPERSON:** Hm.

**MS MEMELA:** Something different - different from what is expected from the CFST that are doing the evaluation.

**CHAIRPERSON:** Huh-uh.

**MS MEMELA:** Right. So you - you see if I actually had access to get in there ...

**CHAIRPERSON:** Huh-uh.

**MS MEMELA:** In the CFST and sit there and decide with them ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** And evaluate with them. Then I would say your expectation of me ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** Are correct ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** But like I mean ...

10 **CHAIRPERSON:** Hm.

**MS MEMELA:** And if I was sitting here today ...

**CHAIRPERSON:** Hm.

**MS MEMELA:** Or maybe for the past three days - I am - I am being questioned about the process that was not followed and then like there was an Auditor General finding. That said okay like in this procurement at SAAT these were not done according to the procurement processes in the Public Sector. I am not sitting - I am not sitting here for that.

I am sitting here answering questions that have nothing to do with procurement processes at SAAT. You understand, but like I mean  
20 it is just like I mean the CFST that well they - they accept the - the - the what? The commitment as it is or did they just say yes or no and like my - my uncomfort also Chair is the fact this question is actually only just directed to one specific bidder. Not all of them.

**CHAIRPERSON:** Let us continue.

**ADV KATE HOFMEYR:** Thank you Chair. Thank you Chair.

Ms Memela, the reason why I am focusing on the aspect of Supplier Development is because it was one of two reasons why the Board overturned the recommendation from the Acting CEO to award this tender to Air France.

**MS MEMELA:** Can we go to the Board Resolution?

**ADV KATE HOFMEYR:** Of course we can, let's go there.

**MS MEMELA:** Thank you.

**ADV KATE HOFMEYR:** DD22F, page 2305.

**MS MEMELA:** DD22F.

10 **CHAIRPERSON:** Probably I don't need to go there?

**ADV KATE HOFMEYR:** Probably not Chair, we have read this a number of times, and where relevant we will just read it into the record.

**CHAIRPERSON:** Yes.

**MS MEMELA:** Yes.

**ADV KATE HOFMEYR:** DD ...[intervenes]

**CHAIRPERSON:** Well read it, maybe once you have read it Ms Memela might not need to look at it, but if you need to look at it please, is the file there that has got it?

**MS MEMELA:** Oh I thought you said like we must not ...[intervenes]

20 **CHAIRPERSON:** No, no I was talking for myself, but if you do need to look at it it is fine but she will read it.

**ADV KATE HOFMEYR:** It is DD22F page 2305, oh I see Ms Mbanjwa wants to say something.

**CHAIRPERSON:** Ms Mbanjwa?

**ADV MBANJWA:** Thank you Chair. Chair I just want to point out that

the witness has said this line of questioning is unfair to her because she doesn't not sit on the CFST ...[INTERVENES]

**CHAIRPERSON:** Ms Mbanjwa this line of questioning is legitimate, please sit down.

**ADV MBANJWA:** Thank you Chair.

**ADV KATE HOFMEYR:** Before we look at the resolution Ms Memela I understood your evidence earlier to be what was required under that critical criteria was simply an indication yes there would be the commitment required of value and so the details of the proposal did not  
10 need to be provided with the bid, correct?

**MS MEMELA:** Yes.

**ADV KATE HOFMEYR:** You see what concerns me about that is when the Board met on the 9<sup>th</sup> of May and they rejected the Acting CEO's recommendation that this award be given to Air France they – the minute of the meeting reflects the following:

20 "the submission was tabled, that's the acting CEO's submission and considered. According to the submission management recommended that the tender be awarded to Air France. A discussion on the matter ensued and the Board made the following comments, management rationale for recommendations that Air France be awarded the tender was not substantive, considering the bidder's resistance to align itself with SAAT's developmental agenda, ie supplier development. Furthermore the benefit as outlined by the submission as a result of selecting Air France were not

compelling enough to position the latter as the preferred bidder.”

I would like to focus on the first reason. The Board sits on the 9<sup>th</sup> of May, it decides for one of two reasons not to go with the recommendation it has received to award it to Air France and the reason it gives is because Air France’s tender was not substantive considering the bidder’s resistance to align itself with SAAT’s developmental agenda, ie supplier development.

**MS MEMELA:** Yes.

- 10 **ADV KATE HOFMEYR:** How could they possibly have made that evaluation if there wasn’t a proposal required that could be compared.

- MS MEMELA:** Thank you, thanks for asking that. Chair the Air France that we are talking about, like Ms Hofmeyr’s question is that how would they have reached that conclusion since there was no proposal made. Remember Air France was the current supplier for component for SAAT since 2008, right and during that time until 2016 Air France has given nothing back to this country through that contract, and like that could have been supply development or maybe since supply development was not applicable maybe back then, it could have  
20 been through NIP obligation but I can tell you now Chair through their representative, like that was staying here in South Africa for years being paid through the same contract that is paid with the money coming from this country they could have maybe appointed or gotten a South African, give them that job to say okay you will be our representative, we will train you, you will do, you will represent our

contract in South Africa, that is what is meant about giving back to the country, but like from 2008 to 2016 Air France had a contract, a component contract with SAAT for all those years, they never adhered to either NIP obligation nor any other transformational agenda. My understanding of that statement by the Board, they are not referring to the tender process that was run in 2016, they are referring to the contract that in 2008 that they never adhered to the laws of this country.

10 You see Chair like I think for me the way I am quite passionate about like things that have to do with BEE and empowering black owned suppliers, black people in South Africa, these things touch me because I mean we are quick to say for instance State Capture is standing for South Africa as a State, and questioning everything that may have – our money spent like I mean irregularly, like taxpayers money, but we are unable to question European countries and all the other countries like that are given huge contracts from us, South Africa and they are not giving back to this country.

20 The purpose of NIP obligation was to ensure that these people when they get these billion rand of contract they give back to this country. We don't have schools, we don't have hospitals, nothing, and they enjoy our money for free.

**CHAIRPERSON:** Yes now do you know as a fact that in – during those years, you talked about from 2008.

**MS MEMELA:** Yes Chair.

**CHAIRPERSON:** Do you know for a fact that ...[intervenes]

**MS MEMELA:** Air France.

**CHAIRPERSON:** ...the position was that Air France maybe had given a positive undertaken or commitment but failed to do what they had promised to do that would have either fallen under NIP obligation or supply development or is the position that they had even refused to commit themselves, do you know what the position is?

**MS MEMELA:** Chair I know for a fact that as Advocate Hofmeyr has been stating here for the last three days that supply development, like NIP obligation is an obligation and I also explained, like I said an  
10 obligation but controlled and managed by the DTI.

**CHAIRPERSON:** Mmm.

**MS MEMELA:** She read the affidavit from DTI you see and remember the duty of an SOC at that time ...[intervenes]

**CHAIRPERSON:** But remember ...[intervenes]

**MS MEMELA:** No I am answering your question.

**CHAIRPERSON:** Yes answer the question, ja.

**MS MEMELA:** Exacly, the duty of an SOC at that time is to just notify DTI right and then like I mean then the communication will be between DTI and Air France, but like I am saying I know for a fact from 2008  
20 until the end of that contract Air France had never delivered anything according to the laws of this country, giving back to the economy of this country.

**CHAIRPERSON:** The contract that they were having in 20 – was it 2016/2017?

**MS MEMELA:** Mmm.



**CHAIRPERSON:** The contract is that the one that happened running form 2008?

**MS MEMELA:** Yes Chair.

**CHAIRPERSON:** And they tendered for this one ...[intervenes]

**MS MEMELA:** Yes Chair.

**CHAIRPERSON:** ...as well, and now the supplier development requirement began in – is it 2013?

**MS MEMELA:** At around 2013 Chair.

**CHAIRPERSON:** Around 2013.

10 **MS MEMELA:** Yes no but if you noticed I referred to NIP obligation.

**CHAIRPERSON:** Yes, before that.

**MS MEMELA:** Yes, because remember NIP obligation has been in place since 1997.

**CHAIRPERSON:** For longer.

**MS MEMELA:** So like they can't come up with an excuse that okay because supplier development was not there and stuff, but like NIP obligation was there, that 30% from their contract should have come to this country through DTI, so of course like I mean questions should have been asked from DTI, maybe they have their reasons why they let  
20 them go scot-free, we don't know.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** Ms Memela a moment ago in your testimony you said that you believed the Board did not reject Air France on this basis, based on their tender, but on the basis of their previous performance under other contracts, is that correct?

