

COMMISSION OF INQUIRY INTO STATE CAPTURE
HELD AT
CITY OF JOHANNESBURG OLD COUNCIL CHAMBER
158 CIVIC BOULEVARD, BRAAMFONTEIN

30 OCTOBER 2020

DAY 295



Gauteng Transcribers
Recording & Transcriptions

22 Woodlands Drive
Irene Woods, Centurion
TEL: 012 941 0587 FAX: 086 742 7088
MOBILE: 066 513 1757
info@gautengtranscribers.co.za

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that, *in as far as it is audible*, the foregoing is a **VERBATIM** transcription from the soundtrack of proceedings, as was ordered to be transcribed by Gauteng Transcribers and which had been recorded by the client

COMMISSION OF INQUIRY INTO STATE CAPTURE

HELD AT

CITY OF JOHANNESBURG OLD COUNCIL CHAMBER

158 CIVIC BOULEVARD, BRAAMFONTEIN

DATE OF HEARING:

30 OCTOBER 2020

TRANSCRIBERS:

B KLINE; Y KLIEM; V FAASEN; D STANIFORTH



Gauteng Transcribers
Recording & Transcriptions

PROCEEDINGS RESUME ON 30 OCTOBER 2020

CHAIRPERSON: Good morning Mr Kennedy, good morning everybody.

ADV KENNEDY SC: Good morning Chair.

CHAIRPERSON: Are we ready?

ADV KENNEDY SC: We are thank you Chair and the next witness – the only witness scheduled for today Chair is in the witness box and he is ready as well. May we then proceed and ask you Chair please to grant us leave to call
10 as the next witness Mr Reenen Teubes

CHAIRPERSON: Yes.

ADV KENNEDY SC: And for the record his surname is spelt T-e-u-b-e-s.

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

REGISTRAR: Keep your microphone on. Please state your full names for the record. .

MR TEUBES: Frans Reenen Teubes.

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

MR TEUBES: No I do not.

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

MR TEUBES: Yes I do.

REGISTRAR: Do you swear that the evidence you will give

will be the truth; the whole truth and nothing else but the truth.

MR TEUBES: Yes sir.

REGISTRAR: If so please raise your right hand and say, so help me God.

MR TEUBES: So help me God.

REGISTRAR: Thank you.

CHAIRPERSON: Thank you; you may be seated Mr Teubes.

10 **ADV KENNEDY SC**: Thank you please can you switch on your microphone please – just push the button thank you. Good morning Mr Teubes.

MR TEUBES: Good morning.

ADV KENNEDY SC: You are currently employed where?

MR TEUBES: I am employed at Denel Land Systems.

ADV KENNEDY SC: That is – everybody refers to as DLS.

MR TEUBES: That is correct.

ADV KENNEDY SC: Is that correct?

MR TEUBES: That is correct.

20 **ADV KENNEDY SC**: And what is your current job title?

MR TEUBES: My current job title is General Manager Combat Systems.

ADV KENNEDY SC: Now is it correct that you have cooperated with the commission, its investigators and legal team and have provided a number of affidavits to us?

MR TEUBES: That is correct.

ADV KENNEDY SC: Alright thank you. Chair may we refer you to the bundle in which you will find that two affidavits that will be referred to. It is in Denel Bundle 05.

CHAIRPERSON: Yes so the bundle we will use today is Denel Bundle 05.

ADV KENNEDY SC: It is – it contains only one exhibit which is W17. May I ask you please Mr Teubes to look at a particular page number? If you can just bear in mind there
10 are a number of page numbers that appear written or typed in at various spots on each page. I am simply going to refer you to the top left hand page – left had side of the page. Can you please open where it says Denel-05-006 on the top left.

CHAIRPERSON: It looks like the air conditioner is quite noisy this morning.

ADV KENNEDY SC: It is Chair. Someone can sort it out.

CHAIRPERSON: The person who normally attends to it does not seem to be around. Okay alright let us continue.

20 **ADV KENNEDY SC:** Thank you. Do you have that page number?

MR TEUBES: I do.

ADV KENNEDY SC: And for convenience I am just going to refer to a page like this just as 6 not give you the full number okay?

MR TEUBES: Thank you.

ADV KENNEDY SC: Alright thank you. Am I correct in saying that this is the first page of your ...

CHAIRPERSON: Just one second Mr Kennedy. I do not know if it is going to be too hot if it is switched off completely. So explore the possibility of not switching off completely but maybe it should not be such that it makes as much noise as it has been making. Okay alright. Somebody is attending to it – we can continue.

10 **ADV KENNEDY SC:** Thank you Chair.

CHAIRPERSON: Hm.

ADV KENNEDY SC: It does become very hot as the day progresses here.

CHAIRPERSON: Yes it is important you should let me know because I might not know how hot it is that side.

ADV KENNEDY SC: Yes.

CHAIRPERSON: So – but at least I think that level of noise is better than – that before. Okay.

20 **ADV KENNEDY SC:** It provides better – better audio and it provides also some relief from the heat.

CHAIRPERSON: Yes. Yes. Okay alright.

ADV KENNEDY SC: It seems to be a good compromise thank you very much.

CHAIRPERSON: Ja.

ADV KENNEDY SC: And Mr Teubes...

CHAIRPERSON: We thank – we thank this technician.

ADV KENNEDY SC: Multitasking technician.

CHAIRPERSON: Multitasking.

ADV KENNEDY SC: Registrar.

CHAIRPERSON: Yes okay.

ADV KENNEDY SC: Mr Teubes this is the first page of the first affidavit that you provided to us at the commission, is that right?

MR TEUBES: That is correct.

10 **ADV KENNEDY SC:** Is that your name on page 6 and can I ask you to turn please to page 50 – 50.

MR TEUBES: I have got it Chair.

ADV KENNEDY SC: Is that your name and signature that appears at the foot of the page?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And if you turn to page 51 are those the details and signature of a Commissioner of Oaths in front of whom you took the oath to confirm the contents of this affidavit?

20 **MR TEUBES:** That is correct Chair.

ADV KENNEDY SC: Right. Have you been through this affidavit and are you satisfied that the contents are true and correct as far as you – your knowledge goes?

MR TEUBES: That is correct yes thank you Chair.

ADV KENNEDY SC: Chair may I just refer you to one tiny

technical problem that has arisen. If I can take you to page 10?

CHAIRPERSON: Yes.

ADV KENNEDY SC: You will see at the foot of the page where the person typing the document has inserted the typed page number. It is page 5 of 46.

CHAIRPERSON: Yes.

ADV KENNEDY SC: And then if you turn the page it jumps to page 7 of 46 at the bottom. And in the following page
10 which is at page 12 of our bundle.

CHAIRPERSON: Oh.

ADV KENNEDY SC: It goes back to six. So all the pages are here but the sequence I am afraid has been mixed up.

CHAIRPERSON: Oh. But is it only in regard these two pages where page 7 appears and page 6 appears

ADV KENNEDY SC: As far as I am aware that is the only glitch in this affidavit.

CHAIRPERSON: Okay.

ADV KENNEDY SC: I just wanted to point it out upfront.

20 **CHAIRPERSON:** Yes.

ADV KENNEDY SC: Because when I first started looking at the affidavit.

CHAIRPERSON: Ja.

ADV KENNEDY SC: This jarred.

CHAIRPERSON: One could spend the time trying to find...

ADV KENNEDY SC: Indeed.

CHAIRPERSON: Ja. Ja.

ADV KENNEDY SC: So if I can just have that placed on record.

CHAIRPERSON: Yes.

ADV KENNEDY SC: And then may I then ask – we will deal with – there is a supplementary affidavit later in the bundle but we will deal with that separately if we may?

CHAIRPERSON: Yes.

10 **ADV KENNEDY SC:** Chair may I then formally move for your leave to admit this affidavit in Denel Bundle 05 from page 6 including all of its annexures I would ask Chair for leave to have that admitted as part of witness Exhibit W17?

CHAIRPERSON: The statement/affidavit of Mr Reenen Teubes starting at page 6 together with its annexures is admitted as Exhibit W17.

ADV KENNEDY SC: Thank you Chair. Now may I ask you in the same bundle please Mr Teubes to turn ahead to page
20 850.

MR TEUBES: I have got it Mr Chair.

CHAIRPERSON: 850?

ADV KENNEDY SC: Yes Chair.

CHAIRPERSON: I do not seem ...

ADV KENNEDY SC: It would be right at the end.

CHAIRPERSON: I seem to go only up to 849.

ADV KENNEDY SC: Then I am afraid there is a...

CHAIRPERSON: Ja I go only up to – mine goes only up to 849.

ADV KENNEDY SC: Then there is a problem. This was added to our bundle only yesterday by the Secretariat.

CHAIRPERSON: Ja.

ADV KENNEDY SC: It seems that – maybe it was...

CHAIRPERSON: Is it one of the pages you handed up at
10 some stage?

ADV KENNEDY SC: I am sorry Chair.

CHAIRPERSON: Is it one – is the missing page – page – one of the pages you handed up yesterday? Because there is a page that I think you handed up – a document a one pager I think which would have had to be put in. But I do not know if they did not put it in.

ADV KENNEDY SC: Yes I do not know I hope that that has been done. But that was for a different witness.

CHAIRPERSON: Oh.

20 **ADV KENNEDY SC:** But Chair this will...

CHAIRPERSON: Oh ja.

ADV KENNEDY SC: This will be problem. I will take a bit of time to deal with the main affidavit. The supplementary affidavit that is not in your file needs to be put in. May we just ask through my learned colleagues that that steps be

taken for the appropriate staff in the Secretariat to make sure that a copy is made available to us?

CHAIRPERSON: Yes.

ADV KENNEDY SC: To hand up when we are dealing with it.

CHAIRPERSON: Yes okay no that is fine.

ADV KENNEDY SC: Thank you.

CHAIRPERSON: That is fine ja.

ADV KENNEDY SC: Should – perhaps I should wait for
10 that to arrive for you to see it so that...

CHAIRPERSON: Yes.

ADV KENNEDY SC: You can be satisfied before you admit it.

CHAIRPERSON: Okay no that is fine.

ADV KENNEDY SC: As evidence.

CHAIRPERSON: That is fine.

ADV KENNEDY SC: Thank you Chair. May we just indicate that last night from the attorneys who have been assisting Mr Teubes provided by Denel as Mr Pillay and Ms
20 Wilsnach? Mr Pillay is present I am not sure Ms Wilsnach is here.

CHAIRPERSON: Oh yes.

ADV KENNEDY SC: But they sent us yesterday evening a further supplementary affidavit in draft form of Mr Teubes. I have had a chance to go through that it is very brief and

as Mr Teubes has pointed out to me this morning it is not meant to change any evidence it is just to provide a little more detail and some sequence.

CHAIRPERSON: Okay alright.

ADV KENNEDY SC: If we can leave that to deal with that at a later stage as well?

MR TEUBES: Yes. No, no that is fine.

ADV KENNEDY SC: Thank you.

CHAIRPERSON: But going back to whatever document I
10 do not have for page 850 if one of your juniors has got one that they are using maybe they could borrow me that one.

ADV KENNEDY SC: Yes.

CHAIRPERSON: So that you can continue on the way you have planned to in terms of asking the witness.

ADV KENNEDY SC: Yes. Chair I was given the impression yesterday that the supplementary was going to be delivered to you last night. You may not have received it or you may have received it but have – I know you were dealing with another hearing.

20 **CHAIRPERSON:** I was not told anything.

ADV KENNEDY SC: Yes.

CHAIRPERSON: I think I see my Registrar is shaking his head.

ADV KENNEDY SC: So it sounds like it did not reach even your Registrar.

CHAIRPERSON: So it did not reach ja.

ADV KENNEDY SC: Can I just check if a spare copy is available?

CHAIRPERSON: Hm.

ADV KENNEDY SC: Alright no I am afraid no spare copy is immediately available. Alright thank you. So then may I with your leave Chair then take the witness to the main affidavit that you have admitted? If I can just mention that the two supplementary affidavits give additional details for
10 some of the topics. In the first affidavit I would have preferred.

CHAIRPERSON: Yes.

ADV KENNEDY SC: If everything had been before you to deal with all of that topic by topic.

CHAIRPERSON: Yes.

ADV KENNEDY SC: But I may just have to come back to the supplementary affidavits and just fill in the detail then. So I apologise.

CHAIRPERSON: Okay.

20 **ADV KENNEDY SC:** It is not an ideal logical sequence.

CHAIRPERSON: Yes.

ADV KENNEDY SC: But I am afraid the logistics sometimes get complicated.

CHAIRPERSON: Okay. No that is fine.

ADV KENNEDY SC: Thank you Chair. And may I with your

leave lead the witness through some of the uncontroversial aspects.

CHAIRPERSON: Uncontroversial ja.

ADV KENNEDY SC: To begin with.

CHAIRPERSON: Ja.

ADV KENNEDY SC: Thank you. Mr Teubes can we go back to your main affidavit at page 6? You mentioned that your current title is General Manager of Combat Systems at DLS and you refer in your affidavit to your background on
10 page 8. You are a qualified Mechanical Engineer with a BE and G and also a Masters in Business Leadership an MBL, is that right?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And you joined Armscor in 1989 and moved to Denel when Denel was established in 1992?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And you have worked in different capacities. You set out your various capacities on the rest of this page 8, correct?

20 **MR TEUBES:** That is correct Chair.

ADV KENNEDY SC: Right. Did you work throughout this period from 1992 until today at Denel?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And always in DLS?

MR TEUBES: Always – always in DLS. There was a

period Chair that I worked in the UAE – stationed in the UAE but still employed by DLS.

ADV KENNEDY SC: Right thank you. Now you have referred in paragraph 22.12 page 10 to your involvement in the Hoefyster Program going as far back as 2004 and you fulfilled various roles as an employee of DLS on that contract since 2004 until today?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Right. Now on page 11 you will see
10 that paragraph 3 is headed A Brief History of the Hoefyster Contract. That then flows because of the problem with the sequencing of the pages in the photocopying process and the pagination process that I have already raised with the learned Chair. Page 11 that ends with 3.2 is followed by page 13 according to the pagination with 3.3, is that correct?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Right. And you have set out there a summary of the Hoefyster Contract involving Denel and
20 DLS in particular.

MR TEUBES: That is correct.

