

COMMISSION OF INQUIRY INTO STATE CAPTURE

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20

PROCEEDINGS HELD ON 20 NOVEMBER 2018

CHAIRPERSON: Good morning Mr Pretorius, good morning everybody. Good morning Minister.

MINISTER PRAVIN GORDHAN: Good morning Chair.

ADV PAUL PRETORIUS SC: Good morning Chair. Morning Mr Gordhan.

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS SC: Minister Gordhan just before we adjourned yesterday, we were dealing with the evidence that you were giving regarding Denel at paragraph 72 of your statement you say that, in the week before you were eventually dismissed as Finance Minister, litigation was launched by Denel against the Minister of Finance and National Treasury.

We do not need to go into any detail there, it will be dealt with in other evidence. But just to inform the Chair and the Commission. The application brought by Denel was to ask the Court to confirm that permission or approval of the joint project had been given by Treasury, that was opposed by Treasury and the application was unsuccessful. Is that summary correct?

MINISTER PRAVIN GORDHAN: Good morning yes that is a fair summary and that Mr Fuzila actually after my departure from Treasury lodged the affidavit on behalf of Treasury.

ADV PAUL PRETORIUS SC: If we may then move to the 9th December 2015 and what occurred on that day. Would you tell the Commission what you recollect of the events of the 9th December 2015 please?

MINISTER PRAVIN GORDHAN: Chairperson at that stage I was still the Minister responsible for COGTA. I did not attend the meeting of the 9th December of Cabinet, I think I was not well on that day. I heard later that evening Mr Nene was called back by

the President after the meeting, the Cabinet meeting at which the – two things that are relevant there. The one, was that their expectation was, as I explained yesterday that approximately a final meeting of Cabinet in each year, the allocations to its Department are approved and that apparently, which I learned later was differed to the first meeting in 2016 which took place, if I remember on the 13th January 2016. The matter of consequence was the question of the approval of a Cabinet memo in relation to the Nuclear transaction. Upon his dismissal we learned, as I think they indicate in that paragraph that Mr van Rooyen who until then I was familiar with, as a member of the Finance Committee, the standing Committee on Finance in Parliament, was appointed as the Finance Minister.

In paragraph 76, I indicate that on Thursday the 10th and Friday the 11th the announcement of Mr Nene's removal caused economic and financial market turmoil and a sharp depreciation of the value of the rand, which is an indicator of how the markets feel about both political and economic decisions that are being made in a country. Once markets close for the weekend, there were ongoing fears that the situation would worsen when the markets reopened on Monday the 14th December.

We then – in paragraph 77, look at the following four days, or rather the four days pursuant on the dismissal of Mr Nene and his replacement by Mr van Rooyen, that this also resulted in the wide spread public outcry. Civil society, organised labour and organised business groups criticised that decision and demanded an urgent corrective action by the then President Zuma.

ADV PAUL PRETORIUS SC: Yes before you go on Minister, would you please turn to page 425 of the bundle. That is the first bundle or Bundle N1 "A". Statement by the former President, three paragraphs of which read:

"On the 9th December I announced the appointment of a new Minister

of Finance, David van Rooyen. I had received many representations to reconsider my decision."

Then lower down:

"I have appointed Mr Pravin Gordhan, the current Minister of Cooperative Governance and Traditional Affairs as the new Minister of Finance."

In your statement at paragraph 78 and following, you deal with your involvement at the time in relation to the appointment of yourself as Minister of Finance. Would you relate that narrative please to the Chair?

MINISTER PRAVIN GORDHAN: Thank you. Chairperson what paragraph 78 indicates is that – because of my familiarity, having been there from 2009 to 2014 in the Ministry of financial issues and economic issues, clearly the turmoil that we saw on that Thursday and Friday the 10th and the 11th would worry both myself with others who would appreciate what financial turmoil meant and what issues like the sharp depreciation of the rand amongst other things could result in as well. This concern I expressed to Ms Kaunda to whom I suggested that a team consisting of the Presidency, the Reserve Bank, the Treasury and the private sector, even over the weekend if need be, find ways of communicating with investors, the decision of the President and attempt in some way to calm the situation down. Precisely how, I do not know, but I thought communication *per se* and being in contact with key stakeholders. For example, investors as I explained yesterday in our bonds, would give them an appreciation hopefully that there is some wisdom underpinning the decision and securing the wellbeing of the economy and the country and saving the South African population from the worst effects of some of that turmoil, would be far more important than trying to ask the question and get answers to, why the change. Which in any event might have been speculative at that point in time.

All of this arose, as I indicated earlier on, in anticipation of the Monday morning the 14th December that if the Thursday and Friday pattern, which I will come back to in a moment, is to continue and worsen in the week starting on the 14th December, then there could be fairly serious consequences for the economy and for the credit rating which I explained yesterday as well. I am sure we will return to in a moment.

So my primary concern, as I indicate in paragraph 78, was the need for urgent measures to address the economic and financial harm, caused since the announcement of Mr Nene's removal. Well at the same time remaining conscious that such matters relating to the Treasury were not within the brief of COGTA. In other words, I am a former Minister and not the Minister of Finance and that I needed to be aware Chairperson of that.

But that should not stop one from expressing concern as a member of Government about what had just happened.

ADV PAUL PRETORIUS SC: What was the estimate at the time of the ...[intervenes]

CHAIRPERSON: Mr Pretorius.

ADV PAUL PRETORIUS SC: I am sorry.

CHAIRPERSON: I am sorry. To what extent were the suggestions and ideas that you communicated to the Presidency over those two or three days in terms of what should be done? To what extent were they influenced also? I am sure they were influenced by your own concern and your own desire to make a contribution to what was a crisis. But to what extent were they also informed maybe by any contact by investors and other stakeholders, both within the country and outside of the country who may have thought that since Minister Nene had been removed? You having being his predecessor, maybe you were the one person they could think of as the person to talk to as immediate former Minister of Finance that they could talk to and maybe say, what is happening and

something should be done?

MINISTER PRAVIN GORDHAN: I cannot recall any direct contact with myself. But what I can certainly recall – well before I get to that. The other point Chair is that officials in the Treasury might well have been contacted by bond investors and so on and say, what is going on. Again, when Mr Fuzila appears before you he can shed some light on that matter.

Because we used to the idea in the Treasury of, for example, in addition to the Road Shows that we have teleconferences with rating agencies or groups of investors, or we get invited by one or other financial institution, which have the capacity sometimes of getting up to 200 to 300 investors on a single call. So they have the technology from east to west of the world, getting everybody on the same call, they can take questions, we answer them. I have done that both from South Africa, but I have done that from other parts of the world as well, when these financial institutions host us to meet these investors.

In parallel with that, what become clear is that there was a fair amount of activity and some of it I might have learned after the fact, amongst business people and some of the Cabinet colleagues, or people in the ANC, senior ranks who were called upon by the business sector to say, basically what are you guys up to, if I may use a colloquialism. That those interactions also would have been a channel through which business and others could express their concerns about what actually happened.

Now one would have to have a researcher to workout which particular set of events eventually resulted in what happened on the evening of the 13th December. But clearly some of that senior colleagues and comrades within the ANC ranks were very aware of the consequences of what was going on and whatever evaluated the different types of feedback that they were receiving and then decided to – it would appear,

approach the President on this matter.

It was a fairly unique event if you like, in our more recent past where you have this kind of turmoil following a political decision.

CHAIRPERSON: Well I was about to ask whether you are able to indicate whether, maybe post 1994 whether there had ever been any event to which the markets reacted so negatively in the country? You might or might not be able to say so, but let me ask you.