**CHAIRPERSON:** Do you recall having given that evidence.

**MS MEMELA:** Hey, hah, no, I ...[intervenes]

**CHAIRPERSON:** If you don't recall you may have you may not.

**MS MEMELA:** Or Chair or it is like maybe they said based on their previous performance and stuff.

**ADV KATE HOFMEYR:** Yes ...[intervenes]

**CHAIRPERSON:** The reason why she is starting by asking you is that she doesn't want to put you a question and then you have a fight about whether you said that, so she wants to clear that, clear that out of the way that you remember that that was your evidence. You don't remember or you do remember?

**MS MEMELA:** Can you repeat your question, maybe, ja.

**ADV KATE HOFMEYR:** Yes, I tried to take note of it word for word, you said:

“The board did not reject Air France for supply development reasons based on the current tender. What they were looking at is the failures of Air France previously under all their other contracts with SAAT to make an adequate commitment to Supply Development.”

20 Is that correct?

**CHAIRPERSON:** I seem to remember that you said so as well, that's my recollection.

**MS MEMELA:** Just now?

**CHAIRPERSON:** No, no yesterday and the day before.

**MS MEMELA:** Yesterday.

**CHAIRPERSON:** *Ja*, well you might have repeated it now.

**MS MEMELA:** I said, like I mean the supply development they had listed it as one of the reasons and like just two minutes or three minutes ago I actually just gave an example that Air France had a contract with SAAT and never adhered to the NIP obligation, so like I said okay supply development may have been one of that you know and also the additional reason I think it was the risk that they had listed ...[intervenes]

**ADV KATE HOFMEYR:** Ms Memela I am not focused on the second  
10 reason, I am focused on the supplier development reason. I understand your evidence before this Commission to be the Board did not have a concern about Air France's commitment to supply development in this tender. It was concerned about previous failures on the part of Air France to commit adequately to supply development, is that correct?

**MS MEMELA:** Oh yes I agree Chair.

**CHAIRPERSON:** In respect of other contracts.

**MS MEMELA:** Yes, no I agree, they did not – I doubt they had a concern because remember Air France had bided with Aqwana Capital  
20 so they adhered to the final contract.

**ADV KATE HOFMEYR:** *Ja*, you see Ms Memela let me tell you what the problem with that is.

**MS MEMELA:** Oh?

**ADV KATE HOFMEYR:** The problem is that it means Air France could never have been awarded this tender by the Board.

**MS MEMELA:** Oh, why?

**ADV KATE HOFMEYR:** Let me explain why. Air France and AAR, JM Aviation both indicated on that critical criteria in their bid submissions yes to supplier development. They made the commitment, and that was made clear to the Board in the submission from the acting CEO, so in terms of the bid requirements Air France and JM Aviation and AAR gave exactly the same commitment to supply development, but the Board at on the 9<sup>th</sup> of May and despite that decided that it was not going to award this tender to the recommended bidder, because of

10 some historic non-commitment to supply development and if that is so the process was grossly irregular and there was no prospect of Air France ever winning that tender. Do you have a comment on it?

**MS MEMELA:** (laughing)

**CHAIRPERSON:** Yes Ms Memela?

**MS MEMELA:** I am really confused Chair, maybe because I ran the procurement process, I don't know ...[intervenes]

**CHAIRPERSON:** Okay, let me put it ...[intervenes]

**MS MEMELA:** There is no way here that says ...[intervenes]

**CHAIRPERSON:** Let me put it to you this way. Let me put it this way.

20 You gave evidence this morning in regard to the supplier development requirement that all that was required of a bidder under supplier development is to indicate yes, which would be a commitment on their part to doing what is expected under supplier development.

**MS MEMELA:** Yes Chair

**CHAIRPERSON:** You said it was not required of a bidder at the time of

submitting their bid to give any details really, as long as it said yes.

**MS MEMELA:** Yes Chair.

**CHAIRPERSON:** So Ms Hofmeyr is saying to you when the Board had to consider whether to go along with the recommendation of the CEO that Air France should be the one awarded and they decided that no that should not happen it should be AAR their reason insofar as they said it is on Supply Development ...[intervenes]

**MS MEMELA:** Oh.

**CHAIRPERSON:** ...could not be legitimate because the answers that  
10 were given by both Air France and AAR were exactly the same in regard to supplier development. She says if the answers are the exactly the same and a bidder is not required to give any details just the answer yes is good enough, then it must be good enough for each one of them, so she is saying then this reason advanced by the Board does not make sense. What do you say?

**MS MEMELA:** Chair I say Chair in this board resolution it does not  
20 made by the Board and the Board made the comment that management's rationale for recommendation that Air France be awarded the tender was not substantive considering the bidder has the chance to align itself to South African Development Agenda that is supply development. Furthermore the benefits as outlined by the submission as a result of selecting Air France were not compelling

enough to position the latter as the preferred bidder.

But Ms Hofmeyr when she reads this she reads it as if the Board declined the recommendation by the Acting CEO because of supplier development. So you see I mean these were comments that were made in the Board meeting.

**CHAIRPERSON:** Hang on, hang on, she said one of the reasons given was supply development, Ms Hofmeyr”?

**ADV KATE HOFMEYR:** Indeed Chair.

**CHAIRPERSON:** Are you saying that is not true, it was not one of the  
10 reasons?

**MS MEMELA:** What she had stated like it is pity I wouldn’t want for us to go back to the transcript and stuff but like she said because ...[intervenes]

**CHAIRPERSON:** No but what I want you to start by saying is whether you say it is not true that that is one of the reasons the Board gave or you say it is true but I have this to add?

**MS MEMELA:** In that discussion Chair the company secretary has recorded that discussion ...[intervenes]

**CHAIRPERSON:** Let us start the way I am saying, was it one of the  
20 reasons, then you can add if you want to add.

**MS MEMELA:** It was one of the reasons that was stated in the comment but it could not be a reason to reject the recommendation in the way it was put.

**CHAIRPERSON:** It was a reason for what? It was given as a reason for what?

**MS MEMELA:** Remember Chair when my understanding is that like if the Board is not expected, I am not a Board member right, but my understanding like of corporate governance or company law is that I mean the Board does not sit there to rubber stamp whatever is put in front of it.

**CHAIRPERSON:** No, no let us not go there, the question is not about that. The question is well one, you have said that it was one of the reasons, so my question is it was one of the reasons for what, because Ms Hofmeyr says it was one of the reasons given by the Board for  
10 rejecting the CEO's recommendation that Air France should be given.

**MS MEMELA:** Supply chain, mmm, Chair she made a statement that the Board like it looks like Air France wouldn't have won anyway because the Board ...[intervenes]

**CHAIRPERSON:** Let us not go to the statement, let us go to the one that I am saying.

**MS MEMELA:** Oh, okay.

**CHAIRPERSON:** Ms Hofmeyr says the Board, one of the reasons given by the Board why they did not accept the CEO's proposal or recommendation that Air France should be awarded was supply  
20 development.

**MS MEMELA:** She says she is not interested in the other reason.

**CHAIRPERSON:** You say it was one of the reasons but not for rejecting, so I am asking the question what was it given as a reason for then?

**MS MEMELA:** For me what I read there Chair, maybe our

interpretation may not be the same, but like what I read there, there are – the Board before it makes a decision my understanding is that they go through discussions and discuss and raise their concerns here and there and stuff like that, so how this – like I mean this paragraph is recorded here, it says like I mean the Board made the following comments and then like here it is stated that okay they even raised that leg because they have not adhered to the supply development and wharrah-wharrah-wharrah, so like for me I am interpreting this as a comment, not the reason that the Board relied on to make their final  
10 decision.

**CHAIRPERSON:** Okay Ms Memela we are going to move on, you just said earlier on it was a reason, but not for the rejection of the CEO's recommendation.

**MS MEMELA:** Okay Chair.

**CHAIRPERSON:** Yes, okay, alright. Let's move on.

**ADV KATE HOFMEYR:** Thank you Chair. I do intend to move to a different topic and that is just the steps taken to follow up on the compliance by AAR and J M Aviation of their contractual obligations under the tender.

20 **MS MEMELA:** The steps taken by?

**ADV KATE HOFMEYR:** So it is - what was your role in relation to ensuring that the commitments that had been given by J M Aviation and AAR under the contract were being fulfilled. Did you play any role in that regard?

**MS MEMELA:** Of course like I mean there will be discussions but they



will not be run by me, they will be run by the unit that is responsible for that, being BEE and Supply Development following up and discussing what is it that has to be in the proposal as I said earlier Chair, that okay they would sit and sit with a local supplier and discuss what needs to be there and they might call me in if they need my guidance on certain things and stuff, ja.

**ADV KATE HOFMEYR:** And the other contractual commitments like having a site manager in place at SAAT, is that something you were following up on?