ADV KENNEDY SC: Is that right?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Now I would like now to get to the first meaty topics that you deal with in your affidavit having

dealt with this background and that is Denel's acquisition of an interest in LMT Holdings and you start that on page 14 and that runs through for some pages. Can you without going into all the detail in the affidavit because that is there before the Chair for the learned Chair to be able to read in due course. Can you just summarise in a couple of sentences when LMT was acquired; what was acquired and why?

MR TEUBES: Chair just as background and I touched on it
10 in the Hoefyster Section as well. When Hoefyster was initiated as from RFP perspective from Armscor there was a requirement to do some test in South Africa as well as do some technology transfer to South Africa from the different foreign suppliers. In this case specifically Patria. Patria contracted that LMT locally to be their local engineering partner for the Hoefyster Program. So in – in the pre-contract phase where a lot of work was done including the landmine testing LMT was contracted by Patria to support them. So in this period a lot of intellectual property
20 [00:16:07] specifically on the vehicle was vested in LMT.

So at a certain stage we got involved with LMT when the RFP was submitted to Armscor and in that stage as per my affidavit and I think we will probably go in later in detail is we got to know of the difficulty – financial difficulty of LMT. And we had to take a decision in terms of

protecting the IP that was already created for Hoefyster in LMT what needs to be done to action that and this acquisition program was partly then to protect the created IP within LMT on the Hoefyster Program.

ADV KENNEDY SC: Thank you. Had LMT prior to it having a majority share purchased by Denel had it prior to that been providing work and equipment to Denel?

MR TEUBES: Chair yes although on a very limited basis there was not – there was not a big – big contracts so it
10 was more on specialised vehicles of which the quantities was very low.

ADV KENNEDY SC: And did LMT have capacity to build hulls for the armoured vehicle that are relevant for Hoefyster Contract.

MR TEUBES: Chair very limited.

ADV KENNEDY SC: Right. Now may we then turn to page
20 and you deal with the first transaction involving VR Laser and that related to the production of 217 armour hulls for the Hoefyster Platform components in 2014. Now
20 if I can just ask you a point of detail before we get into the substance. There is reference to 217 so that is 217 vehicles. There is reference in papers that have come before the Chair already in this commission that – that there was a variation from 217 down to I think it was 83 or – sorry 183 or 184, is that correct?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Right. So when you refer to 217 that is the original number that was contemplated but later it was reduced slightly.

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Right. Now we have dealt with LMT's capacity and what it did before it was acquired by Denel or the majority shareholding was. Were you aware of VR Laser before this transaction that we are going to deal with
10 here in 2014?

MR TEUBES: No.

ADV KENNEDY SC: Did you have a relation – did you as Denel have a relationship with VR Laser?

MR TEUBES: Chair we as Denel had the relationship. The majority or the major area of the relationship was with one of our sister business units called Mechem. It is more in the humanitarian area and VR Laser was building Casspirs for them as one of the main suppliers to Denel.

ADV KENNEDY SC: Right. And how did the Casspirs
20 compare with the Hoefyster Control – sorry Contract vehicles? Were they – was it similar? Was it identical?

MR TEUBES: It is not – it is similar processes but it is not identical vehicles Chair.

ADV KENNEDY SC: Alright now you refer in your affidavit I am not going to take you again through the detail but you

refer to the point that you did not have a direct involvement in the RFO or the evaluation process, is that correct?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: So – and then you refer to in 514 page 21 to a cross-functional team selected by Ms Malahlela. She was then Head of Supply Chain within DLS, is that correct?

MR TEUBES: That is correct Chair.

10 **ADV KENNEDY SC:** And she selected members to sit on the cross-functional team. Were you a member of that cross-functional team?

MR TEUBES: I was not a member of the cross-functional team Chair.

ADV KENNEDY SC: Okay. So you did not take part or did you in the evaluation of the proposals received by the bidders in response to RFO?

MR TEUBES: Chair I did not take part in the selection process.

20 **ADV KENNEDY SC:** Were you part of the executive of Denel at that – of DLS at that stage?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Right. Now were you involved in the decision – I know you were not involved in issuing the RFO or the evaluation of the offers that came in response but

were you involved in the decision at executive level to go out on a RFO process initially?

MR TEUBES: Chair just to clarify the decision to go out on a RFO was not taken on executive level it was taken within the Supply Chain environment.

ADV KENNEDY SC: Right. Now there has been some suggestion by some witnesses who have already given evidence that LMT had the capability of making these hulls – Platform hulls for these vehicles and it was now majority
10 owned by Denel and it would make sense to keep that in-house and in fact the policy was to procure from an in-house division or entity rather than going outside if that was – if that could be done subject to the price being acceptable, quality etcetera. Do you have any comment or view in relation to the fact that LMT was not automatically given this business but instead the Supply Chain bids went out for – on a RFO allowing competitive prices to be submitted?

MR TEUBES: Chair I think to have a view on it I would like
20 to – there is two variables in it. The one variable is I think we need to distinguish between a facility or a capacity that can do mass production versus a facility that can do prototype production. So if the question is asked do LMT have the capability or capacity? The answer is yes for prototyping for low volume type production – the answer is

yes. For high – for high volume production I do not believe that they had the capability and in it – to execute Hoefyster they probably would have invested a lot of money in their infrastructure to do that. So I think that is a – I think that is important maybe just to note that. Sorry the second question.

ADV KENNEDY SC: I think you have – I think you have covered what I was really trying to get at.

MR TEUBES: Thank you.

10 **ADV KENNEDY SC:** But your views that you have just expressed they were not – you were not consulted before the decision was taken by others to go out on a RFO?

MR TEUBES: No this is – this is in the majority of the cases this is – this is done on a program level but the EXCO cannot just excuse and from this decision when this decision is then presented or the outcome of this at EXCO level then EXCO needs to make a call on the process that was followed yes.

20 **ADV KENNEDY SC:** Now you then on pages 21 to 23 set out the detail of what you were able to pick up from the documents of the cross-functional team and their evaluation, correct?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: But you were not involved personally in that process?

MR TEUBES: That is correct as part of the preparation for the commission and the questions that was asked I did my own research and this is the information that I could collect on that.

ADV KENNEDY SC: Now you refer on page 22 to a recommendation made by the cross-functional team paragraph 5.1.10. You see that?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Cross-functional team made a
10 submission to the DLS EXCO were you part of that EXCO that considered the recommendation?

MR TEUBES: Chair yes I was part of that.

ADV KENNEDY SC: And what was the recommendation for?

MR TEUBES: The recommendation was for the contracting of VR Laser.

ADV KENNEDY SC: Did – was the decision to be taken by EXCO or anybody else?

MR TEUBES: The delegation – this was above the
20 delegation of the DLS EXCO so the DLS EXCO's role in this was a recommendation to the corporate office. Because this specific delegation was above DLS.

ADV KENNEDY SC: So Ms Malahlela and her cross-functional team made a recommendation to EXCO. You were required to approve that recommendation before it

went higher but the fact that you approved it was not the final word. You – your approval was simply to approve it as a recommendation to head office.

MR TEUBES: Ja Chair if it is okay I do not think it is approved we can only recommend it onwards.

ADV KENNEDY SC: Yes.

MR TEUBES: So – ja so there was no approval from our side. We had evaluate it and then if we were happy and we – if we support it then we recommended it for a higher
10 approval.

ADV KENNEDY SC: If I might just have a moment Chair? If I can ask you please to turn to page 408.

MR TEUBES: I have got it Chair.

ADV KENNEDY SC: Are you familiar with this document that you have referred to in your affidavit?

MR TEUBES: That is the submission yes to the DLS EXCO.

ADV KENNEDY SC: And relating specifically to this Hoefyster Hull contract?

20 **MR TEUBES:** That is correct Chair.

ADV KENNEDY SC: And the appointment of VR Laser. Now it is at page 412 space is made for you to sign as recommending the proposal for the award to VR Laser in your capacity as Chief Operating Officer, was that your capacity at that stage?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And who did you report to Mr Teubes?

MR TEUBES: Chair I reported to Mr Stephan Burger as the CEO of Denel Land Systems.

ADV KENNEDY SC: So he was CEO, you were COO, correct?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And there was space provided apart from your name and that of Mr Knoetze the Chief Financial Officer at the foot of the top half below your name there is provision for Mr Burger to endorse the recommendation in his capacity as CEO.

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Did you and he in fact endorse the recommendation?

MR TEUBES: No we did not.

ADV KENNEDY SC: And why was that?

MR TEUBES: Chair the submission that was made at this stage was made with old information. This prices that was submitted here was still based – received in 2012 so we believed that the suppliers should get an opportunity to put up fresh submissions firstly. Secondly these quotes that they refer to was not valid anymore at that stage Chair. So it was from a process perspective also not an opportune point to take a decision with quotations that was not valid.

ADV KENNEDY SC: So that is a submission on the 25 April 2014 page 409.

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And you did not accept the recommendation of the cross-functional team you required further updates to be provided to you – to the organisation.

MR TEUBES: That is correct.

ADV KENNEDY SC: Right and were those updates then asked for by DLS of the bidders?

10 **MR TEUBES:** They according to my knowledge Chair they went out then on a formal RFP process to the different bidders yes.

ADV KENNEDY SC: Right. Now if I can take you please if I might just have a moment? Page 255. Now 255 contains a series of emails. I would like you please, if you would, to go to what appears to be, at least halfway down, an email from you sent on the 25th of April 2014 addressed to Ms Malahlela and copied to various others. Do you have that?

MR TEUBES: I have got it Chair.

20 **ADV KENNEDY SC:** Can you just read for the record? You subject refers to an urgent Exco meeting for the hull supplier. Just read for the record what you say: Hello, Celia...

MR TEUBES: Yes.

“Hello, Celia. As an input to the meeting, please

check the LMT Shareholder Agreement and if there are any reference made to Hoefyster.

I again got an SMS now from Stephan Nel, accusing us of contravening the shareholders agreement with regards with us contemplating contracting other parties on the hull manufacturing.”

ADV KENNEDY SC: Now the Commission has already heard evidence that there was three offers submitted to DLS in response to the RFO. One we know was from VR Laser
10 which was recommended to be accepted by the Cross-Functional Team.

There were two others, according to the evidence already produced and referred in your evidence too, that one was LMT and the other one was DCD.

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Now just explain to the Chair about this SMS that you got from Dr Nel. Who is Dr Nel and who was he at that time?

MR TEUBES: Dr Nel is the CEO of LMT.

20 **ADV KENNEDY SC:** Right. And what was his complaint?

MR TEUBES: His complaint from his perspective is that in the shareholders agreement there was some exclusivity for the Hoefyster contract allocated to LMT and he would like us to abide that specific condition in the shareholders agreement.

ADV KENNEDY SC: So you were asking, as I understand you email, from Ms Malahlela to check up if Dr Nel's complaint was valid? In other words, whether the agreement between Denel and LMT, in fact, gave them an entitlement to the business.

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: And did she come back to you and advise you on a response to your query?

MR TEUBES: Chair, what she did, she consulted with our
10 Internal Legal Executive, Ms Denise Govender to get a copy of the shareholders agreement because we did not have one at DLS because the shareholding was at corporate level.

So all these documents were on that level. Denis did an analysis for Ms Malahlela on this question and then she gave a response on that. Ja.

ADV KENNEDY SC: Right. And what did you understand the response to be, to the effect that there was a problem that you were bound to give the business to LMT or not?

MR TEUBES: My understanding Chair from that response
20 was: No, there is no obligation on us. The obligation on us through that agreement was that we will endeavour to assist LMT with business, business development and order cover but it was not project specific.

ADV KENNEDY SC: Now your affidavit from page 23 to page 25 refers to the query that was raised, arising from the

SMS received from Dr Nel. Is that correct?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: And we do not need to take you through it. I believe it is in the details that is helpfully set out there. And then, you refer in paragraph 5.1.20 to an email between yourself, Mr Knoetze and Ms Govender and you will find that at page 417, I believe.

MR TEUBES: [No audible reply]

ADV KENNEDY SC: Is that correct?

10 **MR TEUBES**: I have got it Chair.

ADV KENNEDY SC: Right.

CHAIRPERSON: Mr Kennedy, you mentioned quite a few page numbers. Did you end up with 417?

ADV KENNEDY SC: It is 417, yes.

CHAIRPERSON: Okay.

ADV KENNEDY SC: Is that... Does that reflect the correspondence that you had with Ms Govender and Mr Knoetze?

MR TEUBES: Yes.

20 **CHAIRPERSON**: I think when you have your head like that, I cannot hear properly.

ADV KENNEDY SC: Oh, sorry.

CHAIRPERSON: He says it not captured properly, ja. Ja.

ADV KENNEDY SC: I am sorry Chair. Thanks for the guidance.

CHAIRPERSON: Actually ...[intervenes]

ADV KENNEDY SC: I will put the microphone on. I beg your pardon.

CHAIRPERSON: H'm.

ADV KENNEDY SC: I am afraid my eyesight is not good and the lightning is not great and ...[intervenes]

CHAIRPERSON: Ja.

ADV KENNEDY SC: [Indistinct] is ...[intervenes]

CHAIRPERSON: Yes. No, no. But I was saying you were
10 ...[indistinct] I think your eyesight probably has improved quite a lot since sometime back.

ADV KENNEDY SC: Yes.

CHAIRPERSON: It used to be quite a challenge. [laughing]

ADV KENNEDY SC: Yes.

CHAIRPERSON: No, but I think you have improved quite a lot.

ADV KENNEDY SC: It has a bit. I have had some surgery. Thank you Chair.

CHAIRPERSON: Yes, yes.

20 **ADV KENNEDY SC:** What was the upshot, now that you have resolved... had you resolved the issue that Dr Nel had raised?

MR TEUBES: I believe so Chair.

ADV KENNEDY SC: Alright.

MR TEUBES: Yes.

ADV KENNEDY SC: And what the happened with the award of the bid? Did you then proceed to make a decision to award the business or was there a further step for further revision of prices?

MR TEUBES: Chair, after this... just for clarity. After this first submission in April, which we did not accept, they went out on a RFP process. There was a process followed and post that process, DLS Exco made a recommendation and it was subsequently approved then on corporate level Chair.

10 **ADV KENNEDY SC:** Right. And what was the decision?

MR TEUBES: The decision was to contract VR Laser Chair.

ADV KENNEDY SC: Right. Do you know at corporate level made the decision to approve?