MINISTER PRAVIN GORDHAN: Not with the great authority Chair, but I would doubt it. So some of the big events we have had, if you like is the introduction of gear during President Mandela's term. The ancient financial crisis in 1998 and 1999 would also, Minister Manuel and others had to deal with. The departure in 2008 of President Mbeki in his replacement by President Motlanthe would have been another one. But in each of those situations I would imagine the kind of turmoil and concerns that were expressed in this context would not have been seen.

CHAIRPERSON: Thank you.

ADV PAUL PRETORIUS SC: Minister do you know of any other senior members of the ANC who would have acted similarly to how you acted as you described now?

MINISTER PRAVIN GORDHAN: Well eventually as my narrative continues, you will see that the current President Mr Cyril Ramaphosa and the Deputy Secretary General certainly got involved. I think the Secretary General himself Mr Mantashe was involved in some way. The Treasury General of the time Mr Mkize and one or two other Cabinet colleagues might have been involved as well.

ADV PAUL PRETORIUS SC: We will get to that narrative in a moment. Do you know of any senior members of the Governing Party who were approached by business formally or informally? I know it is a very general question and a difficult question to answer.

MINISTER PRAVIN GORDHAN: These are all the names I have mentioned might have had interactions with business. But there was no doubt that the business sector, and perhaps you should call them as well and ask them directly. If you take the financial institutions, the leadership of business, organisations at the time, how do they experience this period. So they can tell you what their concerns were and what were the measures or reactions that came from their particular constituencies in respect of this matter. Because there certainly were engagements, but it could mean that one ANC met a person at five business people on one occasion in another matter, another ten people in another occasion, or whatever the case might be.

My tendency is to stay not to – if you like, poke my nose into those matters unless I have to. So I have declared my – the manner in which I have expressed my concern at that particular time. But there is no doubt that there was a hype of activity during that weekend.

ADV PAUL PRETORIUS SC: The estimated impact on the South African economy in financial terms, what was that over that weekend beginning 9 December 2015?

MINISTER PRAVIN GORDHAN: Well in paragraph 79 Chair we give you some indication of numbers and this is not the weekend, this is just two business days Thursday and Friday the 10th and the 11th December 2015. What we say here is:

"The devastating impact of this unexpected announcement on the South African economy is estimated to be approximately R500 billion. This covers the following two amounts, as commentators and market analysts had described over two days. The market value of the country's 17 biggest financial and property shares fell by R290 billion."

So if you tried to extract your pensions at that point in time, the value of the investments which is normally around 60% in shares, if you – for most Pension Funds

would have dropped quite substantially, as this number is indicating.

This figure excludes the remainder of the equities market that also was hit hard by the decision. Then South African Bonds lost 12% of their capital value and that amounted to the R216 billion number.

We have deleted the last sentence of paragraph 79. But when checking with Bloomberg, from the 9th December in the evening to the 11th December if we checked the Rand Chairperson.

ADV PAUL PRETORIUS SC: Can I refer you in that regard to page 140 of the supplementary bundle where the calculations of your legal team are set out?

MINISTER PRAVIN GORDHAN: Ja.

ADV PAUL PRETORIUS SC: That is Bundle N.

MINISTER PRAVIN GORDHAN: What is the page number?

ADV PAUL PRETORIUS SC: 140 Bundle N2.

CHAIRPERSON: N2?

ADV PAUL PRETORIUS SC: Yes Chair. They should now be marked. It is the supplementary bundle.

CHAIRPERSON: I have got the supplementary bundle, but it does not go – or does it go as far as that?

ADV PAUL PRETORIUS SC: No towards the back Chair.

CHAIRPERSON: You said 142 hey?

ADV PAUL PRETORIUS SC: 140.

CHAIRPERSON: 140, oh okay I have got it.

ADV PAUL PRETORIUS SC: Yes Minister.

MINISTER PRAVIN GORDHAN: No thank you for directing me to this page. So Chair as you see there, on Wednesday the 9th December at 20:00 in the evening the rand was

trading at R14.59 to the dollar, US dollar. The announcement of Mr van Rooyen's appointment was made at 23:00 in the evening of the 9th. On the 10th at midnight the rand was at R15.25 then the average of the 10th was R15.27 and on the 11th it was R15.90. So clearly if that pattern is to be followed there would be a further deterioration on Monday of the 14th. If we use that just as one of the indicators.

ADV PAUL PRETORIUS SC: Would you then please deal with the events of Sunday the 13th December 2015 and your interaction with the former President in particular?

CHAIRPERSON: I am sorry, before Mr Pretorius directed you to the page you have just dealt with in the other bundle, you were saying something in regard to the last sentence of paragraph 79. I just want to make sure that I – I think you have completed it, but I just want to make sure, because you were referring to the last sentence of paragraph 79.

MINISTER PRAVIN GORDHAN: Yes I was reminding ourselves Chair that yesterday as part of corrections, what stood as the last sentence previously the rand depreciated sharply was deleted.

CHAIRPERSON: Oh that we ...[intervenes]

MINISTER PRAVIN GORDHAN: So the new numbers are on page 140.

CHAIRPERSON: Okay.

MINISTER PRAVIN GORDHAN: Of the bundle, it replaces those numbers.

CHAIRPERSON: Okay thank you.

ADV PAUL PRETORIUS SC: And if you will Minister Gordhan would you deal with the events of Sunday 13 December 2015 and then particular your interactions with the former President?

MINISTER PRAVIN GORDHAN: So in paragraph 81 Chair – perhaps if I may with your permission round up the last part?

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: What does that impact mean for the South African public? I indicated that one of the impacts for working people who saves their pensions – money in various forms of Pension Funds or other forms of investments. And usually there is 50 to 60% of that put into the Equity Markets or shares as we call them. There would have been a substantial decline in the value of those shares and therefore the value of the pension.

What we do not have here, but which your team could get Chairperson is the drop in the value of the PIC, the Public Investment Corporation Investments at the time as well. That was also a very good indicator, I think they lost 50 billion or something in a day if not more, I do not want to swear by that. But then it is a number that your team could check with the PIC itself.

So for so-called ordinary South Africans, the first impact is on their savings. The second is that if that turmoil continued, then pretty much as we see it today, even if oil prices are fairly static and if the rand begins to head in this sort of direction of R15.90, R16, R16.50 then – as you know we import our oil largely, except for what Sasol produces. That means the price of petrol and diesel is a cost that the citizen has to pay, as we have learned over the past few months as well. If that continues for a substantial enough period, it then – these price increases then filter into the economy more generally. Transport costs increase and if you talk to the Reserve Bank they could give you their perspective on this as well and their perspective will be, whether these price increases, then begin to impact on the inflation rate and if they do, then you could get an increase in the interest rates and if you do, then the money that you borrowed for your car, or for your home or whatever the case might be, is a lot more expensive than you originally thought. So you could have borrowed at 10% or 12% and suddenly it shoots up by half a percent or whatever the case is and depending on the value of your loan, it becomes

an additional burden, this increase in interest rates as well. So you can see how this economic cycle works and I am an amateur of that, I am sure you can get a professional to come and explain to you what the impact is.

So it affects ordinary South Africans, these sorts of decisions that we make. Obviously the kind of concern shown by different constituencies during that critical weekend of the 12th and the 13th was absolutely justified. I am not saying that my appointment was justified, I am just saying the concern was justified. Well we will come back to that in a moment.

CHAIRPERSON: Well you might wish to deal with this maybe later on after you have dealt with the events of Sunday the 13th and maybe even Monday. But I do want to know whether that kind of lost value in terms of pensions and so on, would be recovered or recouped as soon as the rand came back, or whether in terms of economics and finances it would necessarily be like that and whether after sometime from that time whatever value had been lost during that weekend has actually been rectified. But it is a question you can deal with when it fits into what you want to talk about.

MINISTER PRAVIN GORDHAN: Sure. To say onto that Chair the immediate attention in these sorts of situations is given to stabilising the environment, so that the trough as in continue, your plateau at some level and then the recovery process starts. But again if your team speaks to the Johannesburg Stock Exchange for example, they will give you the actual numbers of the time and what the recovery takes.