10 **MS MEMELA:** Site manager also it is part of the – site manager would be part of the proposal that is put in place, and I remember there was a small program that was run by BEE and Supply Development Unit that they were actually arranging office space for BEE companies like to have offices at SAAT, so that like when they are working with these multinational companies at least they are within the site, so that will be part of the plan ja.

**ADV KATE HOFMEYR:** Ja, I am just interested to know who would follow up about that?

20 **MS MEMELA:** It will be Ms Princess Tshabalala who will be – who was finding out okay where is the office, maybe she will find a space where there is a scrap that is sitting there that is no longer used and try and see if it could be opened for some suppliers, but she was not only doing it for J M, like there were lots of other suppliers that were given office space including Ms Sambo who has been with other BEE suppliers, being kicked out by Mr Schalk Human, they no longer have

the office space at SAAT, it is a reversal actually of the transmissional agenda.

**ADV KATE HOFMEYR:** Chair I see that we are just past the tea adjournment.

**CHAIRPERSON:** Yes, I just noticed too.

**MS MEMELA:** I'm sorry Chair.

**ADV KATE HOFMEYR:** I have to say in my defence I truly did not anticipate this level of debate on my question about supply development.

10 **CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** But we – possibly it is convenient to take a short adjournment and return, I am in your hands.

**CHAIRPERSON:** Well we can ...[intervenes]

**MS MEMELA:** Finish.

**CHAIRPERSON:** Or take it at half past but if it is convenient to take it now we can take it now.

**ADV KATE HOFMEYR:** I think we can take it now indeed.

**CHAIRPERSON:** Okay let's take the tea adjournment, we will resume – it is twenty past now, we will resume at twenty five to twelve.

20 We adjourn.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES**

**CHAIRPERSON:** Okay let us get going.

**ADV KATE HOFMEYR:** Thank you Chair. Miss Memela we were just

dealing with the follow ups after the contract was concluded in relation to JM Aviation and AAR's obligations. What I am interested in is, we had evidence from Mr Human, that one of the obligations of JM Aviation under the contract was to have a full time rep on the premises and to support the day-to-day operations at SAAT, and his evidence was that it has never been done. Did you follow up on that when you were in the procurement provision, that position?

**MS MEMELA:** Did I follow up that there was a rep?

**ADV KATE HOFMEYR:** Yes.

10 **MS MEMELA:** Chair, as I have explained earlier that my understanding, all the BEE suppliers like that are representing either their multi-national suppliers or they are coming on their own. We had offices arranged for them to be there at SAAT, so if I remember correctly there was someone from JM but like I never got to meet them because like remember there was Senior Manager BEE and supplier development that was running that. Yes so [intervenes].

**ADV KATE HOFMEYR:** This was a specific [intervenes].

**MS MEMELA:** So [intervenes].

**ADV KATE HOFMEYR:** Sorry, apologies.

20 **MS MEMELA:** So, I am not sure what is the view of Mr Human. Remember Mr Human has never been there when these transactions happened. He was only asked to act in my previous position, I think just last year so whatever he is giving here is either hearsay or whatever [intervenes].

**CHAIRPERSON:** Ja, he was based on documentation.

**MS MEMELA:** Ja.

**CHAIRPERSON:** He made the point that he had no personal knowledge of a lot of things ...[intervenes].

**MS MEMELA:** Oh, okay.

**CHAIRPERSON:** But he had looked at records and [intervenes].

**MS MEMELA:** Yes Chair

**CHAIRPERSON:** And mostly he was giving evidence based on records.

**MS MEMELA:** Yes, but my understanding is also that like maybe in his position he would have met with the current supplier to find out if that had  
10 happened.

**ADV KATE HOFMEYR:** His evidence was that it had not, and it was not a general BEE supplier facility at SAAT. It is a contractual obligation that JM Aviation have an on-site representative to assist on the day-to-day performance under the contract. Did you ever check whether there was a JM Aviation representative performing that role after the contract was concluded?

**MS MEMELA:** I have never checked that Chair because there was a representative who is responsible for that and who reports to me, and my, and the reporting was that like there was somebody who is coming from  
20 JM and there was somebody coming from SAAT, from AAR who is able to answer some technical questions.

**ADV KATE HOFMEYR:** Thank you, and then just the obligation to have the joint venture between JM Aviation and AAR Incorporated within twelve months of the agreement. Are you aware of that obligation?

**MS MEMELA:** There is an obligation to, to have?

**ADV KATE HOFMEYR:** To have JM Aviation and AAR's joint venture incorporated within twelve [intervenes].

**MS MEMELA:** Within a year

**ADV KATE HOFMEYR:** Within a year.

**MS MEMELA:** Yes, I think I do remember that Chair.

**ADV KATE HOFMEYR:** Did anyone follow up on that?

**MS MEMELA:** I think we had followed up but like not me specifically, and I am not sure how far it is right now because I can remember like I do not follow up like on behalf of my, the people that are responsible for  
10 certain roles.

**ADV KATE HOFMEYR:** So, by 20 July 2018 they needed to have an incorporated joint venture and they needed to have a local bank account. To your knowledge did anyone follow up on whether they had fulfilled that obligation?

**MS MEMELA:** In 2018 Chair, I was already out of sight so I would not know.

**ADV KATE HOFMEYR:** Sorry I meant, apologies, by July 2017 they had to have complied with those obligations.

**MS MEMELA:** I have no knowledge of, ja.

20 **ADV KATE HOFMEYR:** Thank you. Miss Memela, on the first day of your evidence which I have to say right now feels many days ago I am sure for you as well.

**MS MEMELA:** Me too as well

**ADV KATE HOFMEYR:** You raised the issue that I took you to a Conflict of Interest Policy at a point.

**MS MEMELA:** Yes.

**ADV KATE HOFMEYR:** And it was the SAA Group Policy and on the front page of it, it said "Recommended for adoption by Subsidiaries".

**MS MEMELA:** Yes.

**ADV KATE HOFMEYR:** And you raised a concern about you, you were not aware of it and that, was there some proof that it had been adopted or not. So pursuant to that request Chair, we engaged the person who heads the compliance and governance at SAA. It is Mr Chadi, and he has been in that position since 2011. He has provided an affidavit to the  
10 Commission. Unless Miss Memela wants to go there, I do not think it is necessary for you to go there Chair.

**MS MEMELA:** Oh.

**ADV KATE HOFMEYR:** The upshot of what Mr Chadi says

**MS MEMELA:** Okay.

**ADV KATE HOFMEYR:** And you can certainly respond to it if you would like to Miss Memela.

**MS MEMELA:** I would like to.

**ADV KATE HOFMEYR:** It is in DD25(b) at page 752.

**MS MEMELA:** 752.

20 **ADV KATE HOFMEYR:** Yes, it should be right towards the end. Mr Chadi says there that, he confirms he is the Compliance and Governance Officer at South African Airways and he makes clear he has been holding that position since 1 March 2011. I am just going to paraphrase for the purposes of this point. He indicates that the Conflict of Interest policy which group compliance is the custodian of, is a group

policy applicable to SAA, its subsidiaries, apologies.

**MS MEMELA:** Oh, I am still trying to find [intervenes].

**ADV KATE HOFMEYR:** Oh, I did not realise that.

**CHAIRPERSON:** I think Miss Mbanjwa wants the page number.

**ADV KATE HOFMEYR:** It is 752.

**MS MEMELA:** I found it Chair.

**ADV KATE HOFMEYR:** I am just waiting for Miss Mbanjwa to get there.

**MS MBANJWA:** Thank you.

**ADV KATE HOFMEYR:** Thank you. So what Mr Chadi goes on to say  
10 there that the Conflict of Interest Policy which group compliance is the  
custodian of, is a group policy applicable to SAA, its subsidiaries and  
out-stations.

The scope of the policy does include all subsidiaries of SAA and  
that includes SAA Technical and he goes on and says, in the absence of a  
Conflict of Interest Policy or any policy at the subsidiary level having  
been adopted, the group Conflict of Interest Policy or Group Policy shall  
be applicable.

So, what Miss Memela had been asking for the other day is  
evidence that it had been adopted. What Mr Chadi has clarified for us is  
20 that it is the default is that it applies, but it will only not apply if some  
other policy has been adopted, as I read his affidavit, oh I am sorry I see  
there is a [intervenes].

**CHAIRPERSON:** Yes, Miss Mbanjwa?

**MS MBANJWA:** Thank you Chair. The way I understand it, if a policy  
has been adopted, the adoption of the policy will be self-evident on the

policy itself. Or there will be a resolution to say such a policy is adopted. Adoption of a policy cannot be done by means [intervenes].