MR TEUBES: That was approved by the Group CEO.

ADV KENNEDY SC: Was that Mr Saloojee at that stage?

MR TEUBES: Thank you, Chair.

ADV KENNEDY SC: Right. Do you have any knowledge whether Mr Saloojee had the authority under the delegation then applicable at his level or whether it required further
20 approval or final approval by the board?

MR TEUBES: Chair, Mr Saloojee's delegation at that stage was up to R 200 million. So any contract within that limit, he could approve. And he did point to me that this contract that he finally approved was within that limit.

ADV KENNEDY SC: Now you then in your affidavit from

page 25, paragraph 5.2 deal with the adjudication of the updated request for proposals. So that preceded the final approval of the awards to VR Laser. Is that correct?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: 25, 26, 27. Now I would like to stop at a point at page 27, paragraph 5 to 10. And there is a reference to an undertaking being given by Mr Burger to negotiate with VR Laser Services as the leading product to reduce the price they had offered. How did that come
10 about?

MR TEUBES: Chair, Ms Celia Malahlela shared with myself and Mr Burger the outcome of the Cross-Functional Team, their recommendation. And as then in evaluating that, Mr Burger then made this comment that although VR Laser is the preferred supplier, that he will then still negotiate with them to reduce the price further.

ADV KENNEDY SC: But this was a competitive process involving, maybe not a public tender, but an RFO for three bidders who were competing against each other, not so?

20 **MR TEUBES**: That is correct, Chair.

ADV KENNEDY SC: Yes. Do you know whether the other bidders were also asked to adjust their prices at the time that Mr Burger said he would negotiate with VR Laser?

MR TEUBES: Chair, no. The other bidders did not get an opportunity.

ADV KENNEDY SC: Do you have any view as to whether that was fair or appropriate?

MR TEUBES: Chair, I think the fact that everything was closed and the recommendation was made. What happen normally within Denel environment, there is no changes then to the information on that recommendation up to the point where it is approved.

And then post-approval, then we will get a mandate to negotiate with the selected supplier to see if we can reduce
10 the prices.

I do submit that the interaction with a supplier prior to the final approval on the correct level is not worth in the Denel processes.

CHAIRPERSON: Okay. I am sorry. Just repeat that final answer. Or just repeat your answer again to that question.

MR TEUBES: Yes. That in Denel, in the process of adjudication up to a point where a final approval is given, it is not worth in the processes that you can engage with a supplier.

20 Post to that approval - what happened in a lot of cases, we will then give a mandate to do a negotiating team to say: We would like you to reduce your... Go and negotiate and reduce the price another X percent.

So there is always the goal of further price reduction post the final approval of that contract or the submission.

CHAIRPERSON: Are you saying that because of what you have just said. There would have been... there was no need for the other suppliers to be given a chance to reduce their prices.

MR TEUBES: I ...[intervenes]

CHAIRPERSON: Or do I misunderstand you?

MR TEUBES: No. I think... Well, the principle factor is, if one supplier is given an opportunity during the evaluation process, all the other suppliers need to have a similar
10 opportunity.

CHAIRPERSON: Yes, yes. Yes, okay.

MR TEUBES: Which was not in this case.

CHAIRPERSON: Okay, okay. Alright. Thank you.
Mr Kennedy.

ADV KENNEDY SC: Thank you. Mr Teubes, would this be done at a stage that the decision had already been taken to award the contract to that party and having decided that he would then make an effort to reduce their price a bit?

MR TEUBES: That is correct, Chair.

20 **ADV KENNEDY SC**: Ja.

MR TEUBES: But that happens post the approval for contracting.

ADV KENNEDY SC: And would they be aware when they were approached to negotiate a reduction, that they had been approved?

MR TEUBES: Chair, I would not know.

ADV KENNEDY SC: Yes. Because if they knew that they were approved, there would not exactly be much inducement on them to negotiate, at least, substantially downwards.

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Yes. Now was there an issue in relation to the budget ...[intervenes]

CHAIRPERSON: Just one second Mr Kennedy. I am sorry. When there are negotiations post the adjudication for the
10 reduction of the price by the winning bidder, even if they have not been told that they have won, does that reduction or does the reduction that is contemplated in that situation, a reduction in the price, a reduction that could go down even more than the prices that have been offered by the other suppliers who lost? Or it could, it might or it might not?

MR TEUBES: It did... Chair, there is no specific guidance on that.

CHAIRPERSON: Yes.

MR TEUBES: So it depends on the competitors, how close
20 they were in terms of pricing ...[intervenes]

CHAIRPERSON: Ja.

MR TEUBES: ...compared to the winning bid. But if there is a significant difference, then normally you would not get close to it.

CHAIRPERSON: Yes.

MR TEUBES: We are not talking about huge percentages. Normally that we can negotiate.

CHAIRPERSON: H'm.

MR TEUBES: Normally, it is in the region of 5% to 7% that we can negotiate. Ja.

CHAIRPERSON: H'm. Well, it may be that there ought to be no objection in principle to post the adjudication negotiations for the reduction of the price with the winning bidder.

10 If one approaches the matter on the basis that whether or not that bidder should have won, should be judged before the negotiation.

If it should not have won, then the fact that the price negotiated after, is irrelevant. I should not have won and at the point at which the adjudication was made, it had a certain price. And that is the price on which it should have been judged.

MR TEUBES: H'm.

CHAIRPERSON: And if at the time it was judged to the
20 winner, it was... it deserved to win. Then any negotiations that could happen after – between it and the company, maybe is really neither here nor there. I am just thinking aloud.

MR TEUBES: H'm.

CHAIRPERSON: Do you have some comments on that?

MR TEUBES: Chair, I fully understand your point.

CHAIRPERSON: H'm.

MR TEUBES: In my years at Denel, I have never been in a situation where there was a decision made to have a specific supplier selected out of an evaluation process and then during the negotiations, that position has changed substantially. I have not seen that yet. Ja.

CHAIRPERSON: Ja, it could be that if there is – there is to be negotiations for the reduction of the price before
10 adjudication, that should be afforded to everybody because at that stage, they are still all competing.

MR TEUBES: Ja.

CHAIRPERSON: But if the actual adjudication has happened and a particular bidder has won and it deserved to win ...[intervenes]

MR TEUBES: Ja.

CHAIRPERSON: ...on what was known at that time in terms of its price and so on, then it may be that if the company afterwards say: Look, maybe we can just get one million or
20 two million off, you know, get reduced.

MR TEUBES: Ja.

CHAIRPERSON: Maybe there should be no problem with that because they have won already.

MR TEUBES: Ja.

CHAIRPERSON: Ja. So the question should be whether

they deserve to win and if the answer is yes they did deserve to win, then the rest should be fine.

MR TEUBES: Ja.

CHAIRPERSON: Ja.

MR TEUBES: I fully agree Chair.

CHAIRPERSON: Yes.

MR TEUBES: I think some of the lessons learnt in this is, that we go through a process in adjudication. Then there are clarification questions from the suppliers and some of this
10 could influence their answers.

CHAIRPERSON: Yes.

MR TEUBES: And obviously, there are processes to be followed.

CHAIRPERSON: Yes.

MR TEUBES: But I think the lesson learnt here is after this evaluation process, give everybody an opportunity for a final and best offer before we close.

CHAIRPERSON: Ja.

MR TEUBES: Which we have not done.

20 **CHAIRPERSON**: Ja.

MR TEUBES: But I think that is an area that we can improve on. Ja.

CHAIRPERSON: Ja, ja. Mr Kennedy.

ADV KENNEDY SC: Thank you. Of course an alternative approach might well be, you do not allow anybody to

negotiate further. You have one chance as a bidder to submit a bid and that must then be evaluated.

MR TEUBES: That is true as well Chair.

ADV KENNEDY SC: Yes.

CHAIRPERSON: Yes, yes. That is another one to say, do not say somebody has won if you are still unhappy with something like the price. When you say they have won, certainly something like a price should be settled.

ADV KENNEDY SC: Yes.

10 **CHAIRPERSON**: Ja.

ADV KENNEDY SC: Indeed. And would you agree with me Mr Teubes that at least would have the advantage that it would avoid any corruption or irregularity with information being shared with one bidder to, for example, reduce its price to get an advantage over another bidders which had started off with the lowest price?

MR TEUBES: Ja, I fully agree Chair.

ADV KENNEDY SC: Right. Okay. Now in relation to this particular bid for the 217 hulls. VR Laser in the documents
20 that you have provided and also that of others, other witnesses have indicated that VR Laser was substantially more expensive than the LMT at the tune of about a hundred million.

MR TEUBES: H'm.

ADV KENNEDY SC: Were you aware of that?

MR TEUBES: Chair, I was aware of that, yes.

ADV KENNEDY SC: Yes. And there is also been evidence that the amount that would have been paid to VR Laser under the contract if it was awarded at its price that was being considered in the final evaluation, would have been way over the budget that was available by way of funds allocated for this product. Were you aware of that?

MR TEUBES: I was aware of it, yes.

ADV KENNEDY SC: So at executive level, did you discuss
10 this when you were considering whether or not to endorse the recommendation of the Cross-Functional Team that despite this big price difference, VR Laser should be recommended to be awarded the contract?

MR TEUBES: Chair, the discussion was in twofold. The one is the difference between the prices with the different suppliers but obviously, we would like to protect the budget on the programme. So the prices were also compared to the budget. So we...

There was a lengthy discussion on the, let us call it the
20 integrity of the prices, especially given the changes of prices on the 2012 versus the 2014 submissions.

And we were concerned, how is it possible that without substantial change in information we can have such a big price swing in the different areas.

And I have to state. As LMT price came down, the other

two suppliers also went up, 2014 versus 2012. So that was – it was discussed but at the end of the day, Exco said that they would like to protect the budget of Phase 2 and make sure that the final price is within the budget.

ADV KENNEDY SC: And was that achieved? Was the final price achieved that would bring your organisation within the budget level?

MR TEUBES: The... If I, Chair, if I can recall. The budget was about R 960 000 a unit and the price that we contracted
10 eventually was a million.

ADV KENNEDY SC: And that was a substantial reduction on the part of VR Laser?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Right. If I can take you please to page 606?

MR TEUBES: [No audible reply]

ADV KENNEDY SC: This is a letter that was sent by VR Laser's, Mr Jiyane. Do you see that at page 613? It is dated the 24th of June 2014 and it is addressed to
20 Ms Celia Malahlela. And it refers to an updated proposal or updated quotation. Does this represent the revised quotation after Mr Burger negotiated that with them?

MR TEUBES: Yes, Mr Chair.

ADV KENNEDY SC: H'm. When Mr Burger negotiated with him, were you part of those negotiations?

MR TEUBES: No, Chair.

ADV KENNEDY SC: Are you aware whether he did that on his own or was colleagues present?

MR TEUBES: I do not know. I do not have any details on it Mr Chair. So I do not know. I cannot give a comment if he was on his own or with colleagues.

ADV KENNEDY SC: Alright. Now if I can take you back to page 29. Your affidavit sets out a table. From pages 29 to 30 is a table. What does that reflect?

10 **MR TEUBES:** Chair, that reflects a summary of the revised proposal that was sent from VR Laser.

ADV KENNEDY SC: Right. And it is apparent from this table, correct me if I am wrong, that some prices were reduced but some or different items were kept the same.

MR TEUBES: That is correct, Chair. On all the small amounts and then the industrialisation and the learning curve areas, those prices were kept the same. The prices that were reduced was on series production prices.

20 **ADV KENNEDY SC:** And if we look at page 30, where do we find that?

MR TEUBES: Chair that is just above the heading, quotation for ...[indistinct] protection only. You will see there, there is series production units based on the DLS schedule. The initial price was R 1.108 million and then they are bringing it down to one – just over one million.

ADV KENNEDY SC: Right. Quite a substantial difference.

MR TEUBES: That is correct. It is roughly about 10%
Chair.

ADV KENNEDY SC: Yes. Now you then refer to your -
recommending that – this is in 5.2.21 – that the reduced
price be incorporated into a draft submission to Exco for a
final decision by Exco, correct?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: And then you refer at the top of the
10 next page to a different view being expressed by
Ms Malahlela. Did she convey that you?

MR TEUBES: No, she did. Yes, Chair.

ADV KENNEDY SC: And what in essence of the point of
disagreement between you and her? Was it whether or not
the revised price could be incorporated into the submission
to Exco?

MR TEUBES: That is correct, Chair. Her view was exactly
as described earlier. Is that there was a process followed
and you cannot consider any other inputs of the closure date
20 of these submissions.

My view was that yes I agree with that. But this specific
price is lower from a – let us call it from a programme
advantage perspective.

And I thought that it would add – give us a better
negotiation position as well as a mandate from management

to include that.

But I have to state and it is further stated that I have agreed with her and that the submission was not updated.

ADV KENNEDY SC: It was not updated?

MR TEUBES: No.

ADV KENNEDY SC: Right. Was the matter then referred to Exco?

MR TEUBES: Yes, Chair. Oh, if I can just correct? The matter of differences between me and Ms Malahlela was not referred. We have agreed on it. So we – the two of us were happy with it. So the submission was then referred.

ADV KENNEDY SC: Sorry? The submission was...?

MR TEUBES: Referred to Exco for further recommendation.

ADV KENNEDY SC: Right. And what – how did Exco deal with it?

MR TEUBES: They recommended it.

ADV KENNEDY SC: Recommend. And was that in terms of the final revised price that we have just been looking at, going down to just over a million?

MR TEUBES: No, it was still the original submission from Ms Malahlela.

ADV KENNEDY SC: And was there then to be further negotiations thereafter?

MR TEUBES: They could not make that call until that was approved Chair on group level.

ADV KENNEDY SC: And what happened then?

MR TEUBES: Can I just for clarity?

ADV KENNEDY SC: Yes.

MR TEUBES: It was then referred to group level.

ADV KENNEDY SC: It was then referred to group level?

MR TEUBES: Correct.

ADV KENNEDY SC: It was then approved at group level?

MR TEUBES: That is correct. That is correct.

ADV KENNEDY SC: And was there to be any further
10 attempt negotiating reduction after group level approval?

MR TEUBES: Yes. Yes, Chair. This revised proposal that
was sent that was not considered, gave us at least an
indication that they are willing to reduce their prices. So
that was then given as a goal in terms of the contracted
price with VR Laser.