CHAIRPERSON: Okay thank you.

MINISTER PRAVIN GORDHAN: So coming back to Sunday the 13th December 2015. As I indicate in paragraph 81 in the late afternoon of Sunday the 13th December 2015, I received a message from Ms Kaunda requesting my attendance at a meeting with former President Zuma to be held at Umhlanga Illovo later that evening. At around the same

time, Ms Jessie Duarte the Deputy Secretary General of the ANC contacted me, explaining that I was going to be asked to do something by former President Zuma. As I recall it no detail was given to me and that I should not refuse the request.

ADV PAUL PRETORIUS SC: You are saying no detail was given Minister?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: Was she told what you would be asked to do, or were you told?

MINISTER PRAVIN GORDHAN: Well that is retrospectively yes.

ADV PAUL PRETORIUS SC: But at the stage?

MINISTER PRAVIN GORDHAN: All I was told is, please do not refuse. They must have known that I was enjoying my job at COGTA, but we will come back to that. I received a similar message from the Deputy President of the ANC and of the Country at the time Mr Ramaphosa.

ADV PAUL PRETORIUS SC: Again, were you given any detail?

MINISTER PRAVIN GORDHAN: No detail, safe to say that please do not refuse. I believe Ms Duarte and then President Deputy – the then Deputy President Ramaphosa had met with former President Zuma over the weekend regarding his surprised removal of Mr Nene and the appointment of Mr van Rooyen. I arrived at the President's residence at about 18:30 as I indicate in paragraph 85 and at 85.1 ...[intervenes]

ADV PAUL PRETORIUS SC: Sorry again before you go on Minister. Was anyone else present at that meeting?

MINISTER PRAVIN GORDHAN: No it was just – well in the room itself only the two of us. He had his staff outside of the room. During that conversation, former President Zuma indicated that the was of the view that Mr van Rooyen was suitable for the Finance Minister position. I think he said he checked his CV with various people and

he seemed to be fine.

I continue with paragraph 85.1. So let me just read it again. During the conversation, former President Zuma indicated that he of the view that Mr van Rooyen was suitable for the Finance Minister position. But others felt that the turmoil, when the markets reopened on Monday could be even more serious if former President Zuma indicated that he was of the view that Mr van Rooyen was suitable for the finance minister position. I think he said he checked his CV with various people and he seemed to be fine but that; and I continue with paragraph 85.1, so let me just read it again:

"During the conversation former President Zuma indicated that he was of the view that Mr van Rooyen was suitable for the finance minister position but others felt that the turmoil, when the markets reopened on Monday, could be even more serious if Mr van Rooyen was retained, than that experienced the previous Thursday and Friday"

That would be the 10th and 11th of December.

ADV PAUL PRETORIUS SC: Did he tell you Minister, who those others were?

MINISTER PRAVIN GORDHAN: No.

ADV PAUL PRETORIUS SC: Yes, please continue.

MINISTER PRAVIN GORDHAN: 85.2:

Former President Zuma indicated that he wanted me to take up the position in order to calm the markets.

8.3. I responded that there were other qualified individuals that the former President could consider for the job, such as Mr Mcebisi Jonas and Mr Jabu Moleketi, who was the former

finance minister. The former President then indicated that neither of these suggestions were acceptable to him and that he thought I should accept the position."

In fact he said well the people he has been speaking to say I am the one who can calm the markets. I do not know what magic I have but that was the comment that was made.

CHAIRPERSON: But you had been minister of finance before.

MINISTER PRAVIN GORDHAN: I suppose so. At paragraph 86.

ADV PAUL PRETORIUS SC: Again before you go on Minister, in that conversation with the former President were any requirements placed on your appointment? In other words did President Zuma place any expectation on how you would conduct yourself as minister of finance?

MINISTER PRAVIN GORDHAN: No, I think the urgency was just to get my appointment done and the public informed so that whatever effects were anticipated for Monday the 14th would begin to take place.

ADV PAUL PRETORIUS SC: Yes. You deal later with a further conversation you had with the President but just to deal with certain speculation if I may, that certain conditions were placed by the former President or certain demands were made or a deal was done, what is your response to that?

MINISTER PRAVIN GORDHAN: Yes, no, thank you for raising that and if I may take a few liberties in this regard because ... [intervenes].

CHAIRPERSON: Thank you.

MINISTER PRAVIN GORDHAN: Speculations either within the Commission or outside is a poor substitute for facts from me appearing right before you. So the first point I want to make is that I was surprised that he was asking me, and that others

were asking me to take this job again, having just been removed in 2014 from this position of minister of finance.

Secondly, I have never lobbied for any job, including this one. So let me make it very clear, and this is linked to the point I want to make. For me politics is not a career. I am not tied to earning my income by being a member of Parliament or by being a cabinet minister, it was a calling, and one can walk out and look for a job elsewhere if the need arises, that is third point.

The fourth is that I did not actually want to change jobs. We were just beginning to get to terms with the difficulties that municipalities were facing. We had developed an analytical methodology Chairperson at the time, which Minister Mkize inherits today, and that enabled us to understand which were the functional municipality, which were the dysfunctional municipalities, and which municipalities, as the third group, would have some hope if we intervened in a technical sense.

We also spent a lot of time visiting municipalities and understanding what goes wrong in places that do go wrong, whether it is Oudtshoorn at that point in time of Mogalakwena in Limpopo or other places in the country as well.

So what was a fairly dysfunctional department was beginning to come together and the back to basics concept was created. The President had actually, I cannot remember the date, but addressed the back to basics conference of mayors and speakers and so on, and municipal managers prior to this particular occasion arising.

So – and all of that was in order, let me be frank, to place the ANC in a position where in the 2016 municipal elections it would do better than it would have otherwise. So that was certainly the intention. So in that sense I did not want to actually get into changing jobs at that point in time.

The point that relates more directly to what Mr Pretorius asks Chairperson, is that I do not make deals for jobs. I do not need to and I have my own humble beginnings as just a pharmacist. I think in 1974 my first salary was R100 or R125. It looks funny today but that is where we started. And certainly I do not make deals with smugglers or taxpayers or submit to intimidation or bullying of any kind.

The last point I want to make in this regard is that as far as I am concerned I am accountable to citizens of this country, as you pointed out yesterday, who actually elect us into Parliament, then Parliament as an institution, because I am an executive in this government. Of course I am accountable to the political organisation that has enabled me to play this kind of role but I am not accountable to bullies in any way whatsoever. And I believe, if I may take the liberty to say so Chair, that those who are making the accusations that they are or these allegations, either outside of this forum or elsewhere, should, under oath come to commissions like this one, and this one in particular and say what they have to say and subject themselves to cross-examination if need be.

I have appeared before your colleague, former Judge Nugent, said what I had to say under oath there. I am appearing before you and saying what I have to say under oath, and I am not fearful of any contradiction in that regard. So thank you for the opportunity just to clarify those issues.

CHAIRPERSON: Thank you.

MINISTER PRAVIN GORDHAN: I am not a commodity for sale, and I think the Guptas learnt that too.

ADV PAUL PRETORIUS SC: Minister, the conversation continued or a different conversation followed where you raised certain issues with the former President. What was the context of that discussion and what was the content of that discussion?

MINISTER PRAVIN GORDHAN: I am just trying to track that paragraph.

ADV PAUL PRETORIUS SC: You were dealing with paragraph 88.