**CHAIRPERSON:** That - that Miss Mbanjwa you can use in your re-examination or in argument.

**MS MBANJWA:** Thank you, Chair.

**ADV KATE HOFMEYR:** And then he just clarifies further that the actual Conflict of Interest Policy that we dealt with in the evidence on Friday was applicable to SAAT at the time and is still applicable currently as no other Conflict of Interest Policy has been adopted by SAAT previously and  
10 currently.

And then he concludes by indicating that there is a process on annual internal communication to remind employees and to alert them of the Conflict of Interest Policy that was issued through My SA, SAA. Chair he does not explain it there but it is the internal e-mail communication within SAA in or around April 2016 and he indicates they receive declarations from SAA and SAAT employees over the years, except that not everyone has complied.

And then what follows that in his, in the bundle is just some screenshots of when that was sent out which include Miss Memela as a  
20 recipient. You will see that Miss Memela at page 754. Do you have any basis to dispute what Mr Chadi is saying here?

**MS MEMELA:** Chair, [intervenes].

**CHAIRPERSON:** Well let's start – let's start ...[intervenes].

**MS MEMELA:** Firstly ...[intervenes].

**CHAIRPERSON:** I am sorry.



**MS MEMELA:** Okay.

**CHAIRPERSON:** Let us start first by confirming that you know Mr Chadi because he says he has been there since 2011.

**MS MEMELA:** Yes. I am getting there Chair.

**CHAIRPERSON:** And you know him as Compliance Officer or whatever the position.

**MS MEMELA:** Yes. Chair I – I – I wanted to correct that.

**CHAIRPERSON:** Yes.

**MS MEMELA:** The statement that has been made by Miss Hofmeyr. She  
10 said Mr Chadi is the Head of Risk and Compliance for SAA. She is not.

**CHAIRPERSON:** I think she may ...[intervenes].

**MS MEMELA:** I heard her ...[intervenes].

**CHAIRPERSON:** Have taken that from the affidavit.

**ADV KATE HOFMEYR:** Apologies [intervenes].

**MS MEMELA:** No, it is not here.

**ADV KATE HOFMEYR:** If I had said that it was in error,

**MS MEMELA:** Ja she said that.

**ADV KATE HOFMEYR:** Let me read it correctly:

20 "I am the Compliance and Governance Officer at  
South African Airways."

**CHAIRPERSON:** Yes okay.

**MS MEMELA:** Yes, so I just had to correct her statement because that what she put out there on the public that he is the head. So, yes I know Mr Chadi, yes.

**CHAIRPERSON:** Yes. Yes – yes okay, and the question was whether

you dispute what he says there?

**MS MEMELA:** I dispute it to a certain extent that he is saying that if there, is it like some of the subsidiaries have not adopted the policy, automatically this one does.

**CHAIRPERSON:** Applies ja.

**MS MEMELA:** Exactly.

**CHAIRPERSON:** That you accept?

**MS MEMELA:** No, no I am saying I dispute that [intervenes].

**CHAIRPERSON:** Oh, you say you dispute that?

10 **MS MEMELA:** Exactly.

**CHAIRPERSON:** Okay.

**MS MEMELA:** Maybe if Miss Hofmeyr can actually show me that provision within that , because it should not just be coming from Mr Chadi, it should also be stated in the policy that failure by each subsidiary to adopt their own that is applicable to them.

Therefore, this one automatically applies. I will tell you why I say that Chair, it is because the SCM policy is the Group Policy and like there is a, where it talks about applicability. It says this policy applies to group SAA and unless where it is stated otherwise.

20 So like I mean in that then it shows okay, there is a chapter that talks to SAAT and then like where SAAT like because where SAAT is the technical side of SAA, it talks about like the procurement processes of SAAT. So, I am saying I do not agree with Mr Chadi. It is his version and I am stating my version.

**CHAIRPERSON:** Am I right to say you say the reason why you dispute

what he says is because as far as you know there is nothing in writing that confirms that.

**MS MEMELA:** Yes, I am saying Chair so if there was something in that policy like the SCM policy says okay, unless stated otherwise automatically if the subsidiary does not adopt its own policy this one automatically applies.

**CHAIRPERSON:** Okay, yes, alright. Miss Hofmeyr?

**ADV KATE HOFMEYR:** So, when the policy says this Conflict of Interest Policy shall be applicable to SAA group does that not mean what it says?

10 Let me give you the reference. It is in DD25(a).

**MS MEMELA:** I do not have to go there Chair but I am saying yes.

**CHAIRPERSON:** Yes.

**MS MEMELA:** What, policies are specifics, for instance like this one is it says outside to be adopted by subsidiaries, and then like I said okay, but like there is none that is adopted that I know of, that should be signed by the board of SAAT.

20 My understanding is that SAAT is a freight company from SAA with its own registration number, with its own policies and stuff, so like I mean this one should also be there signed by the board and the accounting officer of SAAT being the CEO.

**CHAIRPERSON:** So, you are saying in the absence of a resolution by the board of SAAT saying we are adopting this policy and in the absence of something in the policy itself, saying that if SAAT does not have its own policy this policy will apply. You say in the absence of those two things, you dispute his evidence.

**MS MEMELA:** Yes, I dispute his statement and I even gave an example of SM Chair and now I am giving you an example of the DOA. SAA for instance has got its own DOA which is also ran by the same Mr Chadi's department. And then like SAA has got its own DOA, then SAAT has got its own separate DOA that is signed by the board and CEO of SAAT.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** Miss Memela in fairness to you the clause that I read does go on. It says, it is Clause 1.7 at page 439 of Annexure DD25(a). It says:

10                    "This Conflict of Interest Policy shall be applicable to  
                          the SAA group."

It then reads:

                          "The policy shall then be presented to all  
                          subsidiaries Exco for adoption."

**MS MEMELA:** Thank you.

**ADV KATE HOFMEYR:** And Mr Chadi seems to have been conducting compliance and governance at SAA with a position that says unless there is a contrary policy adopted, the Group Policy applies. I understand your evidence to be unless there is a specific adoption it would not apply to  
20 SAAT. Is that right?

**MS MEMELA:** That is right.

**ADV KATE HOFMEYR:** So, what conflict of interest provisions did apply to SAAT employees for them to be able to give their annual declarations of interest?

**MS MEMELA:** I do not remember any Conflict of Interest Policy Chair at

SAAT that is written as you had read correctly there Miss Hofmeyr that the department risk and compliance like should be going to subsidiaries and presented to Exco and stuff. I do not remember because as I said first, I was the minute taker for Exco before I became an Exco member. So, I would remember this kind of decision being taken.

**ADV KATE HOFMEYR:** Thank you. Miss Memela I would like to then conclude with your evidence and in order to do so we have had evidence over four days, well three and a half now [intervenes].

**MS MEMELA:** Yes Ma'am.

10 **ADV KATE HOFMEYR:** So what I propose to do is to identify nine highlighting features of the evidence over the past four days, and I want to give you an opportunity to respond to those because it is an effort to round up what we have covered over the period [intervenes].

**MS MEMELA:** Okay so we going to highlight, finish and then I respond? [Intervenes].

**ADV KATE HOFMEYR:** No, I will do one-by-one because it is a list of nine unless you would like me to give all nine [intervenes].

**CHAIRPERSON:** No, no, one-by-one is much more convenient. Because if you have to respond to nine can you imagine?

20 **ADV KATE HOFMEYR:** It is quite challenging indeed.

**MS MEMELA:** No, I was not going to, I thought she will just round up like read everything and then I would respond in one go.

**CHAIRPERSON:** No, it is much more convenient if she takes one-by-one and then you respond then it is clear what is being put to you.

**ADV KATE HOFMEYR:** Indeed.

**CHAIRPERSON:** It is clear what your answer is and then she moves to the next one.

**MS MEMELA:** Okay.

**CHAIRPERSON:** And it will move quite quicker with crisp answers.

**ADV KATE HOFMEYR:** Yes.

**MS MEMELA:** With yes-no-yes-no. I am hoping the style of questioning will be like that Chair as well.

**CHAIRPERSON:** No – no - no that is fine. But remember I want crisp answers but if you feel strongly that you need to explain something, I will  
10 keep an eye on that.

**MS MEMELA:** Thank you Chair.

**ADV KATE HOFMEYR:** So, what I put to you Miss Memela is that the evidence over the last four days has shown the following:

First, that despite the fact the Head of Line Maintenance, Mr Makaleng and the Acting CEO at the time Mr Phiri, established the book value of the GPU's that were to be sold and communicated that book value to the SAAT board when it took the decision to sell the GPU's. You did not consider the book value of the GPU's when you negotiated with JM Aviation.