ADV KENNEDY SC: Yes. Now what did you understand to
be motivating Ms Malahlela's resistance to include the
revised price even though it gave an advantage of financial
benefit to Denel? What was – what did you understand her
20 purpose to be doing – to be in resisting your suggestion that
the proposal be updated for submission to Exco?

MR TEUBES: I do not think there was any sinister Chair –
any sinister views. It was purely – this is a process that was
followed. And she would like us to stick to the process as
within the policies of Denel.

ADV KENNEDY SC: Right, thank you. If I can take you please to your affidavit, paragraph 37? You refer to your concluding a covering letter motivating for the conclusion of an MOU with VR Laser to be signed off by Mr Burger. Did you attend to that?

MR TEUBES: Yes, Chair.

ADV KENNEDY SC: And did she in fact approved it?

MR TEUBES: He signed it and the approval level was on group. So he signed it be recommended for approval on
10 group level.

ADV KENNEDY SC: Right. Now just to ask you to give a comment as to how you felt about the process overall that was been conducted here for the grant of a contract to VR Laser?

MR TEUBES: Mr Chair, just for clarity. Are we referring to the Hull Contract or the MOU?

ADV KENNEDY SC: The whole process that led up to the approval of the MOU. Did you feel that it was being done correctly? Did you feel it was being done with sufficient time
20 and attention and compliance with procedures?

MR TEUBES: I... Firstly, I think there was a rush to get this through. And then in hindsight, at that stage, it did not concern me. I did not have specific concerns of why it is rushed. I think hindsight, I have to say, I am concerned with the fact that it was rushed through.

I think the fact that it started as an MOU as an initial process. There is also not a clear process in Denel to handle MOU's. There are clear processes for single – approval of single source suppliers but not MOU's.

So I think, at that stage, I did not question it but in hindsight, I would agree that yes there is a level of uncomfortableness with it.

ADV KENNEDY SC: Chair, at this stage, may I ask – may I suggest a five minute adjournment so that we can attend to
10 the problem that was raised earlier. And that was the missing supplementary affidavit. At this stage, it would be convenient to refer the witness to that. May we ask for just a five minute adjournment so that your file with your leave may be updated with the addition of that affidavit?

CHAIRPERSON: Do you not think we may be should just make it a tea-adjournment?

ADV KENNEDY SC: As you please.

CHAIRPERSON: So that we do not have to take another time.

20 **ADV KENNEDY SC:** Certainly Chair.

CHAIRPERSON: So we might end up with about ten minutes. But you will let me know once you are ready.

ADV KENNEDY SC: Thank you.

CHAIRPERSON: We adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Mr Kennedy.

ADV KENNEDY SC: Chair, thank you. May we thank you for the indulgence to get the papers in order. Once again, apologies for the problem. You have before you, Chair, the main affidavit which you have already admitted. May we suggest subject to your guidance that that be given ...[intervenes]

CHAIRPERSON: Are you keeping your mask on
10 intentionally or you forgot to...?

ADV KENNEDY SC: It is an oversight, thank you, Chair.

CHAIRPERSON: Alright, okay.

ADV KENNEDY SC: One gets scared when you actually start to get so used to it that it becomes almost like wearing your glasses but thank you for your guidance.

CHAIRPERSON: Okay, thank you.

ADV KENNEDY SC: The main affidavit has already been admitted and what we suggested, that because admitted as is then either 417A or 417.1 and then ...[intervenes]

20 **CHAIRPERSON:** You now talk about the supplementary?

ADV KENNEDY SC: No, the one that has already been admitted.

CHAIRPERSON: Ja?

ADV KENNEDY SC: Just to distinguish it from the two supplementaries that we are going to deal with now.

CHAIRPERSON: Oh, you want us to change W17 to W17.1?

ADV KENNEDY SC: Yes, may I suggest that?

CHAIRPERSON: Okay. Well, we can do – we can leave it as W17 and make the next one W17.1

ADV KENNEDY SC: As you please, Chair.

CHAIRPERSON: Ja, so maybe let us do it that way because on record we have already said this one is W17.

ADV KENNEDY SC: Thank you, Chair. And may we now
10 direct your attention to what has been added to your file as you gave leave to do during the tea adjournment. You should find at page 850...

CHAIRPERSON: 850?

ADV KENNEDY SC: Yes, Chair.

CHAIRPERSON: Yes.

ADV KENNEDY SC: ...a first supplementary affidavit which we would ask once the witness has confirmed its accuracy to be admitted as W17.1.

CHAIRPERSON: Yes, I have got it.

20 **ADV KENNEDY SC:** And that will run for many pages with – including a number of annexures.

CHAIRPERSON: Yes.

ADV KENNEDY SC: And then I mentioned that we have received now a further supplementary affidavit which I understand has also been added to your bundle that you

will find at page 1078.

CHAIRPERSON: Yes, I have got it.

ADV KENNEDY SC: And we will ask that that, once it has been confirmed by the witness, be admitted as W17.2.

CHAIRPERSON: Ja.

ADV KENNEDY SC: In fact may I just correct myself, it is currently not in the form of an affidavit.

CHAIRPERSON: Oh.

ADV KENNEDY SC: It is currently in the form of a signed
10 statement.

CHAIRPERSON: Okay, that is fine.

ADV KENNEDY SC: That Mr Pillay, the attorney assisting Mr Teubes, has kindly indicated that he will attend to it straight after and if that can be substituted in affidavit form in due course.

CHAIRPERSON: Yes, okay, that is fine.

ADV KENNEDY SC: May I then just go through the process of referring the witness to these two affidavits or statements and then just ask him to confirm their contracts
20 and we will ask for formal admission.

CHAIRPERSON: Ja, okay.

ADV KENNEDY SC: Thank you, Chair. Mr Teubes, can I ask you please then to refer to page 850.

MR TEUBES: Yes, I am there.

ADV KENNEDY SC: This is a statement/affidavit. Is it

correct that you prepared this affidavit or you finalised this affidavit?

MR TEUBES: Chair, yes, that is correct.

ADV KENNEDY SC: And so that was at the request of investigators of the Commission who had raised certain issues.

MR TEUBES: Chair, yes, that is correct.

ADV KENNEDY SC: And then may I take you please to – I am sorry, Chair, I have got it here, it was concealed by the
10 staple. Page 862, is that your signature on the 21 October? That was a week or so ago and that you signed this affidavit.

MR TEUBES: Chair, yes, that is correct.

ADV KENNEDY SC: In front of Commissioner of Oaths. Have you been through this affidavit and are you satisfied and can you swear on oath to the Learned Chair that the contents are true and correct as far as your knowledge goes?

MR TEUBES: Yes, Chair, that is correct.

20 **ADV KENNEDY SC:** Right, thank you. We would then ask formally for leave to have this affidavit of the 21 October from page 850 admitted in the record as EXHIBIT W17.1.

CHAIRPERSON: The statement/affidavit of Mr Reenen Teubes starting at page 850 is admitted as EXHIBIT W17.1.

STATEMENT/AFFIDAVIT OF MR REENEN TEUBES
STARTING AT PAGE 850 HANDED IN AS EXHIBIT W17.1

ADV KENNEDY SC: Thank you, Chair. May we then just complete this process, Mr Teubes, by referring you to page 1078?

MR TEUBES: Yes, Mr Chair.

ADV KENNEDY SC: That is referred to as supplementary statement and it runs through to page 1082, is that correct?

10 **MR TEUBES:** That is correct, Chair.

ADV KENNEDY SC: On that latter page is that your signature bearing the date of yesterday, the 29 October?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: It has not yet been sworn in front of Commissioner of Oaths.

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: But do you confirm the arrangement that I have made with your attorney Mr Pillay that that will be attended to and we will be sent the attested version as
20 attested in front of a Commissioner of Oaths?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Have you been through the contents of this statement?

MR TEUBES: Yes, I have.

ADV KENNEDY SC: And you confirmed the truth and

correctness of the contents as far as your knowledge goes?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Right, thank you. Chair, we would then ask formally please leave to have this statement from page 1078 admitted as EXHIBIT W17.2.

CHAIRPERSON: The supplementary statement of Mr Reenen Teubes appearing at page 1078 is admitted as EXHIBIT W17.2.

10 **SUPPLEMENTARY STATEMENT OF MR REENEN TEUBES ON PAGE 1078 HANDED IN AS EXHIBIT W17.2.**

ADV KENNEDY SC: And, Chair, may we ask your formal leave to substitute for these pages the pages of the affidavit once it has been commissioned and we give you the reassurance that that will be done only the basis that there will be no change to the content of the statement.

CHAIRPERSON: Yes, that is in order.

ADV KENNEDY SC: Thank you, Chair. One final issue on this later statement, Mr Teubes, you refer to a number of
20 annexures, you have indicated to me privately that the annexure references in fact refer to annexures by their annexure number that have already been attached to the main affidavit, is that correct?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: And so on that basis, Chair, we will

not attach any further copies because that would simply be a duplication.

CHAIRPERSON: Is it apparent from the supplementary statement that the references to the annexures are references to the annexures to his main affidavit because that is important otherwise when one reads the supplementary statement one will think the annexures are missing. So if there is ...[intervenes]

ADV KENNEDY SC: Yes, I understand the point.

10 **CHAIRPERSON:** If in the text of the supplementary statement it is clear that the annexures being referred to are those attached to his main affidavit, that is fine, but if it is not apparent from it, it may be necessary to find a way of informing whoever reads that the annexures referred to are those in the main affidavit. That might be done ...

ADV KENNEDY SC: Yes

CHAIRPERSON: One way of – a formal way of doing it would be maybe a supplementary affidavit that would explain that by him. An informal way would be some
20 indication but I suspect that it is better to do it formally.

ADV KENNEDY SC: May I make a suggestion in that regard?

CHAIRPERSON: Yes.

ADV KENNEDY SC: It is not clear from the statement that they are in fact annexures to the main affidavit, so there is

an issue.

CHAIRPERSON: Yes.

ADV KENNEDY SC: This is the statement that needs to be converted into an affidavit.

CHAIRPERSON: Yes.

ADV KENNEDY SC: May we then take the liberty when that affidavit is prepared, perhaps where he makes the first reference to an annexure by number, you will find that at page 1079, para 2.1.5, it is right at the foot of the page.

10 Perhaps what I would suggest the easy way, if it satisfactory to you, Chair, is for the affidavit to include an additional sentence to say the reference to this and all other annexures in this affidavit are references to annexures to my original affidavit.

CHAIRPERSON: Yes. No, that would be in order and when it says original affidavit I think it might help because that affidavit now has an exhibit number, it might be helpful to say my affidavit deposed to on such and such a date which is – which has been admitted as EXHIBIT so
20 and so. That would be in order and I guess what we can do, I can grant leave that the replacement affidavit that is going to be put in may include such an additional sentence.

ADV KENNEDY SC: Thank you, Chair.

CHAIRPERSON: Because he was going to do - he was

still going to go to a Commissioner of Oaths for this one.

ADV KENNEDY SC: Correct.

CHAIRPERSON: But it is meant to be exactly the same as this but I am happy to give leave that such a sentence be included.

ADV KENNEDY SC: Thank you, Chair.

CHAIRPERSON: So that EXHIBIT W17.2 will include that sentence.

ADV KENNEDY SC: Thank you, Chair.

10 **CHAIRPERSON:** Ja, okay.

ADV KENNEDY SC: Are you comfortable with that arrangement, Mr Teubes?

CHAIRPERSON: Thank you, Mr Chair, we will do.

ADV KENNEDY SC: Right and our team will obviously liaise with your attorney to make sure it is all done in the correct way and done speedily.

MR TEUBES: Thank you, Mr Chair.

ADV KENNEDY SC: Thank you very much. Right, thank you, Chair, may we then turn to the supplementary affidavit
20 received or signed a week or so ago, that is W17.1, page 850, Mr Teubes.

MR TEUBES: Thank you, Mr Chair.

ADV KENNEDY SC: Now some of this affidavit overlaps with the affidavit that we have already been through at least on the hulls' contract. Does this affidavit deal at all

with the hulls' contract, the one from 850? You refer to a prepayment to LMT.

MR TEUBES: Yes.

ADV KENNEDY SC: Right. Then you deal at page 860 in paragraph 4 with the Hoefyster hull contract, that is the one we dealt with this morning already, correct?

MR TEUBES: Yes, that is correct, Mr Chair.

ADV KENNEDY SC: And you deal with some specific questions that were raised, as I understand it, by the
10 investigators, is that right?

MR TEUBES: That is correct, Mr Chair.

ADV KENNEDY SC: Yes. So you expand on your earlier statement regarding the Patria contract and is there anything you want to add that arises from 4.1?

MR TEUBES: Yes, Mr Chair, the Hoefyster hull contract is addressed in paragraph 4 on page 860.

ADV KENNEDY SC: Yes.

MR TEUBES: But there is nothing more, Mr Chair, that I would like to add other than what was already discussed.

20 **ADV KENNEDY SC:** Okay, thank you.

CHAIRPERSON: Okay.

ADV KENNEDY SC: I would like, if I may, Chair, to just direct the attention of the witness to 4.2.

CHAIRPERSON: Yes.

ADV KENNEDY SC: You refer to efforts from DLS to

improve LMT efficiency and quality. Now you have referred to some efforts in your main affidavit. As I understand it, you were here giving further detail and documentation just to support what you had said in the main affidavit, is that right?

MR TEUBES: That is correct, Mr Chair.

ADV KENNEDY SC: And just sum up for us, please, for the Chair, what was being done and why in regard to efforts by DLS to improve LMT's efficiency?

10 **MR TEUBES:** Mr Chair, over a period pre-ownership and post ownership of LMT various contracts from DLS was placed on LMT, a variety of contracts ranging from design work right through to production.

Our support on that was a couple of things. , from a business perspective we had a couple of our senior people that interacted on a regular basis with LMT to support them in terms of business management and in terms of quality, some of these communications that I referred to here was from our quality executive that was
20 helping and assisting LMT with their quality processes and we have also dispatched some of our quality inspectors on a regular basis to assist them on their production lines.