MINISTER PRAVIN GORDHAN: Yes 88. So Chair, as the – and the paragraph before that indicates, I said my first response to the President was, as I indicated, you have other people you could appoint to this position; I am enjoying what I am doing. I also might have said, and I did say by the way, well you moved me in the first place from the job so why do you want me back there. And then I said I needed to consult my family, which I did, and despite our collective reluctance we said the country being where it is, and the kind of difficulties that we are facing, let us give the commitment to serve in this capacity again, which we did. And when I finally communicated to the President that I would accept his proposition, I said there are three issues which we need to discuss. They were not discussed that evening but I put them on the table.

The first is the, as I indicated in 88.1, the ongoing dire financial predicament of SAA and specifically the role of the Chair of the board Ms Myeni. Now you will recall that SAA, up to the 2014 elections was within the public enterprises portfolio. He had hinted during that period slightly before the elections that he wants to transfer it to Treasury to sort it out. I think there were some difficulties with or between Minister Gigaba and Ms Myeni, which I think is on the record publically as well. Secondly I think Minister Nene might have indicated to you that SAA is then transferred to Treasury during his term post the 2014 elections. So thirdly, if I get back to Treasury I am inheriting SAA and the kind of difficulties that SAA has on the one hand, but particularly the role of the Chair on the other hand.

88.2 Is the second item which I indicated that we needed to discuss, which yesterday I showed that the conversation started before the 2014 elections, and that is the proposed nuclear procurement deal, and the concern there was a very similar

one as the one I expressed on that occasion, which is can we have a proper procurement process and can we ensure that fiscally we can afford whatever it is that we agreed to purchase in the nuclear field, but obviously recognising, as I said yesterday, that there are various providers on the one hand and stakeholders like environmental groups and civil society organisations on the other hand.

The third was the issue of Mr Moyane's role as the SARS commissioner, and this arise from the fact that I think from about the last quarter of 2014 and into 2015 you have had a number of leaks to the Sunday Times in particular, for which they have subsequently apologised, in relation to an investigation unit that was set up within the Revenue Service, which Judge Nugent has been looking at but in a much broader context. So those were the three issues Mr Pretorius that I indicated we needed to chat further. He nodded his head and said yes, we will talk about it.

ADV PAUL PRETORIUS SC: So apart from placing those issues on the agenda as it were, were any substantive agreements reached or understandings reached about how those problems would be addressed?

MINISTER PRAVIN GORDHAN: No, I was anticipating that at least having placed these issues on the table, that at some stage or the other we would begin to talk about them in a systematic way. Some we did, some we did not in the short period thereafter.

ADV PAUL PRETORIUS SC: At page 425 of the bundle is the press release that was issued. You have already dealt with that. I understand from your statement that you assisted in the drafting of that statement.

MINISTER PRAVIN GORDHAN: Ja, my concern, and the Treasury officials' concern would have been we have got the same printout, the bottom part of page 425, and I think it is perhaps important to look at it carefully. So remember again the context Chairperson, is turmoil, concerns about nuclear, concerns that we might be

overstepping the mark in terms of fiscal affordability and then finally as a result of Mr Nene's dismissal a very grave concern about the economic management as a whole. So you will see that he will lead the government again in the following, ensuring an even stronger alignment between the budget and the medium term strategic framework, which I referred to yesterday, in the interest of stimulating more inclusive growth and accelerated job creation while continuing the work of ensuring that our debt is stabilised over the medium term. Promoting, this is the second bullet point:

"Promoting and [indistinct] the fiscal discipline and prudence that has characterised our management of public finances since the dawn of freedom."

Third bullet point:

"Working with the financial sector so that its stability is preserved under the broad umbrella of the twin peaks reform."

And fourth:

"Ensuring that the National Treasury is more acceptable to all sections of our society and adherence to the said expenditure ceiling while maintaining a stable trajectory of our debt portfolio as set out in the February 2015 budget."

So if you go through that Chair, and these were some of the issues that I covered yesterday, you will recall, the first bullet point is the alignment. If I may explain, between the budget and the medium term strategic framework which is crafted on the basis of the governing party's manifesto once an election is over. And clearly the key concern in that period, because by 2015 growth was beginning to decline. We had a sharp downturn 2009, 10 and part of 11, slight uptake thereafter and then a decline again, which we have never quite recovered from.

And that is why the emphasis on more inclusive growth and clearly in our context where we have such high unemployment, accelerated job creation would be quite important as well. But equally important on the last or the second last line of the first bullet point, and you would notice we make reference to debt twice right. So there we talk about our debt is stabilised over the medium term, meaning that for a while the debt curve, and if you look at the budget reviews you will see graphs that reflect this, the debt curve has been moving that way, and what we are saying is that it needed to taper off before you get anywhere near 60%, as I was explaining yesterday.

CHAIRPERSON: On the face of it this part that you have just talked to now, would reasonably be expected to mean that when it came to the, is it the energy deal, when it came to that, that therefore your view about costs would be given due weight?

MINISTER PRAVIN GORDHAN: Yourself.

CHAIRPERSON: Thank you.

MINISTER PRAVIN GORDHAN: Well in this context it had to be.

CHAIRPERSON: Ja okay.

MINISTER PRAVIN GORDHAN: It had to be. So if you look at the second point Chair, promoting and [indistinct] the fiscal discipline and prudence, so there was already concern amongst [indistinct] agencies and so on, and it is a point that is picked up on the next page when we refer to the expenditure ceiling. So we have created a concept or a virtual ceiling if you like, as government but on treasury's proposal, which says that do not try to cross the, I think it is the 30% barrier, and whatever you want to do, do within that envelope that is actually available. And that provided a lot of assurance to bond investors in others, that we were maintaining an appropriate fiscal trajectory whilst attending to whatever the issues were that we were facing at the time, and the emphasis on prudence would be with reference to issues like nuclear on the one hand,

but a general mind-set in terms of how we spend the money and resources that we have.

And the third bullet point is work with the financial sector, and the importance here is that the financial sector is the sector that gets – well it is firstly fairly secure during the aftereffects or the ripples that we had from the Wall Street great recession beginning to impact on the rest of the world, and as I indicated yesterday that arising from the experience of the financial crisis there was a G20 discussion and process which said that the way in which the financial sector is regulated needs to change and that began to introduce the twin peaks concept. The twin peaks policy document and today we actually have legislation in place as well.

So there has been an – for example an insurance company that has been in the news for the last 48 to 72 hours. Its prudential regulation is now, as I said yesterday, under the Reserve Bank but its market conduct, that means the way in which it behaves towards customers is part of this new body, I forget its name now, it is the successor to the Financial Services Board.

And ensuring the National Treasury is more acceptable, I think arises from the fact that sometimes we had detractors who would undermine the credibility of the Treasury, and it is in these instances, external investors and businesses generally, small and big, would be looking for signals of stability by looking at what happens in the Treasury environment. So instability in the treasury, politically or otherwise, sends the wrong kind of signals about how we are managing the resources in our country. And the last bullet point on page 426 refers to what I said earlier on, the expenditure ceiling, and maintaining a stable trajectory of debt, so the debt is mentioned for the second time. In other words we made certain undertakings in the February budget of 2015, we will stick to it and that is the commitments that helped to reassure south Africans

and investors that we were doing the right thing.

ADV PAUL PRETORIUS SC: You have touched on it Minister, in your last portion of your current answer, it may be assumed that the same or similar principles of fiscal discipline were being followed by your predecessor, Minister Nene at the time, before his dismissal, what was the purpose of the statement then just generally in relation to the current situation at the time in December 2015, and of the reassurances?

MINISTER PRAVIN GORDHAN: Well this is not – there was another statement which I must perhaps – we must look for, which is relevant to your question as well, which is not covered here, which is the reason given for Mr Nene's dismissal, which he would have covered in his evidence, that he was going to be assigned to a BRICS job, there was no such job. I was one of the initiators of the BRICS Bank concept and the institution, so there was absolutely not a job which is commensurate with what someone like Mr Nene has to actually offer within the BRICS Bank or what is called the New Development Bank today. So that is the first.