20 **CHAIRPERSON:** And you can say that is not true. I did take it into account or it is not true or it is true I did not take it into account and then if you need to explain it [intervenes].

**MS MEMELA:** That is not true Chair.

**CHAIRPERSON:** That is not true?

**MS MEMELA:** Ja they did not establish any what, book value other than

us in writing down on his submission to the board, and Chayile raising that he was not happy and ja so.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** And in the course of your negotiations with JM Aviation about the price at which SAAT would sell the GPU's you did not establish the fair market value of the GPU's?

**MS MEMELA:** Yes, Chair because like there was no tender that was ran. The only time procurement establishes fair value is go through tenders, yes.

10 **ADV KATE HOFMEYR:** The third is that you supported the SAAT board's decision to award the components tender to AAR and JM Aviation as justifiable and that was when at a time when there were calls from the SAA Chairperson for SAAT to cancel the contract, is that correct?

**MS MEMELA:** Chair please.

**CHAIRPERSON:** No well, she says is that correct, and your answer should start with yes it is correct or no it is not correct.

**MS MEMELA:** Okay Chair.

**CHAIRPERSON:** Then you can explain if you need to explain.

20 **MS MEMELA:** Of course based on the board minutes that she had read for me but I do remember that Miss Dudu Myeni was extremely not happy about the board decision and when on the 15 June when this was discussed on the board meeting.

It was us like now standing up for SAAT. Not who has made what decision and who is against what and who does not support. I still stand by my version saying we were all shocked by that decision by the

board that okay they just made that decision there but like they had their own reasons, ja I am done.

**CHAIRPERSON:** So, you will not say whether you supported or did not support [intervenes].

**MS MEMELA:** Ja

**CHAIRPERSON:** But you have made your comment.

**MS MEMELA:** Yes Chair.

**CHAIRPERSON:** Okay.

**MS MEMELA:** Because it gives a certain, yes I, because of that, those  
10 board minutes and what like was discussed there in June and after the board had justified responding to Miss Dudu Myeni why this was done and National Treasury, yes.

**ADV KATE HOFMEYR:** The fourth is that you failed to disclose to anyone else at SAAT that JM Aviation had been communicating with you and sending their bid proposal and JV agreement five days before their bid was due to be submitted for the final tender. Is that correct?

**MS MEMELA:** It is correct Chair; I did not disclose because I do not sit in evaluation team.

**ADV KATE HOFMEYR:** And you have accepted, I think previously in your  
20 evidence, that that communication alone ought to have disqualified them from the bid, correct?

**MS MEMELA:** That qualification that communication with the evaluation team, the people, because like even the document says this document, and they are the ones who know that document. I said okay if I was sitting there, it would have disqualified them.



**ADV KATE HOFMEYR:** No Miss Memela, I recall your evidence to be, but you can tell me if you want to retract from that position. You said you were not aware of it at the time. But I put it to you that if you had been aware of it whether it would have been in breach of the requirements of the RFB for JM Aviation to communicate at all with you [intervenes].

**MS MEMELA:** Oh Ok.

**ADV KATE HOFMEYR:** And I understood your answer to be yes.

**MS MEMELA:** Yes. Yes, Chair thank you.

**CHAIRPERSON:** Okay.

10 **ADV KATE HOFMEYR:** And the fifth is that you allowed a contract to be concluded between JM Aviation and AAR which had various detrimental clauses in it to SAAT. Is that correct?

**MS MEMELA:** I allowed? That is not true Chair. There is a person who is responsible for that, who leads the negotiation and stuff.

**ADV KATE HOFMEYR:** And that was Miss Mbheki in your view?

**MS MEMELA:** Yes Chair.

**ADV KATE HOFMEYR:** Or be it that she was subordinate to you and reported to you. Correct?

20 **MS MEMELA:** She reported to me but like yes, she was leading the legal and contracts management so that is her role, yes. And like or of course always when there are other issues that they are not happy with for instance I will make an example Chair quickly.

The fact that like she said she was not happy with the penalty, being not like in the contract [intervenes].

**CHAIRPERSON:** Ja I remember you testified about penalties.

**MS MEMELA:** Ja so my understanding that like I had a very close relationship with my staff and like she, that is the one something that she would have raised with me and then like I would have supported her and saw how we close that gap, but instead like she continued and like maybe the contract would have been reviewed and amended.

And remember like there was lots of other negotiations after the contract was signed so it would have been reviewed if she had raised that, ja.

**CHAIRPERSON:** Miss Mbanjwa has it fallen away?

10 **MS MBANJWA:** Slightly Chair, just to confirm quickly, I just want to know, because the statement is, the contract was detrimental to SAAT. Are those detrimental aspects [intervenes].

**CHAIRPERSON:** You wanted the respects in which it was detrimental?

**MS MBANJWA:** Yes. Yes. Thank you Chair

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** It resulted in a BER rate contribution of 65 percent as opposed to the 70 percent that was stipulated in the request for bid. Should I go a bit slower?

**CHAIRPERSON:** Oh, okay.

20 **ADV KATE HOFMEYR:** There was a BER rate ultimately concluded which did not follow the 70 percent contribution required in the RFB. But that was reduced to 65 percent.

**MS MEMELA:** Can I ...[intervenes].

**ADV KATE HOFMEYR:** Oh, do you want to respond here?

**CHAIRPERSON:** Oh yes. Okay.

**MS MEMELA:** The BER rate that was stated there that was exactly what I had made an example earlier on that. That is one thing that if it is, we do not have a background of also the public out there does not understand the background of course it would be taken as such.

But the BER, my understanding like it involves the repairs, what is some of the spares are damaged and they have to be sent back for repair and there are certain days that like mean it needs to take for SAAT to send back but so far while I was still there Chair is that the fact that when I called the meeting like after I complained about that.

10           There was a report that proved that actually it was from SAAT side that there was even that, even those charges from AAR side of late submission of the spares and all that like I mean so there it is a bit technical.

So, I think it will work even much better if a technician explains better but I am saying it was from SAAT side that was lacking so they were supposed to actually follow a certain period to send then like I mean then the spare gets repaired and comes back but they would wait for seventy two hour and then until AAR replaced that spare with a new one and they end up charging SAAT. So, the problem now is from operations  
20 or materials management failed to manage that part.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** There was no inclusion of a penalty clause in favour of SAAT.

**MS MEMELA:** Oh, okay. I think I have already answered that, Chair.

**CHAIRPERSON:** Well the, what Miss Hofmeyr is continuing to do is to

specify the respects. [Intervenes].

**MS MEMELA:** To state.

**CHAIRPERSON:** in which the contract was prejudicial to SAAT.

**MS MEMELA:** To SAAT. Okay, Chair.

**CHAIRPERSON:** Yes, yes. You have talked about penalties, but do you accept that the absence of such a penalty in favour of SAAT was prejudicial to SAAT.

**MS MEMELA:** If that is the case of course like after I have seen that [intervenes].

10 **CHAIRPERSON:** Yes, okay.

**MS MEMELA:** It was a bit prejudicial but I think if it was raised by the person who was managing legal and contracts the contract would have been reviewed before we added like I mean the lists of aircrafts on the contract.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** Yes, you will recall Miss Mbheki's challenge was that she never had an opportunity to review it because it was suddenly signed on the 7<sup>th</sup> of July. Do you recall that?

20 **MS MEMELA:** Remember Miss Hofmeyr the contract is still running, Chair. I travelled with Miss Mbheki to London to negotiate with AAR like in terms of additional aircraft and other things in the contract. So my understanding is that like before we left South Africa with Mr Mike Kenny as well she would have said okay you know what okay I think this is an opportunity and then tell me also that boss actually I never had the sight of the contract before it was signed because, that was never reported to

me you understand?

So like I mean when we go there we would have then said okay other than because I remember before we flew to London we discussed certain things that we have to make sure that are added in the contract. And she was there being the one who is talking on the legal framework so my understanding is that like she should have pushed also for that or maybe let me and Mike Kenny understand that okay that penalty is not there therefore it should be reviewed. So that amendment it would have like added there the penalty.

10 **ADV KATE HOFMEYR:** Did you see fit to review the contract at any point to check that it adequately protected SAAT?

**MS MEMELA:** Chair, I would have to say inadequate to review if the person who is managing who is responsible for managing the contract had raised certain gaps within the contract because my understanding also like I before I brought Cookie in I was holding her position before I joined procurement.

20 So, my understanding is that when you manage a contract you go through it and then raise certain gaps that okay actually this is not to the benefit to the company therefore like to close this gap this is what I need to do.

I always say sometimes if there is some sort of unhappiness like within the contract within two parties there is nothing that like stops both parties to sit down and say okay hey well maybe it was done in a rush or something like that, let us sit and see if we could close that gap. I do not remember that being raised.