ADV KENNEDY SC: And was that done before the RFO for the hulls contract was issued?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Right. Now that brings us then to 4.3 which is what informed the move away from LMT and I just want to take you back to your evidence earlier. You have indicated that there were problems with LMT's performance, they were being addressed in the manner that you have just indicated, attempts to improve. That came with the assistance of DLS, correct?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Right. And you have mentioned
10 elsewhere a prepaying to LMT, was that also to assist them where they were struggling?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Right. Now the problems with the performance of LMT seem to have been an important factor in not giving the hull contract to LMT but rather to VR Laser despite the fact that VR Laser was so much more expensive than LMT, is that correct?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Can I ask you a hypothetical
20 question? What would have happened if the committee, the cross-functional team that Ms Malahlela was heading, had come up with a recommendation that given the huge cost saving that LMT was suggesting by having such a lower price, that it should be recommended to the board or to head office to grant the award of this contract to LMT?

What would your attitude have been?

MR TEUBES: Well, firstly I think, coming back to my earlier statement on the additional price submitted by VR Laser, whatever the outcome of this process was, I believe it would have been an objective process, Chair. So we would have accepted it but understanding the challenges that was within LMT we would have also take additional measures to support them to improve efficiency, to improve qualify and I believe, like I have said earlier in my
10 feedback, there would have been a significant investments needed to increase their capacity from a prototype low volume type environment to a high series production, so all of that would have been support from DLS to improve LMT.

CHAIRPERSON: Do you have in mind what kind of funds might have been necessary in order to give whatever support LMT should have been given in order to improve its efficiencies?

MR TEUBES: Unfortunately, no, Chair.

CHAIRPERSON: Ja. Do you have an idea whether it
20 could possibly be anything close to the difference between VR Laser's price and LMT's price?

MR TEUBES: Chair, it would be a guess, if I give you any indication.

CHAIRPERSON: Yes, ja. Okay, you do not have...

MR TEUBES: I do not have an idea.

CHAIRPERSON: Okay, alright.

ADV KENNEDY SC: Would it have been possible, do you think, would it have been not advisable to look into that possibility particularly given the fact that LMT was not some stranger outside third party at arm's length, it was majority owned and controlled by Denel.

MR TEUBES: Mr Chair, I think all of these actions should have happened prior to the RFP process on the whole contract because if you do these actions post then it would
10 not be possible to take that into account through your evaluation process, so I think the capability and the capacity that we are talking about, there should have been some indication of how would they establish that pre the RFP process.

ADV KENNEDY SC: Right. Presumably – I am sorry, Chair.

CHAIRPERSON: Well, your answer reminds of the question which Mr Kennedy might still be going to in due course of whether if you had a company, such as LMT,
20 which was controlled by Denel 51% whether it should be put through any competition with outside companies or whether what Denel should do, DLS should do, is this company can do this job, maybe we just need to help it here and there. We might need to invest some money and maybe go that route without involving outsiders to compete

with your own company. Did you have any views on that?

MR TEUBES: Mr Chair, in hindsight it is easier to have a view on it in that process. In that process – and this is the report that I referred to here, there was significant delivery issues within LMT. There was significant quality issues on products that they delivered. So I think if that was sorted out and at least there was some firm basis from where you could do that, I think it would have been a different view, yes.

10 **CHAIRPERSON:** Yes. Well because I guess if you have not – if you do not do that as Denel or as DLS with regard to LMT, then you find yourself in a situation where LMT is competing with VR Laser and whoever, these are outside companies, maybe you are going to say well, we know our LMT, they will not deliver the kind of quality that we require and therefore you go for an outsider.

But it may well be that if you from the beginning said look, if we spend any money on LMT to improve its efficiencies, it is not just for now, it is for long term, it is
20 an investment in LMT therefore it is worthwhile on a long term.

MR TEUBES: Ja.

CHAIRPERSON: That would be different, would you agree?

MR TEUBES: I think it is a valid point, Chair.

CHAIRPERSON: Yes, yes.

MR TEUBES: Ja.

CHAIRPERSON: Mr Kennedy?

ADV KENNEDY SC: Thank you. The Chair has heard evidence about a strategic vision and purpose underlying entities such as LMT buying a stake in LMT to bring its capacity in-house. You have also referred to this. So you touched on this earlier in your evidence. Would that not have been a sensible business decision in the wider
10 interests of the group to try and enhance LMT rather than just refusing it business?

MR TEUBES: Mr Chair, yes, maybe just touching on the strategic intent, Denel Land Systems do not have any vehicle capability. So what do we do, is we have got guns, we built all various guns and we built turrets. Now turret is the portion where the gun fit in, it fits on top of a vehicle and we have been doing that for many years. So what – a part of our turnaround strategy was to position ourselves as what we call a level 5 system integrate and level 5
20 system integrator, if I can compare with the civil engineering world, it is a turnkey solution. So you would give the customer the whole package and that is what Hoefyster is, as an example.

So DLS took a decision that we would like to position ourselves and we got approval for it as a level 5, a

systems house. So to do that we needed vehicle capability and that, part of that, was the LMT – bringing them within the family.

Just to answer the question from that perspective as well, is I think if it was business as usual then it would not have been a problem to take that decision and to support it but unfortunately a lot of the emails and a lot of the correspondence is clear that at a certain stage there was a total breakdown in relationships between DLS and
10 LMT. So we grew apart, we had different strategic visions and I think looking back, the top leadership that were responsible for both units should have probably reacted on that and brought everybody back in line. I was not done and we would allow it to go into different directions and, unfortunately, the business relationship suffered because of that and I think that, as a basis, unfortunately had an impact in are we willing to invest, yes or no.

CHAIRPERSON: So you say the bad relationship that seems to have developed between LMT and DLS or the
20 breakdown in communication or the tensions may have in a way contributed to that route not being looked at properly?

MR TEUBES: Yes, Chair, ja.

ADV KENNEDY SC: Alright, thank you, Chair. May I just to complete this part of the evidence dealing with the hull contract, take you back in your affidavit – your main

affidavit to page 33.

CHAIRPERSON: What page?

ADV KENNEDY SC: 33.

CHAIRPERSON: Okay.

MR TEUBES: Thank you,. Mr Chair.

ADV KENNEDY SC: You refer in paragraph 5.2.3 to:

10 Permission being requested by DLS to negotiate
the price to a maximum of 1 050 000 per hull to
bring it down within the budget that was then in
place.”

Was that approval granted by Exco?

MR TEUBES: By Group.

ADV KENNEDY SC: By Group?

MR TEUBES: Group, yes.

ADV KENNEDY SC: Right and then you refer in 5.2.32 to:

“Contract negotiations took place which included
the reduction of the price.”

Then you refer to a meeting on the 14 November 2014:

20 “Where DLS negotiated mainly for a production
price of R1 million per unit for each hull, payment of
a prepayment of 12%.”

Etcetera. And then at the top of the next page you refer to
the people who were invited to attend, that was Mr Jiyani
and Mr van der Merwe of VR Laser Services and Ms
Malahlela and yourself for DLS.

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Did that meeting in fact take place?
You were not simply invited but you attended?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Alright. And what was the outcome
of that?

MR TEUBES: Chair, there was actually a series of
meetings, this was the initial meeting and I cannot recall
exactly how many meetings but there was couple of
10 meetings that happened on this specific subject.

ADV KENNEDY SC: Did you persuade VR Laser to reduce
its price to exactly R1 million per hull?

MR TEUBES: They did but the issue was escalation, the
escalation formula where there was a three month
difference between the two parties, June to November,
three to four months, so on that specific one we could not
move them. So the position that we were below the
mandate of 1 050, so that that three months difference in
escalation is a lot less than that 50 000 difference.

20 **ADV KENNEDY SC:** Alright, thank you. May we now turn
to the next contract that you deal with in your main
affidavit and that is a contract that was awarded in 2015 to
VR Laser services and that refers – you refer to the
memorandum of agreement. Is it correct that this related
to appointment of VR Laser as a single source supplier of

certain components?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Now am I correct in understanding these are components in addition to the hull that was dealt with in the 2014 contract.

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Now ...[intervenes]

CHAIRPERSON: The single supplier concept within the context of Denel, is its essence that when Denel appoints a
10 supplier as a single source supplier that Denel actually gives away its right which it otherwise would have to look for somebody else to give or provide it with the same services while that other agreement with that service provider is on? For example, if you talk about a lawyer, you know, attorneys, as a company you can have an attorney whom you have appointed to do certain work for you but that does not prevent you from engaging another attorney to do something else for you, even if it is similar, you know?

20 Or you could talk about somebody to provide you with certain products, you might appoint somebody to provide you with certain products but you might decide that you actually need more and go to somebody else to also provide you with a few. You have not given away your right to look for somebody else, without being in breach of

any agreement with the current supplier.

MR TEUBES: Yes.

CHAIRPERSON: So is the essence of a single supplier, the appointment, that as Denel you undertake not to look for some similar services or products from somebody else?

MR TEUBES: Chair the answer is yes, but will I be allowed just to expand a little bit on that if I may?

CHAIRPERSON: Yes.

MR TEUBES: In our single source supplier motivations
10 and selections we will never opt in that category nobody that supplies the normal service that you will find out in the market that there are multiple competitors for we will never go for a single source.

What drives a single source I think it's important to know we develop as well so most of the products that we have starts from the development phase. So you will develop a specific product for a specific requirement and in that it's not high volume its relatively low volume. There is significant investors in those components so you will not
20 have that investment in multiple suppliers.

So you will go out and choose a partner, a partner single source supplier that will assist you in that development phase as well as the production phase. So our criteria to go out for a single source and just with the PPPFA we actually need now a days to get National

Treasury approval for a single source.

So a single source approval that has changed over the years well partly because of Denel policies that has also changed to be aligned with National Treasury rules, my understanding of it is that firstly is it maybe a OEM that has originally, manufactured this, it's got the IP so you cannot go to somebody else. The second portion is it critical in terms of manufacturing processes.

10 So manufacturing processes that could impact the safety of the system or cost of the system. So all of those factors is taken into account in our recommendation or our motivation rather to National Treasury for that approval. So your principle question is yes you preclude other people from that but I think it's not but I think it's not an easy process to get to that point.

CHAIRPERSON: And it's not so much out of choice that you exclude other people.

MR TEUBES: Correct.

20 **CHAIRPERSON:** It's because of the investments that may be involved in developing or maybe because there is intellectual property involved which will force you to use that particular entity anyway.

MR TEUBES: Correct.

CHAIRPERSON: Yes, okay alright.

ADV KENNEDY SC: Thank you Chair. Mr Teubes your

affidavit then goes onto refer to Ms Malahlela wanting to put this contract out to a competitive tender or RFQ process if you could look at your page 35 paragraph 6.1.4 and you backed that up with annexures which are emails and so forth. Is it correct that she raised that proposal or intention to follow a competitive process?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: Is it correct that you took a different view?

10 **MR TEUBES:** That is correct, Chair.

ADV KENNEDY SC: Was that your own view or is that one that was dictated or instructed to you or anybody else?

MR TEUBES: That was a view that was instructed by somebody else to me.

ADV KENNEDY SC: And who was that?

MR TEUBES: That was Mr Stephan Burger.

ADV KENNEDY SC: What was your own personal view, did you believe that it could or should go out at least on an RFQ if not an open tender.

20 **MR TEUBES:** My original view aligned with Ms Malahlela's view but in the discussion with Mr Burger the points that he put on the table in terms of the interchangeability of these manufacturing components as well as the investment needed for the manufacturing processes after having a debate or a discussion with him I

eventually agreed with his view.

CHAIRPERSON: Well in that event it probably is not accurate to say it was a view that you were instructed as such because I think you were persuaded.

MR TEUBES: That is true.

CHAIRPERSON: Yes.

MR TEUBES: Yes.

CHAIRPERSON: So it became your own view as well after the debate, yes.

10 **MR TEUBES:** That is correct, Mr Chair.

CHAIRPERSON: Yes, okay, alright, but the point you make is that prior to that your view was more in line with Ms Malahlela's view.

MR TEUBES: Correct.

CHAIRPERSON: Ja.

MR TEUBES: Correct, and I think that is backed up with my discussion with Mr Drevin and where we had a discussion he did his motivation and that motivation was not supplier specific.

20 **CHAIRPERSON:** Okay.

ADV KENNEDY SC: Right thank you can I ask what your opinion is now with the benefit of hindsight. Do you still maintain the view that you came to after being persuaded by Mr Burger?

MR TEUBES: I think hindsight ja in this case also with

everything that happened around it I probably would have stucked with Celia's position it is just within this whole process a lot of things other than technical ability started to play a role. So if let us call it the political ownership part did not play a role I think it was correct to go single source and not to go out in multiple tender but the fact that there were other factors starting to play a role in hindsight I would have done it differently.

ADV KENNEDY SC: Did the controversy that became
10 apparent in the media about who the true shareholders were of VR Laser and their political connections and their connections or the involvement of the Gupta's or Mr Salim Essa or Mr Duduzani Zuma knowing that has generated some controversy does that influence your view that perhaps it should have been good from the beginning to just follow the competitive process Ms Malahlela was suggesting or is it something else?

MR TEUBES: No, it is as you described.

ADV KENNEDY SC: Right.

20 **MR TEUBES:** If I may could I add something to that?

ADV KENNEDY SC: Please, yes.

MR TEUBES: I think the context of decision making on Hoefyster I think it is very important Chair. When we received this contract in 2007 DLS was almost in the same challenges that Denel is today so we had significant

business challenges, significant cash flow challenges and then we got to face the contract. At that stage with limited resources, limited capacity in the company and we had to start executing an extremely complex contract. So whatever business decision we were taking was to try and reduce the risk on the programme.

Now some of that we were successful in and some we were not successful in reducing that risk. So any of these decisions for example getting a single source to do
10 the fabrication obviously it must be done from a financial sound commercial perspective but a lot of it was to try and drive down risks on the program.

ADV KENNEDY SC: I can understand with respect the logic of having a single source supplier appointed so that you can reduce risk and there are all sorts of IP technical supervisions issues so that you have one entity that you know is going for the period of the contract be committed to dealing with that and you can then supervise. What I would like to turn to now though is the question of before
20 you appoint a single supplier would it not be appropriate to let other entities compete for the appointment of a single source supplier...[intervene]

MR TEUBES: Yes, but...[intervene]

ADV KENNEDY SC: And Ms - sorry if I might just complete the question if I may I am sorry it is a bit long

winded. But Ms Malahlela has already given evidence that she heard you from a perspective Supply Chain Management that it was important to comply with processes that did allow at least a measure of competitiveness.