The second is the latter part of the statement. Because remember the purpose of bringing about the changes on the 13th of December was to help to reassure markets on Monday the 14th of December, and so that is the kind of statement that a President needs to issue, to say I have got the situation under control, this new Minister is going to do exactly what we have been doing and have been promising to do, and that is the explicit message or implicit message as you were saying Chair, that we are not going to blow the budget on nuclear or any such project.

CHAIRPERSON: I know that you did suggest other names when you were approached for reappointment as Minister of Finance but it just seems to me that it made perfect sense to reappoint somebody who had been to the portfolio and you had been there for a full five years I think, full five years, and the markets knew your views. They knew

you and also I guess in this kind of situation nobody would want somebody who must come in and still learn. You needed somebody that really knew what needed to be done. I know that you might find that you are not able to say anything about this but it seems to me that it made sense if the situation was to be stabilised urgently.

MINISTER PRAVIN GORDHAN: Well let us take it as academic speculation Chair, but you could have recalled Mr Manuel, who was the longest serving Finance Minister I think in the world at one stage, of 13 years.

CHAIRPERSON: Had he not left on the basis that he had served too long?

MINISTER PRAVIN GORDHAN: Ja, then you have had Mr Jonas, who was then the Deputy Minister. So he already understood what that ministry was doing and what the Treasury was doing. And I think they had already crossed one budget cycle plus the MTBPS of, ja of 2015. That would have been October 2015, and have been very much into the preparations for budget 2016 by the time these events unfolded. And as I said Mr Moleketi was there for a full, most of a term, not a full term as I recall it, because he departed at the same time as Mr Mbeki. But academically those were possible.

CHAIRPERSON: Thank you.

ADV PAUL PRETORIUS SC: Minister Gordhan what did you do as your first tasks? What were the first tasks that you performed on your reappointment? You deal with that in paragraph 92.

MINISTER PRAVIN GORDHAN: That Monday morning Chair, well first thing before Monday was that I informed the DG and the Treasury that I would be coming in and I informed the DG in COGTA that I will be leaving, as a courtesy, and possibly the deputy ministers in the COGTA environment but I am not too clear on that. But I think I met them on Monday morning.

So as I indicated in paragraph 92, those were some of the interactions I

have had, in 92.1 is with Deputy Minister of Finance Mr Jonas, to discuss the urgent and significant tasks that we faced. The National Treasury team, so that I could be briefed on the preparations for the 2016 budget, as I indicated earlier on. Mr Moyane at SARS regarding ten issues which I considered important, and they are covered in an e-mail which he sent to me on the basis of our discussion, that is at Annexure 19 and at page 428 of the first bundle. And then as a courtesy met with Mr van Rooyen, I think after he was sworn in, to give him a very brief oversight on what is happening in COGTA so that he could adapt to the new environment.

The first two points are quite important Chair, 92.1 and 92.2, as I explained the preparations for a budget technically start in about July or August each year when officials start interacting or set out the parameters following a discussion in a subcommittee of Cabinet called the Ministers Committee on the Budget, MinComBud as we refer to it, and departments then receive a circular which says these are the parameters within which the next budget cycle is possibly going to operate. For example we might even tell them at that stage you have got to restrain your expenditure on personnel or whatever the case might be, in order to prepare them in respect of their numbers. But inevitably you always get an oversubscribed set of requests. So if your budget is a trillion Rands it could be oversubscribed by about three to R400 billion and then the tough task of managing the allocations process as well.

Secondly at about this time we begin to look at the decision that South Africans often look forward to but do not like, which is tax. So what are the options on the tax side. So you will recall yesterday you said that in the framework of the budget there is the revenue side and there is the expenditure side. So I have described the expenditure side but the revenue side is quite important, and by this time in December we might have the most recent numbers from the SARS collections as well, and we

wait for the next set of numbers at the end of January to give us a more accurate feel for what the tax receipts are likely to be and what percentage increase year on year we are likely to get, and they could vary around the 9% mark historically.

So those tax decisions would be quite important, you know do you increase VAT or not, do you establish or set up a new bracket of 45%, that I suppose a number of people fall into and pay. Then that occupied us for two or three years before we made the final decision to actually set up or put in place the 45% bracket. Where else do we find money? So transfer fees as far as property sales is concerned, is another area that we look at. The other part which is quite popular is what would be the excise duty increases in cigarettes or alcohol as well, and what other new taxes if any. So from time to time we would look at whether the carbon tax should be introduced or not introduced. There are positives and negatives on that. An example of a new tax could be a new levy on for example the plastic bags that we are now all very familiar with, which brings in one or two billion Rands as well. So each year the Minister of Finance has to look into those sorts of issues, which I imagine is currently happening in the Treasury as well.

And if you recall, a chance to look into those sort of issues, which I imagine is currently happening in the Treasury as well. And if you recall I said at the last meeting of 9 December the final allocations to department were not decided, as they usually are. And what carried forward to 13 January, the first cabinet meeting in the following year. So that left a bit of uncertainty about what the allocations would actually look like. So there were very substantial issues that needed to be attended to and when we come to SAA you will pick up on one of the, what shall we call it? Procurement issues that we ran into as well.

ADV PAUL PRETORIUS SC: Minister Gordhan we return now to the period which your

statement covers and that is your second term as Minister of Finance against the background of the original papers of your evidence, which is to outline those issues or circumstances which were prevalent, which may have been relevant to the appointment and dismissals of Ministers, particularly yourself.

And you start on page 34 of your statement of the statement bundle, N1A with South African Airways. Would you outline the circumstances prevalent in relation to South African Airways at the time? It still at that time fell under Treasury, I understand?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: And it forms part of your portfolio?

MINISTER PRAVIN GORDHAN: That is correct. So, Chair, as paragraph 93 indicates, and I have read some of this onto the record and then explained some of the issues. The financial and governance challenges experienced by SAA in recent years are no doubt well known to the Commission.

At the time when I was reappointed as Minister of Finance and the immediate priority was dealing with the proposed restructuring of a deal that have been approved by Mr Nene and Airbus in terms of which SAA would swap the purchase of ten A320 aircraft for a lease of five 330/300 aircraft from Airbus.

So this is the famous Airbus swap deal as we may call it.

ADV PAUL PRETORIUS SC: What was the rational of that swap and replacing the original purchase with the swap? Are you able to say?

MINISTER PRAVIN GORDHAN: I cannot remember the detail, but I think the one, as you know, purchase would require an upfront capital outlay, which I do not think we had and SAA certainly did not have at that time, and a lease would be payment over a period of time, which, and many airlines today lease other than purchase the aircraft, but one of the things we are learning, Chair, is that in the context of all the instability and difficulties

that SAA is facing.

Leasing at this stage of a transaction is fine, but one of the conditions that lessors have to a leasing agreement is when you want to hand the aircraft back, then it must be in the condition that you received it in. So you actually got to spend money refurbishing an aircraft before you return it.

So chance, easy in the first stage, because you have – you spend your money over a period of time. Others...[indistinct 3:39] to other kinds of agreements as well where as I learned in Singapore recently by talking to some of the agencies there, where you...[indistinct 3:48] and I think some of the bigger airlines in the world, the Middle Eastern ones in particular, have if you like a recycling agreement, that after every six or seven years.

They have an agency to which they give the aircraft and then acquire a new aircraft and the older aircraft then are either sold or leased on, and, because they are big buyers of aircrafts they can have particular deals with Airbus or Boeing or whatever the case might be.

The point that I want to make here is that in the current debates that we are having, this is one of the cost factors that needs to be taken into account.

ADV PAUL PRETORIUS SC: As I understand from the evidence of Mr Nene the original agreement required the payment of large pre-delivered, pre-delivery amounts and as a result of the swap to a lease agreement the airline then would be excused from making those payments?