**ADV KATE HOFMEYR:** There was no inclusion of an escape clause or a termination clause for SAAT to extricate itself from the contract, was that in your view a prep to SAAT's prejudice.

**MS MEMELA:** That if it is true Chair it is also quite and [intervenes].

**CHAIRPERSON:** Prejudicial

**MS MEMELA:** Ja, exactly like I mean that is like my understanding from the legal point of view and the person who had managed contracts before.

**ADV KATE HOFMEYR:** And the obligation to make the upfront deposit payment, do you regard that as being prejudicial to SAAT?

10 **MS MEMELA:** Chair, in that day, that first day when we sat there when I admitted that I was actually sitting during the negotiation I remember we - we - we fought tooth and nail. I was sitting there watching her. Supporting her as she was negotiating on behalf of the company and she pushed back.

And remember AAR were having to show the whole team that it is their policy. Their board would not even approve if this if this is not done and stuff like so I am saying now from SAAT's side that was really defended during the negotiation.

20 That is why then there was that kind of like I mean the agreement at the end that said okay maybe they could have it spread over six months but like I mean that did not happen. You have established that.

**ADV KATE HOFMEYR:** They did not - it was not a provision of the tender that they would be entitled to that upfront payment, was it?

**MS MEMELA:** It was not a provision of the tender. It was not on the

tender Chair. I think that is the reason why we were really sceptical about it.

**ADV KATE HOFMEYR:** But they won that bargain, it seems.

**MS MEMELA:** They?

**ADV KATE HOFMEYR:** They won that bargain.

**MS MEMELA:** They won?

**ADV KATE HOFMEYR:** Yes.

**MS MEMELA:** Well, do I say yes or no Chair?

**CHAIRPERSON:** If – if - if Miss Mbheki did not get what she wanted for  
10 SAAT you say yes.

**MS MEMELA:** Okay yes, I guess like she did not get what she wanted.

**ADV KATE HOFMEYR:** I think I have given the respects in which it was detrimental. I will now move to the next element to round up the evidence. Miss Memela you have also failed to alert [intervenes].

**CHAIRPERSON:** Oh.

**ADV KATE HOFMEYR:** I am sorry is there an issue?

**CHAIRPERSON:** I am sorry Miss Memela?

**MS MEMELA:** Also, I thought these were nine

**CHAIRPERSON:** No, she is going back she had to pause at nine  
20 [Intervenes].

**MS MEMELA:** Oh, okay. *Askies* then.

**CHAIRPERSON:** Deal with the - and give you the respects in which she says the contract [Intervenes].

**MS MEMELA:** Oh okay.

**CHAIRPERSON:** The contract was prejudicial to SAAT [intervenes].

**MS MEMELA:** Oh, I understand okay.

**CHAIRPERSON:** Now she is going back to [intervenes].

**MS MEMELA:** To her list.

**ADV KATE HOFMEYR:** To the list.

**CHAIRPERSON:** Might be the fourth [intervenes].

**MS MEMELA:** I am sorry.

**CHAIRPERSON:** Or the fifth.

**ADV KATE HOFMEYR:** I think I might be on the same [intervenes].

**MS MEMELA:** Chair, can I take the water?

10 **CHAIRPERSON:** Somebody will bring you water.

**MS MEMELA:** Okay.

**CHAIRPERSON:** Will somebody bring her water please?

**ADV KATE HOFMEYR:** The next is that you failed [intervenes].

**CHAIRPERSON:** Oh, okay. Okay.

**ADV KATE HOFMEYR:** Miss Memela the next is that you failed to alert finance to the fact that the contract with JM Aviation and AAR did not in fact require an upfront cash payment to be made.

**MS MEMELA:** I ...

**CHAIRPERSON:** Do you want the question to be repeated?

20 **MS MEMELA:** No I am hearing it is just I was not aware that I had like that there was that expectation from me to alert finance when finance was sitting during negotiation and CFO sits at EXCO and understanding is that he knew exactly what was happening.

**ADV KATE HOFMEYR:** Do you remember the email communications where the finance person says; I need to ask Ms Memela about this. And



then you respond with; according to the contract.

**MS NONTASASA MEMELA:** Yes. That is what I had explained Ms Hofmeyr yesterday that- and you actually even went back to that provision and said maybe that was the provision that I was talking about. It is under some technical thing. It talks about three months contract. I said we were supposed to have according to the negotiations and stuff. So, it is not like they paid this deposit upfront because I had responded to that email. There were lots of processes Chair that were followed before the payment was made.

10 Even Dev Arya the CFO, the former CFO even explained that he had to push hard. It is his email that I had read. He had to push hard for things to be done and of course it is not paid from SAAT. As you saw it had to go to the Group CFO of SAA, go through the Treasury of SAA who has to look at certain things. So, I am not sure it was not my- it was not expected of me to be the one who say, okay pay. Or maybe as you maybe that payment was made because I wrote that email. I do not think so.

**ADV KATE HOFMEYR:** You were the only person who advised on the contract and what it provided.

**MS NONTASASA MEMELA:** Ah-ha, I was not the person who advised on  
20 the contract and what it provided. Chair because of my experience in terms of at contracts management once the contract is in place or maybe finance has an obligation to familiarise themselves of the provisions especially if they are lazy- I know when you are not a lawyer not really go through the whole contract or whatever. Just go through the payment part or maybe wherever it talks about the deposit and whatever and know that

this is what is expected from them.

For me I think Ms Hofmeyr she saw those emails with me writing and stuff and I did say the reason why I played that role was because my fear was that if we do not pay whatever we are expected to pay as per the contract, there will be an AOG (Aircraft on the Ground). And once the aircraft is on the ground because of the lack of spares the first person who gets blamed is me. And that is one thing that I always take accountability of you see where it comes to the what the provision of spares because that is the duty of procurement to provide spares to operation to run.

10

**ADV KATE HOFMEYR:** Do you accept that you were responsible for contract management at SAAT?

**MS NONTASASA MEMELA:** I do not accept. Chair I said before Ms Kuki Mbeki came in, I held her position before I joined procurement so I was responsible for managing contracts and I was fully involved in there. So ... (intervenes)

**CHAIRPERSON:** At the time when you occupied the position that she was occupying.

**MS NONTASASA MEMELA:** The position of Ms Mbeki, yes.

20 **CHAIRPERSON:** Mm.

**MS NONTASASA MEMELA:** And then I do not know if you remember, I highlighted on Friday, Ms Hofmeyr I do not know if you remember about the structure that- the contract management at that time when I was in that position it was reporting to Commercial. So, I reported the then GM Commercial Mr Arson Malola Phiri. And then during the restructuring it

was agreed to move to, ja.

**CHAIRPERSON:** But we do not- we might not need to go there- that far.

**MS NONTASASA MEMELA:** Okay. Yes Chair.

**CHAIRPERSON:** Your answer is ... (intervenes)

**MS NONTASASA MEMELA:** No.

**CHAIRPERSON:** As HOD SCM ... (intervenes)

**MS NONTASASA MEMELA:** I do not manage contracts.

**CHAIRPERSON:** That was not part of your responsibility.

**MS NONTASASA MEMELA:** Yes.

10 **CHAIRPERSON:** Ja, it had been part when you were occupying another position.

**MS NONTASASA MEMELA:** Yes Chair.

**CHAIRPERSON:** Okay.

**MS NONTASASA MEMELA:** Mm.

**ADV KATE HOFMEYR:** Ms Memela do you remember an issue being raised by Mr Lionel Le Roux in March of 2017 around the AAR JM Aviation contract in some of the articles that had been circulating in the media about it?

**MS NONTASASA MEMELA:** Okay. Or do we go to that ... (intervenes)

20 **CHAIRPERSON:** She says do you remember.

**ADV KATE HOFMEYR:** I just want to ask do you remember it?

**MS NONTASASA MEMELA:** Okay I do remember. I remember there are lots of communications.

**CHAIRPERSON:** Ja.

**MS NONTASASA MEMELA:** But I do remember I ... (intervenes)

**CHAIRPERSON:** Ja. Then she will come ... (intervenes)

**MS NONTSASA MEMELA:** Ja.

**CHAIRPERSON:** With a question if there is a question.

**ADV KATE HOFMEYR:** There is just a follow up Chair.

**CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** Because Ms Memela has been very emphatic in her evidence at the moment about not being responsible for contracts management and I would like to then take her to this email communication if I may.

10 **CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** I had not necessarily thought it would necessary but it seems to be. You will find it in DD25B at page 757.