MR TEUBES: Ja, I agree Chair with the principle of this but I also at that stage the argument of we just went through a process to appoint a whole supplier. The essence of what we want to put in a single source is
10 similar that also played a role in it rightly or wrongly but it played a role in this decision, but I do agree in hindsight that it would have been a preferred position to go out on a tender, ja.

ADV KENNEDY SC: Mr Mlambo, I beg your pardon Chair.

CHAIRPERSON: Sorry Mr Kennedy, Mr Teubes what is it that you may not do if you have appointed as the single source supplier that you may do if you have appointed them but not as a single source supplier. In a way I am going back to the question I asked you earlier on are there
20 things that you are prevented from doing just because the appointment that you have made of A is on the basis that A is appointed as a single source supplier as opposed to an ordinary supplier.

MR TEUBES: Ja, Chair from the PPPFA again my understanding, I am not an expert on it, perspective if you

do not have a single source supplier there is certain criteria or certain processes to be followed with tenders and so for every requirement you have you need to go out on an open tender and then that tender is awarded based on that selection criteria. If you have a single source supplier, you can go on a close tender to that supplier and in my mind that is the difference between the two.

CHAIRPERSON: Okay that is important because I think when Ms Malahlela gave evidence this issue of the
10 implications of being appointed as a single source supplier whether it was different from what is provided for in procurement processes and National Treasury regulations or instructions where you are allowed as an organ of State under the PPPFA not to go on open tender.

But there the position as I understand it is put as if Mr Teubes is the sole supplier of that product. If there is nobody else who can provide that kind of product, then you do not have to go to open tender then you can just appoint Mr Teubes and your justification is he is the only one who
20 provides this kind of product.

Now I have always asked them the questions I mean the people who have testified about there and then I said I do not understand the logic of that provision because if you invite, if you go the open tender route Mr Teubes is going to put in his bid, if he is the only supplier of this

product there is going to be nobody else and then you end up with him anyway. But if you are mistaken in thinking that he is the only one there will be somebody else and that somebody else could just happen to be cheaper than him. So you lose nothing by going the open tender route even if there is only Mr Teubes who supplies this kind of product that is in relation to Treasury.

MR TEUBES: Ja.

CHAIRPERSON: Is your understanding that the single
10 supplier arrangement at Denel fits into that arrangement under National Treasury in PFMA provisions. Is it that it is the same thing?

MR TEUBES: It is the same thing.

CHAIRPERSON: Yes.

MR TEUBES: Ja, I have to say if you look at the procurement policies over the many years let us say over the last 10 to 12 years in Denel this issue of single source and single source approval has significantly changed although the laws has not changed I think the application
20 within Denel was different and just an interesting example roughly in about 2008/2009 the policy at that stage was that the single source approval was done by the Chair of the procurement committee which was relative – which was equivalent to Ms Malahlela position. So she could approve it in the Denel's policies. Over years I think our alignment

between policy and law became closer.

CHAIRPERSON: Okay, Mr Kennedy.

ADV KENNEDY SC: Thank you Chair. Now Mr Teubes can you turn to page 44 please at the foot of page 44 your paragraph 62.29 refers to the procurement policy of Denel at Head Office which came into effect on the 19th of November 2014 you have helpfully attached to ...[intervene]

CHAIRPERSON: I am sorry did you say 34?

10 **ADV KENNEDY SC:** 44.

CHAIRPERSON: 44, okay.

ADV KENNEDY SC: You have referred us to the procurement policy as it existed, in 2014 you have attached a copy of that policy. Mr Mlambo from – who was then the Supply Chain Group Executive at Head Office has already given evidence in relation to the same policy. Now you express an opinion in this paragraph, the disappointment of VR Laser as the single source supplier in fact contravened the procurement policy. You say that
20 the award of the contract was in conflict with the procurement policy ay Denel (SOC) Ltd. Were you aware of that conflict at the time you were part of the process which recommended VR Laser's appointment?

MR TEUBES: Mr Chair I was not aware of the conflict up to the point where we got to this point where it was raised.

So during the process of the evaluation and decision make on the MOI I was not aware of it but up to the point where we had this EXCO meeting where it was raised I became aware of it.

ADV KENNEDY SC: Notwithstanding that the recommendation was then made to appoint VR Laser despite the fact that if you were aware of a conflict, is that what you're saying?

MR TEUBES: That is correct, yes.

10 **ADV KENNEDY SC:** On what basis could you then make a recommendation that you knew was in conflict with the Groups procurement policy.

MR TEUBES: In the EXCO discussions that we had the issue was that the procurement policy there we felt that the highest authority which was a group CEO could approve deviations from it and we believe that the approval to enter into an MOA was an approval for a deviation and that was the basis. So it was not a basis of the one overriding the other, the discussion in the EXCO was that this was an
20 approval for a deviation. I know it is worded differently in the minutes but that was the essence of the discussion.

CHAIRPERSON: Ja, I am just wondering why the Group CEO could be said to have approved a deviation in circumstances where there was no request for deviation placed before him.

MR TEUBES: I take your point Chair, yes.

CHAIRPERSON: Ja, okay Mr Kennedy.

ADV KENNEDY SC: Thank you Mr Teubes if I can refer you to page 46, okay let us start if we may at 45 in 62.33 you referred to the committee taking a decision that the memorandum of agreement that was in place with VR Laser took precedence over the procurement policy. Now what agreement are you referring to there? Was that the hulls contract agreement or what?

10 **MR TEUBES:** No, Chair this was the MOA.

ADV KENNEDY SC: This is the MOA that had already been concluded.

MR TEUBES: That is correct.

ADV KENNEDY SC: Right and I just want to pick up with the point that you made earlier because you said as I understood it that part of your - the reasons that persuaded you to give the single source contract to VR Laser if I understood you correctly is that these additional components were additional that would be added onto the
20 hulls. The hulls were to be manufactured by VR Laser in terms of the first contract that has already been awarded to it so it made sense that you would not have different suppliers supplying different elements it would make sense to have the same one for both. Is that a fair understanding?

MR TEUBES: No, that is correct Chair.

ADV KENNEDY SC: Would you accept though this proposition that the first contract entitled them only to manufacture hulls and that of course we know was the subject of a fairly competitive process in that the RFO process was followed where there were at least three interested parties that were offered that opportunity to compete. VR Laser, LMT and DCD not so?

MR TEUBES: That is correct Chair.

10 **ADV KENNEDY SC:** Did the objective and the legal provisions that the Chair has referred to of procurement regulations and so forth did that not then require that the second process in fact go out competitively.

In other words, these were not items that you could purchase under the first agreement because the first agreement just had a narrow scope.

MR TEUBES: Ja.

ADV KENNEDY SC: This was in addition to that and so although from a business sense it might make sense from a
20 business point of view it might make sense to say well if we already appointed them, VR Laser, in the first contract why not appoint them again but was it not in fact a requirement of the procurement policy that this to be competitive just like the first process had been.

MR TEUBES: Chair I think it is a valid argument from our

perspective is that we have motivated the MOU to the highest authority within Denel and that was approved and I know there was objections from Mr Mlambo on it, I know there was consultations but at the end of the day it ended up with the top executives in Denel approving this MOA. So from that perspective my personal view was all of this was considered and it was a go ahead to do it, but do I today understand that from a procurement policy regulations perspective it could have been done differently

10 I agree.

ADV KENNEDY SC: Do you also agree that the top executive however senior whether it be the Group CEO or the Group COO or the Board itself they are also bound legally by what is laid down by parliament in the PFMA the Public Finance Management Act, was is laid down in Treasury regulations under the PFMA and also under the procurement policy of Denel itself?

MR TEUBES: I fully agree.

ADV KENNEDY SC: Yes, and was it – I am not suggesting
20 that one should not look at possible blame that should be attached to the senior executives at group level but was it not part of your duty, you and your colleagues duties within DLS to ensure that if a recommendation was going up to Head Office for approval by the Group CEO that you should not be proposing or recommending a decision which might

violate the PFMA or the Treasury regulations or the procurement policy of Denel.

MR TEUBES: Within the context of Denel is that the Denel procurement policy is derived from all the laws and the regulations, that is done by Denel Corporate. So on a division level we act according to the policy so we do not have a direct relationship with the PFMA. So the policy in our world is a translation of the PFMA and the application in our world.

10 So to answer you Chair is that there was no specific thoughts, specific comparisons done to recommendations to the PFMA. the comparisons was done to the policy.

CHAIRPERSON: Mr Kennedy's question has brought me back to an answer you gave earlier on and I just want us to interrogate that. You said that because this agreement had been taken to the Group CEO and he had approved that somehow meant for you that it was fine.

MR TEUBES: Hmm.

20 **CHAIRPERSON:** Is there not a problem with that approach in circumstances where it comes from somebody who would have made a recommendation prior to that issue coming to the Group CEO or because you do not want a situation where the Group CEO says I approved this because everyone below me recommended that I approve it and I relied on their recommendations and those under the

Group CEO say we actually thought since he approved it, it should be fine. Do you understand my concerns?

MR TEUBES: I do Chair.

CHAIRPERSON: Yes, so that to the extent that one may be dealing with somebody who made a recommendation at a level before the matter went to the Group CEO each one of those people who made a recommendation ought to be able defend if they defend their approval or their recommendation on its merits and not because later on
10 somebody senior also approved. Do you accept that?

MR TEUBES: I do, I do Chair.

CHAIRPERSON: Okay.

MR TEUBES: I think if I may add Chair at a point where this was finally approved I think Mr Dennis Mlambo's concerns was known.

CHAIRPERSON: Yes.

MR TEUBES: So it was not a consensus position within the bigger Denel on this.

CHAIRPERSON: Yes.

20 **MR TEUBES:** So I would put it to say I do not think the final approval could have been based on a consensus that there was consensus, it was known that there was a debate on this.

CHAIRPERSON: Yes, of course that answer would be fine if you say look I stand by the recommendation that I made.

I think it was a good decision to recommend but having said that I am saying the Group CEO was aware of a different view or different views from Mr Mlambo. He was also supposed to take those into account and decide. He decided in particular way and I take it that he weighed up the different views but still be able to say as far as my recommendation is concerned that I stand by it I can defend it this is how I defend it or obviously you might say look at that time I thought it was justified but now when I
10 have had a chance to look at the facts, look at the situation or with the benefit of hindsight I am not able to defend it but at that time this is how I saw it. Okay.

ADV KENNEDY SC: Thank you Chair. If I may just pick up just to complete this line of questioning pursuant to the Chairs questions. Here you had Mr Mlambo at group executive level for Supply Chain being against the idea, correct?

MR TEUBES: Correct, Chair.

ADV KENNEDY SC: And he was the expert, that was his
20 field, you are not an expert in Supply Chain Management, am I right?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Your expertise lays elsewhere in engineering and also in business leadership etcetera. But Mr Mlambo's concerns appear to be similar to what your

own Divisional Supply Chain Head, Ms Malahlela, was warning you about as well. In fact, the process started where she had said I believe we should go out to tender all RFQ's and she was overruled within the division, correct?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And then when the process was then pursued where the RFO was issued and - I am sorry where the RFO was not issued, where instead it was decided simply to award it to VR Laser she still raised concerns did she not about procurement irregularities.

MR TEUBES: I cannot - I think in principle you are correct Chair but I cannot remember specific concerns.

ADV KENNEDY SC: Okay.

MR TEUBES: Ja.

ADV KENNEDY SC: Can I take you to 831 she of course has given her own evidence but I respect your – your evidence now that you cannot recall specific concerns. But Ms Malahlela gave evidence that was instructed to prepare the memorandum we find at page 831 which was to make the recommendation in relation to the DLS contract as a sole supplier contract to VR Laser. And she says – are you familiar with this document? Well you have actually attached it as an annexure but were you familiar with it at the time?

MR TEUBES: I am yes.

ADV KENNEDY SC: Did you give that instruction to her to

issue this – or prepare this memorandum?

MR TEUBES: I – can I go back to what the Chair said earlier. I do not think it was an instruction Chair. I think it was a – we had a debate I do not think she was forced to write this memorandum. In my mind is she wrote this memorandum after we had a debate and there was alignment on the idea. So I do not think she was forced and knowing her is that she will not do anything against her will. So – but I cannot – I do not agree with the word force. But – um – ja.

10 **ADV KENNEDY SC**: Can I take you...

CHAIRPERSON: What did ...

ADV KENNEDY SC: Sorry Chair.

CHAIRPERSON: I am sorry. Could it be that she was expected to do it on the basis that it was the majority view even if she did not agree with it? Is there room for – would there have been room for her to do it under those circumstances not because she is forced in the normal sense but on the basis that the majority view is different from hers?

MR TEUBES: Yes Chair it is possible.

20 **CHAIRPERSON**: Ja.

MR TEUBES: Just quick context here. At this stage she was an EXCO member.

CHAIRPERSON: Yes.

MR TEUBES: So she was part of this EXCO meeting that had this discussion.

CHAIRPERSON: Yes.

MR TEUBES: I would think if she had such strong reservations that it would have been minuted in the EXCO meeting which it was not. And again hindsight is the minutes a perfect reflection of – of the meeting I do not know. But I would say if an argument is placed that she was forced to do that I did – does – it is not reflected in the minutes. In the minutes it says the EXCO took the following decision and that minutes was accepted as a true reflection of that
10 meeting.

CHAIRPERSON: Hm. Yes. I think Mr Kennedy might or might not take that further. I seem to have the impression that her conduct after in terms of emails and correspondence seems to reflect that her view was still different from that of EXCO. But Mr Kennedy might or might not be able to take that further.

ADV KENNEDY SC: Yes. May I just raise this with the witness if I may?

CHAIRPERSON: Yes.

20 **ADV KENNEDY SC:** On this very page we at 831 Ms Malahlela when she was taken to this in her evidence the other day directed the Chair's attention to two points. In the first paragraph she referred to the Group Supply Chain Executive gave an instruction that DLS must first explore how DVS will be used in the project on condition they – and

then – so that relates to DVS. But – but then she said to the Chair that she had deliberately put in a reference above her signature on the next page 832.

“I request permission to implement the EXCO decision in this regard.”

And it was her diplomatic way of recording that – or hinting that it was EXCO that was making the decision. I take your point that she was part of EXCO but that she was not happy with the decision. She did not agree with it. So in other
10 words she was not saying, I Ms Malahlela am in fact asking or recommending that you give approval Mr Mlambo. Any comment on that or do you stand by your earlier evidence?