MINISTER PRAVIN GORDHAN: Yes, there as an amount of 40-million Dollars.

ADV PAUL PRETORIUS SC: Yes. You deal with that in paragraph 94, so perhaps...[intervenes]

MINISTER PRAVIN GORDHAN: Come to an amount.

ADV PAUL PRETORIUS SC: So perhaps you should deal with it there.

MINISTER PRAVIN GORDHAN: Paragraph 94:

"The then Chairperson of SAA Ms Myeni, however, wish to amend the swap transaction to allow SAA to purchase the aircraft and enter into a sale and leaseback deal with local businesses."

ADV PAUL PRETORIUS SC: Now we have been curious to try and discover who those businesses or what those businesses were. Do you have any knowledge of those businesses?

MINISTER PRAVIN GORDHAN: No, but I think we can find out, Chair, from SAA, not offhand, but essentially that is the same concept as described yesterday in relation to SAA Technical where an interlocutory a middle person is put into the supply chain process. Although here in a different way.

Now imagine if you buy the aircraft, you then lease it and then bring it back onto your service and you pay all the costs that are involved including the profit that the lessor in this case would actually make out of this process as well.

So, I am sure there is a forensic report lying around somewhere which would explain potential malfeasants in this particular instance as well, but it is meant as Mr Pretorius points out, and I will come to it in a moment...[intervenes]

CHAIRPERSON: I just wanted to go back to this condition that the aircraft when you have leased it must be returned in the condition that it was in when you listed – would that have been subjected to normal wear and tear? Because otherwise it just seems to me it is rather unfair on the lessee if it is not subject to normal wear and tear.

MINISTER PRAVIN GORDHAN: Ja.

CHAIRPERSON: It means you lease it for five years, at the end of five years you give

this lessor something that he/she would not have had if the aircraft had stayed with them?

MINISTER PRAVIN GORDHAN: So if something is liable, if you like, and some things have to be returned to the original condition, but we can get you the details if you are interested.

CHAIRPERSON: Okay, alright.

ADV PAUL PRETORIUS SC: Minister do you have any detail of the sale and lease agreement? It is described as a sale and leaseback deal, presumably the aircraft would be purchased by SAA unsold to local businesses and then leased back to SAA. Are there any further details as to...[intervenes]

MINISTER PRAVIN GORDHAN: I am sure the Treasury, Chairperson, will have the details.

ADV PAUL PRETORIUS SC: Thank you.

MINISTER PRAVIN GORDHAN: So the proposed pre-delivery payments which we referred to a moment ago of approximately 40-million US Dollars and approximately 603 million Rands at that time. Under that proposal would likely have taken debt defaults by SAA, because they would not have had that kind of cash available to them.

"Due to the pressure these payments were appraised on SAA's cash resources. Cross-defaults on other leasing arrangements and the probably chagrin of government guaranteed debt obligations would likely have followed."

ADV PAUL PRETORIUS SC: Is that the circumstance you explained yesterday of cross-guarantees?

MINISTER PRAVIN GORDHAN: That is, ja, that is the point that I was going to make in a moment. That once you take out those cross-defaults and then it begins to affect all the other lending agreements that you might have entered into. This would have had

severe consequences for SAA and the country as a whole.

So you could take this as a package, Chair, as a fairly responsible decision taken to undertake the swap. We did not have the money to pay the 40-million US Dollars at the time or SAA did not have the money. Despite that they were trying to pursue the sale and leaseback scheme that would have had its own cost implications as well and that potentially if sufficient regard was not had to the amount of cash available to SAA to pay these amounts then you would get into that cross-default situation, that government obviously does not want to find itself in.

At 95:

"In late December 2015 whilst driving on the N2 highway in Cape Town I received a phone call from the former President inquiring whether we could do what Ms Myeni wanted, with respect to the Airbus deal. I explained that we could not since the fiscus could not afford the pre-delivery payments and the penalties would follow if we undertook her proposal. It was clear to me that Ms Myeni had contact with the former President and that, that had prompted his call to me."

96:

"I afforded SAA the opportunity to make further representations to National Treasury regarding Ms Myeni's proposal, following which I decided in late December 2015 that the swap transaction should go ahead as had been approved by Mr Nene in July 2015. Prior to my appointment as Minister of Finance, the National Treasury had been working on the process of appointing a new SAA board as outlined in Mr Nene's statement to the Commission. Progress was slow and I understand that

eventually the engagements between officials on the presidency and from National Treasury produced a list of individuals to be appointed to the board. A compromise was reached that Ms Myeni would only continue as Chairperson of the board for a further year."

So there is in relation to the swap arrangement, Chairperson despite the fact that we were quite convinced with the Treasury that this was heading in the wrong direction we gave SAA the opportunity to make representations to pursue the Treasury that they would have the money and that the kind of scheme that they wanted to enter into was one that would not be detrimental to both SAA and the state.

ADV PAUL PRETORIUS SC: Who made those representations? Was it SAA Board, SAA Executive?

MINISTER PRAVIN GORDHAN: Again I do not have the details. I was on semi-leave at the time, so the officials of the Treasury dealt with that. I think Mr Momoniat was Acting Director General during that period, but I somehow recall also that I had to speak to the Airbus people directly in Paris to reassure them, because we were heading for some kind of deadline, by which time we had to make up our minds on this swap agreement.

And just to assure them that there as a process underway and apparently very close to the 20th or so of December, by which time a letter was formally sent to them that we agree with the swap agreement and not any other alternative. And they were quite willing to accept our reassurances.

CHAIRPERSON: That last sentence in paragraph 97, "a compromise was reached" suggest that there may have been some among those who may have been talking who wanted Ms Myeni to not to continue, but there may have been others who wanted her to continue, am I right? And are you able to talk about, talk on that?

MINISTER PRAVIN GORDHAN: No, you are right and I was going to come back to 97 as a whole, Chair, to explain both that and the fact that this sounds very smooth in '97, but it is a process as I recall it and I was reading this in one of the transcripts the Commission had provided with the previous Public Protector. This took about six to seven months. So for six months at least we had paralysis, because the President and the Treasury had different views about who would constitute the board.

Largely I think on the other side led by Ms Myeni's own approach to who she would prefer on the board, and eventually this discussion that we indicate here between the presidency officials and National Treasury officials brought together if you like two lists and gave us the board that emerged.

And then you are correct, this last sentence does reflect the fact that there was some debate about whether Ms Myeni continues at all as a member of the board or whether she continues for the next three years as a Chair of the board, and then the compromise of one year emerged in that context.

ADV PAUL PRETORIUS SC: The matter you have just dealt with in documents, in the supplementary bundle and perhaps we can address those after the short adjournment, with the leave of the, Chair, thank you.

CHAIRPERSON: We will take the tea adjournment, we will resume at 11:30.

MEETING ADJOURNS

MEETING RESUMES

CHAIRPERSON: We delayed by five minutes in coming back and that was, because it has been brought to my attention that some of the people inside this venue are not able to hear everything well. I am made to understand that, that is because of noise outside and we were discussing what may be done to try and make sure that everyone who has taken the trouble to be here is able to hear everything.

Something will be done, whether it will succeed or not, we do not know, so I just want everybody to know that we are concerned if they are here and they cannot hear everything that is being said. Okay, thank you.

ADV PAUL PRETORIUS SC: Thank you, Chair. Minister Gordhan, before the short adjournment we were dealing with the state of South African Airways, the swap transaction, the Airbus transaction and then we proceeded to deal with the composition of the SAA board.

The supplementary bundle at page 61 have some documentation that may be relevant, and that is a memorandum or it is a cabinet memorandum that appears to have been declassified that deals with the appointment and reappointment of Directors to the board of South African Airways and I wanted to draw your attention to page 64 of that document, paragraph 5.10...[intervenes]

CHAIRPERSON: I am sorry, Mr Pretorius, you said 61?