**CHAIRPERSON:** Yes.

**ADV KATE HOFMEYR:** You see in the second half of that page there is an email from Mr Lionel Le Roux.

**MS NONTSASA MEMELA:** Mm.

**ADV KATE HOFMEYR:** In which he raises these issues about the AAR contract.

**MS NONTSASA MEMELA:** Mm.

20 **ADV KATE HOFMEYR:** I propose to paraphrase unless Ms Memela you think it is necessary for us to read to whole thing into the record.

**MS NONTSASA MEMELA:** No.

**ADV KATE HOFMEYR:** The issue that Mr Lionel was raising ... (intervenes)

**MS NONTSASA MEMELA:** Please read it.

**ADV KATE HOFMEYR:** Oh, you do want it read.

Hi colleagues, with regard to our conversation in the meeting on whether flight technical could join the SAAT contract I have attached a view articles which was published on this contract.

The first article states that it is a five-year contract between SAAT and AAR Corporation in joint venture with JM Aviation as it- and it would cost 125 million US dollars.

The second attachment is a request for an interim interdict by Air France against this maintenance contract. The High Court rejected this  
10 application but it does indicate that AAR jv JM Aviation has submitted a final bid price of US dollars 82 476 062 dollars. It begs the question why the big increase between the contract and tender prices.

And then he goes on to say;

The last two attachments deal with the HAWKS investigation into Deputy Finance Minister Mcebisi Jonas and his alleged involved in an MOU between SAAT and AAR which was signed in 2015. Please defer the research to have a clearer understanding around the consideration to join this component maintenance contract.

**MS NONTSASA MEMELA:** Ja.

20 **ADV KATE HOFMEYR:** He had circulated that to people other than you.

**MS NONTSASA MEMELA:** Ja.

**ADV KATE HOFMEYR:** And then what happened is above that is Bongani Tshabalala responds- Chair I am now in the middle of the page to say; Speak to Mario ... (intervenes)

**MS NONTSASA MEMELA:** Dukwana.

**ADV KATE HOFMEYR:** Dukwana or Mike Kenny, Lionel.

**MS NONTASASA MEMELA:** Ja.

**ADV KATE HOFMEYR:** And then Mario Dukwana responds- you have to go back a page to 756. This is still on the 14<sup>th</sup> of March. And what Mario Dukwana says is; Hi Bongani, I am unable to positively answer your email as I do not have full knowledge of the AAR contract or the current status on any legal matters.

I have copied Advocate Nontsasa and Kuki on this email. I am sure they will be able to clarify your matter as set out in your email below.

10 Regards.

**MS NONTASASA MEMELA:** Yes.

**ADV KATE HOFMEYR:** And then you respond at the top of page 756.

**MS NONTASASA MEMELA:** Mm-hmm.

**ADV KATE HOFMEYR:** And you say; Dear Lionel, I am very surprised by your email. Does this mean you have forgotten already who to communicate with regarding any contracts that have gone through procurement? You worked for SAAT you should know exactly which department is running these processes.

**MS NONTASASA MEMELA:** Mm-hmm.

20 **ADV KATE HOFMEYR:** Then you go into a detail ... (intervenes)

**MS NONTASASA MEMELA:** Ja, you do not have to go there.

**ADV KATE HOFMEYR:** Yes.

**MS NONTASASA MEMELA:** Ja, you can ask your question.

**ADV KATE HOFMEYR:** So what I am struggling with is why you would respond to a colleague on the basis that he should have been

communicating with you and your department about contracts management and the terms of the contract that has gone through a tender process if in your previous evidence you were saying you were not- you did not play that role.

**MS NONTASASA MEMELA:** Chair?

**CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** I am sure you heard Ms Hofmeyr reading an email form Mr Mario Dukwana.

**CHAIRPERSON:** Yes.

10 **MS NONTASASA MEMELA:** Where he said; I am unable to positively wara wara and he said I have copied Advocate Nontsasa and Kuki Mbeki on this email.

And then that first paragraph it says; I am very surprised by your email. Does this mean you have forgotten already who to communicate with?

Lionel used to work for SAAT and he understands that contracts are managed by legal and contracts person. Exactly so that is exactly what I was saying that he should have just what communicated with the legal and contract person who manages this contracts so that he can get a proper idea of what he was talked about instead of going on Google and  
20 talk about a roomer from the media instead of the facts that are there.

Ms Kuki Mbeki would have given him the facts. Because already he was talking about an increase and when I asked in my email; please highlight where the increase is. He could not because there were no facts. He was just relying on the article on the media.

**CHAIRPERSON:** Well is your- is the position that Ms Mbeki was the one

responsible for managing contracts?

**MS NONTASASA MEMELA:** Yes, legal and contracts.

**CHAIRPERSON:** But she was reporting to you.

**MS NONTASASA MEMELA:** To me, yes.

**CHAIRPERSON:** I take it that that what- that the effect of that is that your portfolio, your department, your unit.

**MS NONTASASA MEMELA:** Yes.

**CHAIRPERSON:** Was responsible for contract management. Who within the unit, who within the department internally was given that  
10 responsibility is something else but your unit, your department was responsible for managing contracts? Is my understanding correct?

**MS NONTASASA MEMELA:** Yes, but my understanding of Ms Hofmeyr is that I managed the contract, go through them and have that contracts registered therefore I am the one who was managing contracts ...  
(intervenes)

**CHAIRPERSON:** No, you see you were the Head of the Department.

**MS NONTASASA MEMELA:** Yes Chair.

**CHAIRPERSON:** You have to take responsibility for the performance of duties of those who report to you. Is it not? If something goes wrong  
20 within your department the CEO is entitled to call you and not Ms Mbeki and say, why are your subordinate not doing their job?

**MS NONTASASA MEMELA:** Yes.

**CHAIRPERSON:** Is it not?

**MS NONTASASA MEMELA:** Yes Chair.

**CHAIRPERSON:** So, from that point of view is it not correct that it would



be correct to say you were in charge of the department that was responsible for contract management.

**MS NONTASASA MEMELA:** Yes, I was in charge for the unit that was responsible for contracts management ... (intervenes)

**CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** And other portfolios.

**CHAIRPERSON:** Okay.

**ADV KATE HOFMEYR:** Ms Memela in your interactions with finance about the payment of the deposit. You indicated to them that the contract  
10 required a cash deposit to be paid and that was in circumstances where the contract did not require it. Do you have a comment on that?

**MS NONTASASA MEMELA:** Okay repeat that Ms Hofmeyr.

**ADV KATE HOFMEYR:** When you were interacting with finance.

**MS NONTASASA MEMELA:** Ja.

**ADV KATE HOFMEYR:** About the payment of the deposit.

**MS NONTASASA MEMELA:** Mm-hmm.

**ADV KATE HOFMEYR:** You indicated to finance that the contract required that the payment be made. And I put it to you, that was in  
20 circumstances when the contract actually did not require a payment to be made.

**MS NONTASASA MEMELA:** Okay. I still stand by my version Chair that how I wrote that email meant that we were expect or we were supposed to- I even read yesterday, we were supposed to have paid upfront and stuff. And then I even mentioned the three months deposit which later was picked up in the contract by Ms Hofmeyr and stuff. So, I am not

agreeing to that. I am still by my version.

**CHAIRPERSON:** Let me make sure I understand what you are talking about. Remember yesterday we talked a lot about the deposit?

**MS NONTASASA MEMELA:** Three months, ja

**CHAIRPERSON:** And I thought that when we had that discussion ultimately you accepted, I thought and you must tell me if I misunderstood. I thought you accepted that where the contract required payment of a deposit it required nothing more than the provision of that credit letter or letter of credit guaranteed by bank acceptable to AAR.

10 **CHAIRPERSON:** Did I understand you correctly that you accepted that that is what payment of deposit meant, the provision of that letter?

**MS NONTASASA MEMELA:** I accepted what the clause that was ready by Ms Hofmeyr ... (intervenes)

**CHAIRPERSON:** Hofmeyr.

**MS NONTASASA MEMELA:** From the contract.

**CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** But I said the interpretation of my email to say finance was expected because now how it is put it is as if I instructed finance to pay cash or something so that is how ... (intervenes)

20 **CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** She is putting it.

**CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** But I am saying yesterday I accepted how it was written explaining the deposit. And then she went on and read some when I asked if we could go back to the contract. And there was indeed

where it was mentioned the three months which confirmed what I had said in my email.

**CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** Where I said it was supposed to have been three months paid in advance or something.

**CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** Ja.

**CHAIRPERSON:** Now just to clarify because I was not sure at some stage yesterday if I understood what you are talking about. Other than  
10 the payment of a deposit has contemplated in the clause that we read yesterday that talked about the letter of credit.