MR TEUBES: Mr Chair I stand by my point. Obviously I have got a lot of respect for Ms Malahlela and I do not want to debate her feedback to you.

CHAIRPERSON: Ja.

MR TEUBES: But I think as an EXCO if an EXCO has taken a decision you either abide by that decision or you formally state your objection and it must be minuted.

20 **CHAIRPERSON**: Okay.

ADV KENNEDY SC: May I now take you to your latest affidavit that has been admitted and I take you please to page 1078. This is Exhibit W17.2 Chair.

CHAIRPERSON: Yes.

ADV KENNEDY SC: That is the one that you prepared

yesterday.

CHAIRPERSON: Thank you.

ADV KENNEDY SC: In fact when I refer to affidavit in fact will be an affidavit once you sign it before a Commissioner of Oaths.

MR TEUBES: Yes. Hundred percent thank you Mr Chair.

ADV KENNEDY SC: If I can be forgiven for that terminology that I use it is just simply for convenience. Now why did you prepare this affidavit? Was this at our request or the
10 investigators request?

MR TEUBES: No it was my own initiative Mr Chair. In the previous supplementary a question was asked by the investigators who initiated this MOU process and I only made a single line answer without giving context to it. Because I believed I addressed it in various areas within my statement. So I have only stated there it was Mr Stephan Burger.

But I felt after all the – I was listening obviously to some of the witnesses here and I felt that maybe my different areas that I have touched on this if I can give a
20 chronological order of those events it will assist the commission. So this is not new information it is just repacking the chronological order of events.

ADV KENNEDY SC: Well thank you for your concern to be comprehensive and detailed to give the Chair the full facts and the documents. May I just ask specifically in relation to

the issue we have just been debating? At page 1081 paragraph 7. In fact sorry perhaps just to give it the context. The discussion from 1079 deals with the motivation of Martin Drevin for a single source. Is that the same single source contract that he have been discussing up to now?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And does the same apply to the first draft Group CEO Supply Chain submission paragraph 3?

MR TEUBES: That is correct Chair.

10 **ADV KENNEDY SC:** And then the MOU from Denise Govender.

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And the second draft page – at paragraph 5 on page 1081.

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And does the same apply to 6 – paragraph 6?

MR TEUBES: That is correct.

20 **ADV KENNEDY SC:** Yes. I do not believe unless you want to highlight anything of particular significance for the Chair's attention I do not believe that it is necessary for us in your oral evidence to go through that. But the evidence will be before the Chair for consideration. What I would like to take up with you though Mr Teubes is your paragraph 78 at the foot of page 1081 and that is Celia Malahlela's concern. You

refer to a reply from Celia in context it is a reply to a second draft submission. Was that the one that you had amended?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Yes. And the amendment was for VR Laser to be awarded the contract as a single source supplier without – without going through a competitive process.

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Right. Now to look at her – how you have articulated her concern as she conveyed it to you 711

10 says:

“Celia replied 10:31 on the 23 March raising her concerns with regard to – is that WRT – with regard to?”

MR TEUBES: That is correct Chair.

ADV KENNEDY SC:

“Change submission. She suggested that we have a meeting to discuss. I cannot recall if we had the meeting or what the outcome of the meeting was given that it was after the
20 EXCO meeting.”

Is that still your position you cannot recall the [00:09:29]”

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: Ms Malahlela has given evidence about her discussions with you and Mr Burger where she raised repeatedly her concerns and she has expressed to the Chair

her concern that she really was not taken sufficiently seriously in the advice she was giving as the Supply Chain Expert that this could not be done. Any comment on that?

MR TEUBES: I have listened to Ms Malahlela's evidence and that specific concern that she raised that she addressed in a letter to Mr Burger was only done much later than this specific incident. So that – there is not a direct link between this meeting and that letter that she has written to Mr Burger. It is only – it was a couple of months later.

10 **CHAIRPERSON:** Mr Kennedy the amendment that you and Mr Teubes were talking about in regard to paragraph 7.1.1.

ADV KENNEDY SC: Yes.

CHAIRPERSON: Is that the amendment that Ms Malahlela talked about where she said she had prepared a submission going in a certain direction but she discovered later that that submission had been amended without her knowledge as I understood the position?

ADV KENNEDY SC: Yes.

20 **CHAIRPERSON:** To say something that was quite the opposite. Is that...

ADV KENNEDY SC: That is one would think...

CHAIRPERSON: That is what we are talking about.

ADV KENNEDY SC: The is one of the things that she testified about. Perhaps I need to take you Chair just to cover that adequately.

CHAIRPERSON: Yes because it is important.

ADV KENNEDY SC: I may have skipped – skimmed through something in the affidavit of Mr Teubes. Mr Teubes you refer in your affidavit to email correspondence relating to the drafts of the submission whereas I recall you used the term I am – I have updated the submission.

MR TEUBES: Ja.

ADV KENNEDY SC: To adopt a different angle.

MR TEUBES: Yes.

10 **ADV KENNEDY SC:** May I just find that reference. I am sorry I do not have it at my fingertips Chair but can I just be given a moment?

CHAIRPERSON: Ja that is fine.

ADV KENNEDY SC: May I ask while my learned colleagues are trying to find the reference for us – may I ask was there interaction between Ms Malahlela and Mr Burger at this stage in relation to the preparation of the documents and the procedure being followed or did she do everything through you?

20 **MR TEUBES:** I do not know. I think the – Chair that the majority discussions was probably with me although as what during happened during the hull contract there was also regular interactions between Ms Malahlela and Mr Burger. So I do not know.

ADV KENNEDY SC: Did – in one of your affidavits you have

referred to Mr Burger taking the initiative in relation to the approach for single source suppliers, is that correct?

MR TEUBES: That is correct Mr Chair.

ADV KENNEDY SC: I would like you please to expand on that. In what way did that manifest itself?

MR TEUBES: If I can refer to my latest supplementary statement that I sent through last night?

ADV KENNEDY SC: Yes.

10 **MR TEUBES**: And if I take you to point 2 there on page 1079.

ADV KENNEDY SC: Yes.

MR TEUBES: There under the Motivation for Mr Drevin.

ADV KENNEDY SC: Yes.

MR TEUBES: First paragraph.

20 “In the week of 4 to 5 March I cannot remember the exact date Mr Burger had a discussion with me regarding the risk on the Hoefyster Program and specifically the supply of fabricated components and the fact that most other companies like Patria vertically integrated to include this capacity in the company. He suggest that for DLS to mitigate this risk a single source agreement must be established with the supplier that this capacity – for this as this capacity and

capability. I agreed with his reasoning in terms of the inherit risk and then I had a discussion with Martin Drevin to draw up that motivation.”

But I think it key – I refer to there on the 216 on the next page.

“This motivation is a technical risk motivation where it was technical risk mitigation orientated and not supplier specific.”

10 **ADV KENNEDY SC:** Alright and then if I can refer you on the same page the top of page 1079. There is a heading the Individual within DLS who initiated the MOA.

MR TEUBES: Yes.

ADV KENNEDY SC: Just read out that next paragraph.

MR TEUBES: That - Mr Chair that was the question from the investigators which I reacted to in my previous supplementary and my answer on that is:

20 “It is my understanding that it was Mr Stephan Burger in his capacity as DLS – the then DLS CEO who initiated the process of there to be a single source supplier of Hoefyster turret armour steel fabrication and components.”

ADV KENNEDY SC: Thank you. I am referred Chair thank you apologise for the delay. My attention is drawn to page

679. You do refer to it in your affidavit and I just cannot find that at the moment but yes thank you. 679 is a series of two emails the one at the top is from yourself to Ms Malahlela, is that right?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And then that was a response to hers at the foot of the page, is that right?

MR TEUBES: That is correct Chair.

ADV KENNEDY SC: And further down the page of the March
10 2015 and she said:

“Hi Reenen, please find the attached document as requested.”

Now she gave evidence the other day before the Chair that she had submitted – she had prepared a submission to deal with the proposed transaction. She dealt with it in a particular way but you then wrote back to her to say as you do in the top email.

“I have changed the angle that we asked for approval from Riaz please see attached
20 submission – any inputs?”

Now what informed that?

MR TEUBES: That was informed by a – if you just look again at my – the statement of last night is that we had a – we had the first draft as per the email of the 12 March then post that I received an email from Ms Denise Govender our

legal executive in Denel attaching a MOU for this work and specifying VR Laser. I had then on her reference – she referred me to Stephan and we had a discussion and the debate on that and it was post this debate that I have updated that submission.

ADV KENNEDY SC: Now can I take you back please to page 832 which is the one we looked at earlier where she refers to a request for permission to implement the EXCO decision in which she had been a minority. And you mentioned earlier
10 that Mr Mlambo had taken a different view. We know what his position is at Group level. He is basically the top within the group.

MR TEUBES: Correct.

ADV KENNEDY SC: He was the absolute ultimate authority within the group relating to Supply Chain and procurement, correct?

MR TEUBES: That is correct ja.

ADV KENNEDY SC: And were you aware that his approval was required for this type of transaction?

20 **MR TEUBES:** I do not agree with his approval in the – if you look at the policy it says he needs to be consulted.

ADV KENNEDY SC: Yes he gave evidence about a particular reason why he should have been consulted.

MR TEUBES: Ja.

ADV KENNEDY SC: But leave it at that the Chair will

assess the evidence obviously in due course. But I am interested in the handwritten portion that Mr Mlambo has said he inserted. You see the – you see the typed portion above the handwritten portion says Approval. The intention was to get him to sign to give his approval.

MR TEUBES: Ja.

ADV KENNEDY SC: And he did not sign that instead he wrote in the reason why he was not approving. He said:

10 “NB – DVS and LMT must submit proof that they cannot meet the requirements prior to the contract being awarded to VR Laser.”

Now you have already dealt with LMT and its limited capacity and its limited track record as well as problems that were being experienced with that. I do not think we need to traverse that again. But just deal briefly if you would with DVS. He is suggesting that DVS as an in-house division of Denel should provide proof that it cannot do this type of production before he would be happy.

20 **MR TEUBES:** Ja. If I just – Chair before I answer that if I can just give context between this letter *vis a vis* the approval process for the MOU? This letter that on which Denis Mlambo made a comment is about six months after the MOU process.

So this specific letter does not reflect on the approval process or an input to the approval process of MOU it

reflects to a position where we wanted to go out or there was a discussion to go out on either a tender or not a tender on this – the T5 program which is another product and the EXCO discussed that and that is where the whole decision that you referred to earlier appear in terms of policy versus approval levels came into debate.

So the decision that we requested here from Mlambo was specifically on a T5 product to either go out on tender or in this case follow the MOU process. So that was the
10 reference in this letter.

ADV KENNEDY SC: Yes. But Mr Mlambo was concerned with a number of breaches of policy. In fact the one he is identifying here specifically relates to the in-house capability. In fact that as I recall was his evidence that that required his actual approval before work that could potentially be bond in-house with outsourced to somebody the group.

MR TEUBES: That is correct. If there was in-house capability then that was subject to approval.

20 **ADV KENNEDY SC:** Yes. So were you aware at the time that he had issued this note firstly showing that he did not approve it and secondly giving his reason then. He had other reasons that he raised in his evidence later.

MR TEUBES: Ja.

ADV KENNEDY SC: But this specific one were you aware

that he – this was the outcome of the process in which his approval had been sought but refused?

MR TEUBES: Yes I was aware of it.

ADV KENNEDY SC: And did that not ring some alarm bells to you as a senior member of the DLS management as the COO at the time? That we cannot do this without satisfying Mr Mlambo in terms of his authority and in terms of the prescripts of Denel policy for procurement that we must satisfy him that both DVS and LMT do not have the capacity?

10 **MR TEUBES:** I agree with the principle that my thoughts at that stage was I got this letter and it was approved by the Group CEO. And I would have – and my understanding was that he has taken in Mr Mlambo's concerns and then he approved it.

So I agree with you again in hindsight that we should have considered it differently but at that stage we accepted the Group CEO approval of this position.

CHAIRPERSON: You know one of the matters Mr Teubes that I look at from time to time when I hear evidence of how
20 certain things happened in various SOE's during these years that we are talking about in the context of state capture and corruption. Is where – where it is clear that the wrong thing was done and not the right thing.

I try to look at why is it that maybe so many people who saw this or read the documentation who had what was

being done or what they were being asked to agree to or approve. Why is it that not enough people said but there is something wrong with this? You see.

So when then one looks at – at this issue here and one hears the argument from Mr Mlambo that it did not make sense to him to – for Denel to want to so to speak outsource business when they have got internal or Denel entities that have got the capabilities can do the job. So – and then you see the Group CEO having said approved there.

10 Well when Mr Mlambo was giving evidence I said was this approved? Meaning he approved your comments or was he giving the approval that you were not giving? He said no. I think he said he – the Group CEO was giving the approval that he was not giving. He was overriding it. So I ask myself the question but

1. What did this Group CEO say about the arguments – the merits of the arguments raised by Mr Mlambo? What did the other people other than the Group CEO say about the merits of the arguments by Mr Mlambo?

20 Because one would expect that if there is no sound answer to his arguments other people who did not think anybody had given a proper explanation should say, but hang on we do not understand why you are going ahead because we think Mr Mlambo whose point is valid you know. And then maybe if there are enough people who say that

maybe the Group CEO is going to think twice before he approves. But if they all adopt the attitude, look let us leave it to this Group CEO if he approves he approves.

MR TEUBES: Ja.

CHAIRPERSON: Then wrong things happen. You understand where my concern is?

MR TEUBES: Fully – fully understood Chair. I just have to point out that between me and Ms Malahlela we did have meetings with Mr Denis Mlambo on this issue

10 **CHAIRPERSON:** Yes.

MR TEUBES: And we had discussions with him. So it was not purely a situation submit this motivation and get either a approval or rejection back from corporate. So we did engage with him. There is email communication post meetings we had with him on this. But I – it – that does not disregard your position and your arguments on it I just wanted to add that it was not purely a blind process.

CHAIRPERSON: Yes.

MR TEUBES: There was interaction.

20 **CHAIRPERSON:** Yes. Yes. But as you sit there and you look at his arguments what is your reaction as to what should have happened about his arguments? Do you regard them as sound and as there not having anybody who came up with sounder, better, stronger arguments?