ADV PAUL PRETORIUS SC: Yes, 61 is the cabinet memorandum 5 of 2016.

CHAIRPERSON: I do not seem to have page 61. Actually for some reason I do not have pages 33 to 65 in the supplementary bundle. If there is one that is complete then I have got – is that complete? Okay, I will use the Registrar's one.

ADV PAUL PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: For now. Thank you. Then maybe during the break this can...[intervenes]

ADV PAUL PRETORIUS SC: Yes, during this break we will attend to it.

CHAIRPERSON: Okay, thank you.

ADV PAUL PRETORIUS SC: Alright, at page 64, Chair, do you have it Minister?

MINISTER PRAVIN GORDHAN: Yes, yes, I do.

ADV PAUL PRETORIUS SC: The cabinet memorandum addressed by the Ministry of

Finance to cabinet in paragraph 5.10 refers to a period of two years during which the current Chairperson would continue to occupy that position. Is there any explanation for the change from two years as proposed, it appears by the Ministry of Finance and the compromise agreement of one year?

MINISTER PRAVIN GORDHAN: So, Chair, this is the cabinet memo, which is the starting point of a discussion, either then a cabinet committee or in cabinet itself. I am now not sure what the status of cabinet discussions is.

CHAIRPERSON: Well, I am assuming, but Mr Pretorius would know, I am assuming that this has been declassified.

ADV PAUL PRETORIUS SC: If you look at page 61, Minister, you will see there that the document was declassified on 2 October 2018 by the Secretary of Cabinet.

MINISTER PRAVIN GORDHAN: I can see that.

ADV PAUL PRETORIUS SC: Now that may permit...[intervenes]

CHAIRPERSON: Oh, okay, you are thinking of other discussions other than what is written here?

MINISTER PRAVIN GORDHAN: The discussions that are pursuant on this cabinet having been presented.

CHAIRPERSON: Oh, oh.

ADV PAUL PRETORIUS SC: Well let me put the question differently then. I understand your difficulty that release from classification, top secret or secret of a document is one thing, the question is cabinet discussions around them – let me make it clear that I will not ask you about cabinet discussions, but leading up to the two year proposal by treasury that Ms Myeni would continue and the one year outcome, were there any discussions outside of cabinet between officials that may be relevant to that move from two years to one year?

MINISTER PRAVIN GORDHAN: So, Chair, as we say in paragraph 97 that there were discussions between presidency staff and National Treasury staff officials, during the process of compiling the final list of Directors that were going to be proposed. So part of the discussion would have been the term of office of the Chair and that is reflected in the cab memo.

What we need is the cabinet minutes which will record the outcome of this discussion and as I recall it, I can check it for you. In terms of our records the final agreement was one year.

ADV PAUL PRETORIUS SC: And that would have been discussed in cabinet and decided upon in cabinet?

CHAIRPERSON: Are you not putting him in a difficult position when you say in cabinet?

ADV PAUL PRETORIUS SC: Well in theory, such a decision would be made pursuant to a cabinet memo without going into any detail?

MINISTER PRAVIN GORDHAN: I will be an amateur lawyer, Chair, and submit the following, that if one gets a declassified set of minutes of this meeting it would actually give you the result of the meeting.

ADV PAUL PRETORIUS SC: If one looks at page 60 one will see there the minute of cabinet, that I presume you are referring to.

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: Part of the minute, and under paragraph B it reads:

"Approved that Ms D Myeni be reappointed as Chairperson of the board for a period of one year with a view of ensuring continuity and a seamless transition for the newly appointed board and Deputy Chairperson."

But if I may run ahead a little, that is the decision, the question goes to the

discussion leading up to the decision and I understand your reservations in that regard.

MINISTER PRAVIN GORDHAN: So, Chair, that is a copy of the page of the cabinet minutes, I would imagine, and it confirms what we are saying.

ADV PAUL PRETORIUS SC: Would you then deal please with the statement at paragraph 98 and 99 and in particular your relationship with investors during 2016?

CHAIRPERSON: I am sorry Mr Pretorius and Mr Gordhan. May I just take you back to paragraph 97 of your statement which you just dealt with before we took the tea break. That paragraph indicates that there were discussions between the presidency and National Treasury which resulted in the compromise that Ms Myeni would continue as Chairperson for one further year.

Would the involvement of the presidency in the appointment or reappointment of members of boards of SOEs have been a normal thing? Is that a normal thing, or not?

MINISTER PRAVIN GORDHAN: Not in the form, Chair, that this particular board demonstrates. So you will see that the cabinet memorandum at 61 is dated August. I was appointed in December. Let us leave December aside, take January. So that is what I said earlier on, Chair, it took a formidable amount of time to get to this point where we had an agreed list.

And let me clarify that from a Treasury point of view our interest was not about the politics of the issue, and as we are now learning with the SOEs and SOE boards that if we do not have the right combination of skills, integrity and courage, because courage now becomes an important factor.

You can actually see something going wrong, you can have a forensic report presented to you, but if one does not have the courage collectively or individually to take the necessary action to deal with malfeasants or poor corporate governance then you would be failing – one would be failing in one's fiduciary responsibilities to that institution.

So how do we put the best possible team together that has the experience? Now the airline business is not replete with the experience in our kind of context. It is a fairly narrow band of people. You will see in the current SAA environment which I inherited the senior management team had to be supplemented by an international expert Mr Davis, who has according to his records turned around, so to speak, five other airlines. So he has the global perspective on airlines, the kind of experience of where the key touch points would be and what a turn around plan would actually require.

So our interest here was to ensure that we get the right sets – skill set on the one hand and the right leadership and integrity as well. Clearly there was assistance to that. And as the – perhaps the Commission goes into greater detail into some of the difficulties that SAA faced from 2009 onwards. There were difficulties before then as well. It would encounter the kind of events and decisions made at a government level or at a board level or even at a management level which presents us with the kind of difficulties that we actually have today and we find that as a repeated phenomenon in other SOEs as well.

So this was extraordinary there is no doubt about it.

CHAIRPERSON: Okay, thank you.

ADV PAUL PRETORIUS SC: Perhaps you could assist us then, Minister, in relation to the engagements between officials from the presidency and officials from National Treasury which obviously would have taken place outside of cabinet, who would be the person to assist the Commission?

MINISTER PRAVIN GORDHAN: Mr Fuzile.

ADV PAUL PRETORIUS SC: Okay, thank you. Then if we may go to paragraph 98 of your statement where you describe the meeting of the world economic forum in Davos Switzerland during January/February 2016, would you deal with that please?

MINISTER PRAVIN GORDHAN: With your permission, before I get to that point, Mr Pretorius and, Chair...[intervenes]

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: Can I introduce two elements of the issue we discussed earlier on, which is the point at which I was reintroduced into the Treasury, if I may? The first, I made reference to an announcement from the presidency on Mr Nene's future in relation to the Brics bank. That apparently is at page 418 of your first bundle, just to help you in that regard.

And the second point, Chair, is with reference to paragraph 80, 8-0 at page 30 of the statement, which we skipped and it reads:

"The decision also action in a period, that is a decision to bring in Mr van Rooyen, after close scrutiny of institutional stability and policy certainty by global ratings agencies."

It is the point I made yesterday. That when – and I suppose as a sign of the time is globally as well, so we should not say that this is limited to South Africa, but we have our own specific issues that we deal with here.

"That the rating agencies would be more concerned in terms of their normal metrics and calculations about debt and about interest and about revenue and about your capability and willingness to pay it off and so on. What this changed in the position of Minister of Finance was to bring about a new focus, which is institutional stability and policy certainty."