**MS NONTASASA MEMELA:** Ja.

**CHAIRPERSON:** Other than the payment of deposit.

**MS NONTASASA MEMELA:** Mm-hmm.

**CHAIRPERSON:** Provided for there. Was there any payment of cash that the contract required to be made by SAAT before anything- before the contract could- before performance by AAR?

**MS NONTASASA MEMELA:** No Chair other than the deposit ...  
(intervenes)

20 **CHAIRPERSON:** There was no.

**MS NONTASASA MEMELA:** Not.

**CHAIRPERSON:** Okay alright.

**MS NONTASASA MEMELA:** Ja.

**ADV KATE HOFMEYR:** Thank you Chair.

**CHAIRPERSON:** It is just that there was reference to security at some

stage ... (intervenes)

**MS NONTSASA MEMELA:** Yes.

**CHAIRPERSON:** I do not know whether it was security deposit and I was not sure whether ... (intervenes)

**MS NONTSASA MEMELA:** It was security deposit.

**CHAIRPERSON:** The agreement whether that was another type of deposit or it was the same deposit.

**MS NONTSASA MEMELA:** It was the same deposit Chair.

**CHAIRPERSON:** Oh okay. No that is fine. So, your evidence is you  
10 accept that in terms of the contract there was no advance payment of  
cash that was required from SAAT?

**MS NONTSASA MEMELA:** Yes, in terms of the clause in the contract ...  
(intervenes)

**CHAIRPERSON:** In terms of the clause.

**MS NONTSASA MEMELA:** Yes, it had stated down how it should be done.

**CHAIRPERSON:** Alright.

**MS NONTSASA MEMELA:** Yes.

**ADV KATE HOFMEYR:** And Ms Memela all of those aspect of your role  
that I have highlighted took place at a time after JM Aviation paid the 1.2  
20 million rand towards the purchase of your Bedfordview house. Is that  
correct?

**MS NONTSASA MEMELA:** No Chair.

**ADV KATE HOFMEYR:** Which one did not happen after?

**MS NONTSASA MEMELA:** Okay they have happened after but I am just  
saying no to the link.

**ADV KATE HOFMEYR:** I will get to the link in a moment.

**CHAIRPERSON:** Okay ja.

**ADV KATE HOFMEYR:** I just want to ... (intervenes)

**CHAIRPERSON:** The question was just factual in terms of time.

**MS NONTASASA MEMELA:** Oh okay. Alright.

**CHAIRPERSON:** You accept that it was after in terms of time.

**MS NONTASASA MEMELA:** It was after, yes.

**CHAIRPERSON:** Ja.

**ADV KATE HOFMEYR:** The link is really the following Ms Memela. I  
10 want to put it to you that as a result of accepting that monetary benefit  
from JM Aviation you were improperly influenced to favour them in their  
dealings with SAAT. Do you want to respond to that?

**MS NONTASASA MEMELA:** I was improperly in the position to influence  
them?

**CHAIRPERSON:** What Ms Hofmeyr is putting to you is that because JM  
Aviation had made a payment ... (intervenes)

**MS NONTASASA MEMELA:** Had bought a land, yes.

**CHAIRPERSON:** Ja, had made this payment.

**MS NONTASASA MEMELA:** Mm-hmm.

20 **CHAIRPERSON:** This had the result that you overlooked things in the  
performance of your work that you should not have overlooked and SAAT  
was prejudiced. Ms Hofmeyr is that correct?

**ADV KATE HOFMEYR:** Indeed Chair.

**CHAIRPERSON:** Yes.

**MS NONTASASA MEMELA:** No Chair.

**CHAIRPERSON:** That is what she is putting.

**MS NONTASASA MEMELA:** No Chair. And we will explain that even better on our re-examination.

**CHAIRPERSON:** Ja. No, no, you can explain now.

**MS NONTASASA MEMELA:** Sorry?

**CHAIRPERSON:** You can explain now.

**MS NONTASASA MEMELA:** No there is no way where I had influenced the decision to award the contract to AAR and JM. And there is no why where I had influenced the decision by any department at SAAT to pay AAR or  
10 JM. So, I had said when I was- yesterday when I was talking that it seems that all of a sudden that I am outside SAAT everybody is now free to point things at Nontsasa because she is no longer there.

They- it goes as far as guys really denying the fact that they attended meetings because they know there is no camera that will prove that they attended meeting. Executive members that are saying, okay Nontsasa, I asked for the contract from Nontsasa and Nontsasa said I do not have a copy I am protecting you. And then there is Mr Schalk who has never seen me from a bar of soap ... (intervenes)

**CHAIRPERSON:** That is Mr Human.

20 **MS NONTASASA MEMELA:** Mr Human who have never seen me from a bar of soap who is comfortably enough to come and sit here, talk about me because- so you end up not understanding what kind of role then did I play at SAAT. It is as if I was even actually far more senior than the board. If I did not know better Chair, I will say maybe unknowing to myself I was a Minister just giving- gooi in instructions and stuff. I

reported to people. I was an HOD and I played my role to the best of my ability.

That is why I said earlier on if I had said here to answer that, okay my department based on the auditor general, these are the findings. Because you did not ensure that your department ran according to the laws that are guiding the public procurement. I will understand. But where I have to answer on behalf of the Acting CEO like it was, I have that power to influence the Action CEO to influence the person who owned the GPUs who had a responsibility in terms of the PFMA to protect  
10 what he thought was not right to get sold. And you understand the list goes on so no I did not have any influence.

**ADV KATE HOFMEYR:** Thank you Chair, those are our questions.

**CHAIRPERSON:** Yes. Yes okay. Thank you.

**ADV KATE HOFMEYR:** Thank you Chair.

**MS NONTASASA MEMELA:** Thank you Chair.

**CHAIRPERSON:** We are at 12:27 so it does not look to me that we have enough time to do anything meaningful in terms of re-examination before we have to adjourn because of my commitments. So, it seems to me that what we should do is adjourn and a date would then be arranged and- I  
20 do not want somebody to say when I said arranged, I meant it must be agreed.

**ADV KATE HOFMEYR:** No.

**CHAIRPERSON:** We will determine the date and if Ms Mbanjwa has any problem she will make representations but we will determine dates. Because we know if you say you will agree dates with practitioners, you

never get anywhere so.

**ADV KATE HOFMEYR:** Indeed. Indeed Chair.

**CHAIRPERSON:** So, we will- another date will be arranged when Ms Memela will come back and then Ms Mbanjwa will get a chance to re-examine. So, I think that that is what we will do. We will have to stop here.

**ADV KATE HOFMEYR:** Indeed.

**CHAIRPERSON:** Ms Mbanjwa, you understand?

**MS L MBANJWA:** Yes Chair, thank you I accept it will not be as agreed it  
10 will be as arranged.

**CHAIRPERSON:** Yes.

**MS L MBANJWA:** There is just one request Chair we have if it is possible. I have already raised it with Ms Hofmeyr.

**CHAIRPERSON:** Yes.

**MS L MBANJWA:** And she did say that that document is not available. But from our talks with Ms Hofmeyr she has said that there is an affidavit that is being prepared for Mr (indistinct Osini) that is the Acting CEO of SAAT. Chair will remember that his role is that pivotal in so far as the pricing of the GPUs is concerned. So, what we are then requesting from  
20 Ms Hofmeyr is if it can come- if it can come to pass that before we come back here that affidavit is finalised because she said it is being compiled. Can we then please have sight of it because it will greatly assist in our re-examination?

**CHAIRPERSON:** Okay she- you have raised the issue with her.

**MS L MBANJWA:** Yes, I have.



**CHAIRPERSON:** And she hears you.

**MS L MBANJWA:** Thank you.

**CHAIRPERSON:** Okay, thank you.

**MS L MBANJWA:** Thank you Chair.

**CHAIRPERSON:** Ms Memela, you understand what I said that we will adjourn ... (intervenes)

**MS NONTASASA MEMELA:** Yes.

**CHAIRPERSON:** And then arrangements will be made and you will come back.

10 **MS NONTASASA MEMELA:** I understand Chair.

**CHAIRPERSON:** Okay alright. Thank you very much to everybody. We will adjourn. On Monday we will start at 10:00.

**ADV KATE HOFMEYR:** Certainly Chair.

**CHAIRPERSON:** Ja and we continue with the aviation witnesses.

**ADV KATE HOFMEYR:** Indeed.

**CHAIRPERSON:** Ja. Okay alright. So, we will adjourn for the day. Tomorrow we are not going to be sitting and Friday. But we will resume on Monday. We adjourn.

**REGISTRAR:** All rise.

20 **INQUIRY ADJOURNS TO 17 FEBRUARY 2020**