MR TEUBES: Chair as per the email communication post

our meetings I differed with him with his arguments.

CHAIRPERSON: Yes.

MR TEUBES: I did not agree with his perception of the capabilities in the different companies.

CHAIRPERSON: Yes.

MR TEUBES: I honestly believe that he did not have the same depth of knowledge on those capabilities that I had.

CHAIRPERSON: Yes.

MR TEUBES: So it is from that perceptive I differed with
10 him and it is known in my emails that I differed with him.

CHAIRPERSON: Yes. But did you put those arguments to him to say, you say we have got those capabilities within Denel but you are mistaken on that because of a, b, c, d we do not have those capabilities. Or those capabilities are just not – the ones we have are not adequate for this purpose. Did you get a chance – did you put that to him?

MR TEUBES: Chair I believe in the meetings that I refer to in my emails I did. In retrospect I should have probably put it in writing as well which I did not.

20 **CHAIRPERSON:** Yes.

MR TEUBES: But I had joint meetings with him and Ms Malahlela ja.

CHAIRPERSON: Yes. Okay alright. Mr Kennedy.

MR TEUBES: Thank you. Chair may I then refer – sorry may I just make sure of how much time we still need to

...[intervenes]

CHAIRPERSON: How much time do you think you need?

ADV KENNEDY SC: I hope about 20-minutes Chair.

CHAIRPERSON: Okay let us try...[intervenes]

ADV KENNEDY SC: I know you ...[intervenes]

CHAIRPERSON: Ja, let us try and finish it.

ADV KENNEDY SC: We can try and finish. Thank you.

CHAIRPERSON: Okay.

ADV KENNEDY SC: May I ask you please to turn right to
10 the end of the bundle, page 862? In fact, 861. This is part
of the supplementary statement that you have prepared
yesterday. No, sorry. It is the first supplementary affidavit.
Do you have it?

MR TEUBES: [No audible reply]

ADV KENNEDY SC: Not yet. Sorry.

MR TEUBES: I have it. Thank you, Chair.

ADV KENNEDY SC: At the foot of the page, 5.4. MOU date
versus the acquisition date of Denel Vehicle Systems. Why
was DVS not considered? Now as I understand the earlier
20 part of your affidavit, this is one of the questions that were
put to you by the investigators of the Commission for you to
answer.

MR TEUBES: Yes.

ADV KENNEDY SC: Is that right?

MR TEUBES: Correct. That is correct, Chair.

ADV KENNEDY SC: And your explanation, on the top of the next page:

“According to my knowledge, VR Laser and DVS Processors were two parallel processes. DVS did not have a hull manufacturing capability at the time. It was supplied by Denel.

And Patria was hesitant to support DVS’s involvement at the time due to the perceived competition on the RG-41 vehicle from DVS which latter issue was subsequently resolved.”

May I just focus for a moment on the DVS entity?

MR TEUBES: H’m.

ADV KENNEDY SC: Because we have seen Mr Mlambo was not saying necessarily that DVS had capacity but at least if it did not have capacity, it must provide proof that it does not have capacity.

MR TEUBES: Correct, ja.

ADV KENNEDY SC: Was the Patria issue about confidentiality or perceived competition rather in relation to its vehicle? You say that was resolved. Was that resolved before the award of the contract to VR Laser?

MR TEUBES: No. No, Chair. That was resolved quite later and the reasons why, that the strategy has changed and including DVS to be the assemble house for the vehicles. So we had to get approval from Patria in line with their licensing

agreement so that DVS can be contracted for the assemble. So the issue was not resolved on the manufacturing. The issue was resolved on the assemble portion of the contract.

ADV KENNEDY SC: Right. Thank you. And then I would like to just tie up one last loose end in relation to this contract. Can I now you ask please to turn near the front of the bundle to page 35?

CHAIRPERSON: Is that 835?

ADV KENNEDY SC: 35.

10 **MR TEUBES**: I got it Mr Chair.

ADV KENNEDY SC: Now this was the passage I was unable to put my finger on earlier, the changing of the angle. We have seen that the email where you use that terminology a little bit earlier. Remember, we looked at that?

MR TEUBES: That is correct.

ADV KENNEDY SC: But what it is used here is to see reason why you changed the angle, according to your affidavit. Look at page 35, 6.1.5.

“I responded to the email...”

20 That is Ms Malahlela’s email.

“...on the 20th of March 2015, advising that I have changed the angle of the draft solution and requested her input on the same.

In the revised draft submission, I added to the background and motivation and removed the supply

chain note's heading that had been included recommending that the single source supplier be chosen through a competitive bidding process and also recommended that VR Laser be appointed as the said supplier."

Her evidence the other day suggested that she was effectively instructed. You said that you believe that she bought into the idea and was persuaded. You stand by that evidence?

10 **MR TEUBES**: No. No, Chair. These are two different subjects.

ADV KENNEDY SC: I beg your pardon.

MR TEUBES: Ja. So on this – the letter that we previously discussed was on the T5-programme about six months later than the MOA.

ADV KENNEDY SC: I see.

MR TEUBES: Ja, so this MOA process here was that the first draft and the second draft on the submission that is discussed here.

20 **ADV KENNEDY SC**: Okay. Thank you for clarifying that. Now may we turn now to a couple of other aspects that were raised in your various affidavits or statements? Turn now please to page 48. You refer to in paragraph 8...

MR TEUBES: I have got it. Thank you Mr Chair.

ADV KENNEDY SC: You refer to negotiations with LMT for

rewarding the Hoefyster contract to VR Laser. Just summarise what this was about.

MR TEUBES: Mr Chair, when we got approval to contract the whole contract to VR Laser, there was a condition in the approval to say, is it possible to fine an alternative contracting model to include LMT or not?

So that – through that approval, he gave me the mandate to engage with Dr Nel to see can we involve them in this process or not.

10 And with that process, we – well, I have developed the two options, Option A and Option B. That was discussed then with Dr Nel at length.

ADV KENNEDY SC: And then if you can turn please to page 46? This deals with the appointment of VR Laser by DLS in 2016. Now we have already dealt with the Hull contract that was awarded in 2014. The Single Source Supplier contract that was awarded in 2015. Correct?

MR TEUBES: That is correct, Chair.

20 **ADV KENNEDY SC:** Am I correct in understanding, you are dealing here with a separate transaction that followed that?

MR TEUBES: That is correct, Chair.

ADV KENNEDY SC: And that relates to different items than those covered by the first two contracts.

MR TEUBES: That is correct. Also for a different programme.

ADV KENNEDY SC: And for a different programme. Right. Not for Hoefyster?

MR TEUBES: No, it was for the Malaysian programme Chair.

ADV KENNEDY SC: Right. Now I appreciate that you were dealing with this at the request of the investigators to deal with specific issue. But can you just sum up your points in relation to this particular contract? What significance is there that you would like to draw to the attention of the
10 Chair?

MR TEUBES: Chair, off the cuff, there is nothing else that I would like to add here. My apologies. No, I do not think there is something that I would like to in addition to these three points.

CHAIRPERSON: Ja, okay.

ADV KENNEDY SC: But thank you Mr Teubes. There is one aspect that I would like to draw to your attention just to explain and that is at page 47, paragraph 7.8. Oh, sorry 7.7.

20 “On 22 March 2016, Ms Malahlela had at the Exco meeting of DLS raised the concern once more about the apparent over-reliance by DLS on a memorandum of agreement it had concluded with VR Laser, where this agreement was in conflict with the Supply Chain Policy of Denel.”

Do you recall her raising those concerns in 2016?

MR TEUBES: Mr Chair, yes. And in this case, it was also minute on the Exco meeting.

ADV KENNEDY SC: Right. Now – so this is the – and when you refer here to the apparent over-reliance, according to Ms Malahlela, by DLS on a memorandum of agreement, would that be the first agreement from 2014 for the hulls, the second agreement in 2015 of the Single Source Supplier of additional items, or what?

MR TEUBES: Mr Chair, it is the second agreement. The
10 MOA agreement with VR Laser.

ADV KENNEDY SC: Yes. And so she was alerting you there to the fact that that second agreement was in her view in conflict with the Supply Chain Policy?

MR TEUBES: That is correct.

ADV KENNEDY SC: Did you discuss it with her? Did you indicate a contrary view to her or do you not recall?

MR TEUBES: Mr Chair, the only discussion was at this Exco meeting. And as I... I cannot remember the detailed discussions on the Exco meeting but I have reflected the
20 comments that was minute by Mr Burger in this Exco meeting.

ADV KENNEDY SC: Right. And then, Mr Burger's comments – comment from him is referred to in your paragraph 7.8. You say:

“Mr Burger in his capacity as the CEO of DLS

advised that the memorandum of agreement was to be signed by the Group Chief Executive Officer of Denel Limited and should therefore supersede the Supply Chain Policy of Denel in instances where the two documents were in conflict.”

MR TEUBES: That is exactly how it was minute in the Exco meeting, yes.

ADV KENNEDY SC: Yes.

CHAIRPERSON: Did that make sense to you? Do you
10 understand why that should be the case? Because when
Ms Malahlela or whoever gave evidence about it, it sounded
strange to me ...[intervenes]

MR TEUBES: Ja.

CHAIRPERSON: ...that you can have an agreement – you
can say an agreement that is in conflict or concluded in
breach of the company’s policy is fine because it is signed
by the Group CEO. Because one would – one expects that
agreements must be in line with the policy.

MR TEUBES: Ja.

20 **CHAIRPERSON**: Did this point make sense to you when
you heard about it or when you heard Mr Burger said this?

MR TEUBES: Ja. Mr Chair, I was in that Exco meeting.

CHAIRPERSON: You were. Ja.

MR TEUBES: Ja, so I was part of it. No, I have to say, I
cannot remember exactly what my thoughts was on it. In

retrospect, in reading it now, I have got the same concerns.

CHAIRPERSON: Yes, yes.

MR TEUBES: But I cannot recall specific thoughts on it during that meeting.

CHAIRPERSON: Yes, yes. Ja, it is like. Well, if it is signed by somebody higher up, even if it is against the law, it is fine.

ADV KENNEDY SC: Yes.

MR TEUBES: Ja.

10 **CHAIRPERSON**: [laughing] Ja, okay alright.

MR TEUBES: Noted Chair.

CHAIRPERSON: Yes.

ADV KENNEDY SC: In fact, in that vein, may I take you back to your comment that you made earlier? That with the benefit of hindsight, you have realised, particularly in relation to the media controversy and the public interest in the link between VR Laser and the Gupta family and their networking including Mr Salim Essa.

20 You realised that that perhaps things could and should have been done differently. Can I just put a proposition to you Mr Teubes for your comment if you wish to make a comment?

MR TEUBES: H'm.

ADV KENNEDY SC: I want to suggest to you that while I accept fully that you are an engineer by background and not

a lawyer, does this not illustrate that one has to ensure compliance with procurement policies upfront?

Because you do not know when you are sitting in a position of Mr Teubes or Ms Malahlela or whoever upfront, exactly who may or may not be behind particular tenderers and so forth.

And you learnt the hard way later in an organisation like Denel that there are all sorts of things that are coming out of the woodwork.

10 And that is precisely why the process has to be fair and lawful and competitive from the beginning so that the process does not get mired in controversy later when it emerges that a single source supplier has been allocated...

A contract has been allocated to a company that through shareholders are now causing embarrassment to Denel and where procurement policies have not been followed.

MR TEUBES: H'm. Mr Chair, I fully agree with that. I think that is the hard lesson learnt out of this process. I think we have also learnt the lesson in this process, be more critical
20 of what is happening and not just accept.

And I think when if you look at one of the Denel's values that have changed now is it courage. And the courage is to question.

And I think we went through a period where we probably did not question enough. And I think – I fully agree with the

statement, yes.

ADV KENNEDY SC: And may I ask, to what extent was your feeling of comfort at that stage that it has now changed to discomfort? To what extent were you influenced?

Although you were senior within DLS, to what extent were you influenced by the fact that Mr Burger was senior to you and was giving you a measure of reassurance.

And so to, you have mentioned earlier to the Chair, it was subject to the Group CEO, Mr Saloojee giving his approval and that was given. Did that give you comfort?

MR TEUBES: Mr Chair, at that stage my focus on the technical performance and the technical risks and crisis's we had on Hoefyster.

So maybe I did not spent enough in applying my mind around the – let us call it the political ownership environment.

So to answer the question, was I comfortable or not? I think as time progressed and with all the media hype around the owners, the level of un-comfort rose.

But I cannot give you an exact point where I said to a point this is unacceptable. But that level of un-comfort rose over time.

ADV KENNEDY SC: Thank you very much Mr Teubes. We have no further questions as the legal team for this witness. Thank you, Chair.

CHAIRPERSON: Thank you very much Mr Teubes for coming to assist the Commission. We appreciate it very much. If we need you to come back, we will ask you to come back. But for now, you are excused.

MR TEUBES: Thank you very much Mr Chair.

CHAIRPERSON: Thank you. Mr Kennedy.

ADV KENNEDY SC: Thank you, Chair. Chair, we have no further witnesses arranged for today.

CHAIRPERSON: Ja.

10 **ADV KENNEDY SC:** We have been allocated further time, not next week but the following week, starting on the 9th of November ...[intervenes]

CHAIRPERSON: Yes.

ADV KENNEDY SC: ...where we have a number of witnesses lined up.

CHAIRPERSON: H'm.

ADV KENNEDY SC: Who will include Mr Mantsha and as well as Mr Ntshepe. The legal team will be consulting with him.

20 **CHAIRPERSON:** Yes.

ADV KENNEDY SC: He was not available until now.

CHAIRPERSON: Okay.

ADV KENNEDY SC: We will be consulting with him this afternoon.

CHAIRPERSON: Okay, okay.

ADV KENNEDY SC: So we would ask for the proceedings of today to then be adjourned.

CHAIRPERSON: Yes.

ADV KENNEDY SC: And for the Denel stream evidence then to be postponed to resume on the 9th of November.

CHAIRPERSON: Yes. No, no. That is fine. We are going to adjourn on the day. Next week, the Commission will hear evidence by Ms Kwinana who used to be a member of the SAA Boards as well as evidence from Ms Dudu Myeni who
10 was chairperson of the SAA Board for a certain period. So for today, we are going to adjourn at this stage. We adjourn.

INQUIRY ADJOURNS TO 2 NOVEMBER 2020