So the policy certainty is the issue that at page 425 in the pre-statement on the...[indistinct 16:31] which introduced me into the Treasury again indicates at the bottom of that page. But I think the point that I want to draw to your attention is that this

was the first signs of what the public narrative and analysis were beginning to indicate at the time that the Treasury was one of the key targets of state capture.

And if one looks at the Gupta emails and all of the circumstances that surround Mr van Rooyen then we begin to understand by virtue of his associations that this was the first step in the take over, and the particular interest that some of his people had shown for example in the SAA and so on is a reflection of that.

And yesterday we all sort of heard, if you remember, to the presentation prepared by the Treasury on the economic outlook being emailed in that two day period to outsiders. I think the email was read, here we have it, gentlemen, or something to that effect.

So I wish to draw your attention to that before I get back to paragraph 98.

CHAIRPERSON: Thank you.

MINISTER PRAVIN GORDHAN: At 98, Chair, for some time now, if you like tradition, that during the third week of January, the word economic forum meets in the very cold atmosphere of Davos. Why Davos, I do not know, and why we have to be there in snow bound Davos, I do not know either, but these meetings are an important opportunity for governments to present themselves to investors, rating agencies and attract investment into South Africa, but also create a positive narrative around a country.

Many years particular governments will "take over" or have a significant event leading up to the world cup in 2010, South Africa was given a lot of prominence at Davos, just by way of illustration. 99, says:

"That on allocation in early 2016 I was approached by South African business leaders as inside at the WAFF meeting for urgent discussions on how to avoid the sovereign credit rating downgrade and how to inspire confidence in the South African economy and government after

the drastic and damaging changes at the Treasury. This resulted in an urgent meeting convened with business leaders upon my return to South Africa from WAFF and that CEO initiative was formed out of these engagements."

So if you go back to 2016 you will find that business, labour, civil society all became part of this process of on the one hand reintroducing confidence in our economy, secondly demonstrating that the Treasury would do the right things in terms of the issues that are raised in that press statement.

"And that thirdly there would be a contestation of any further moves on state capture in relation to the Treasury as well. This was followed by an investment road show by labour, government and business representatives to overseas investors who are invested in our economy and in particular in South Africa's debt during March 2016."

I will come back to that in a moment. At paragraph 101 we say:

"In addition the CEO initiative launched a fund of 1.5-billion Rands for small business, particularly black owned small businesses as well as the youth employment service as proposed and championed by the then Deputy President Ramaphosa which will ensure that big business provide work and entrepreneurial opportunities to a million young people over a three year period. Further possibilities for additional investment in the South African economy we explored during these various initiatives as well."

So notwithstanding the fact that Mr van Rooyen was replaced on 13 December, this section articulates the concerns that the business sector had and in particular concerns about what the credit rating agencies do, and that is in relation to paragraph 80 that I had

just read out. And if there was a downgrade, and essentially what a downgrade means or what a credit rating means is that it determines your creditworthiness.

So how much of money can anyone lend this country or this individual with the sufficient sense of assurance that, that money would actually be paid back as and when it is actually due. The lower the credit rating the higher the interest rate you would pay. So the United States at one stage fell from a AAA to a AA for example, but the other countries like Japan, because of the strength of their economy I think still remain AAA rating, but if you go to their debt to GDP's close to 200%.

I think the number would still be approximately there at the current point in time. So depending on the strength of your economy and your ability and credit record, which is what any financial institution will do when you ask for credit, a home loan, a car loan, or whatever the case might be.

So credit ratings are important particularly if you borrow in a foreign environment. And, but even in a local environment as well. In our case if I remember the numbers the foreign, borrowing in foreign currency, that means in Dollars or Euros or Yen is limited to 10% of our overall borrowing.

So that if there are fluctuations in the exchange rate it does not have a significantly negative effect on the economy. There are many examples today around the world, particularly on the African continent countries like Ghana and Zambia, where oil prices were high, borrowed a lot of money and began to spend it either in public salary increases or infrastructure projects and so on, and then the oil prices fell, and were going South for some time, which means their reliance on oil revenue was not going to enable them to pay back the loans that they had borrowed and much of that borrowing was in foreign currency.

So your currency depreciates that means that where you would have originally

paid say ten units of your currency for one Dollar, you can now say that you are going to pay 15 units of your currency to the Dollar, because of the depreciation in your currency. That means that your debt burden actually increases quite significantly and many of these countries then find themselves either at the doors of the Chinese government, and I will explain why in a moment or at the doors of the IMF or sometimes the World Bank before the IMF.

Now even today there is a stigma attached to getting any assistance from the IMF, because the IMF's past history has been, we lend money to poor countries, but we also impose very harsh conditions, which generally means the social spending has to reach austerity levels and that begins to impact on the local population.

More recently of course the IMF has changed a bit, but the stigma still remains. So if you say that country X, like South Africa is now borrowing money from the IMF or seeking loans from the IMF or seeking a facility from the IMF, meaning that you do not draw on the loan, but you have a facility that you can draw on if you need to, then you are now IMF dependant.

And invariably conditions begin to be attached to that loan as well. So coming back to the borrowing story, 10% maximum for borrowing is in foreign currency, but even our Rand denominated bonds, that is money that we have raised locally, 40% of that is owned by foreigners.

So if you create the wrong level of stability in the country, high levels of uncertainty, tomorrow morning bonds can be sold and the money can leave this country. So Treasury amongst other institutions also monitor on a daily basis how much of money has come into bonds, into equities or left bonds and left equities, as well, so that it gives you some sense for what is going on.

So the concern is that the CEO initiative had or business people had was about

this set of issues. The second important point here is this was the first time that the normal road show is undertaken by Treasury and the South African Reserve Bank. It is the first time that we actually have business and labour with us as well. We had Team South Africa going out and that made quite an impact in March 2016, and that practice has continued up to a point and into the present as well.

So that covers those two issues. But one of the things that we did have the CEO initiative is all sorts of challenges for the CEO's that they should not just ask government to do X and Y. They themselves as the business sector need to come forward and demonstrate firstly their solidarity with communities that have not been part of the economy in an effective sense.

And so the 1.5-billion Rand fund was created. That money came in literally two to three months from Corporate South Africa once the concept of the fund was clarified. And that fund went through some difficulties in the recent past, but it is operational now. Adrian Gore of Discovery for example and Brian Joffe are the two patrons of that fund and there is a steering committee that then runs it.

Equally the initiative of President Ramaphosa on the one million jobs for young people is also quite a crucial one to get young people exposed to job opportunities and the work environment and in a sense create some kind of CV.

ADV PAUL PRETORIUS SC: We then, Minister Gordhan to the events, the further events of your second term as Minister of Finance and you deal in paragraph 102 and following of steps that were taken directly in relationship to yourself at the head of the – or at the hands of the law enforcement agencies. Would you deal with paragraph 102 and following please?

MINISTER PRAVIN GORDHAN: Thank you, Chair, and Mr Pretorius. 102 essentially makes reference to the famous 27 questions and here what we had in a week or so, say

about two weeks prior to the budget in 2016 my office gets repeated calls from Mr Ntlemeza to say that he wants to see me, even if it is for five minutes. So I accommodate that at some stage.

And what he communicates in that discussion is that he wishes to inform me that there is some investigation going on in SARS and SAA. He does not give me any detail, he just wanted me to know, he will return to me at some stage with more details, and he leaves.

Then in the week before the budget again calls to my office, Mr Ntlemeza, I do not know if General's keeps their titles or not after they leave, so I will refer to him as Mister, saying that he needs to deliver...

[PART OF AUDIO MISSING]

MINISTER PRAVIN GORDHAN: I think my colleague Mr Cele will be able to give you a lot more details about the status of HAWKS at the moment, but although I have no personal knowledge of this, from interactions with various people, what Mr Ntlemeza did at the HAWKS which I described as a pattern earlier on in the statement is in these institutions you just remove the good people at the top level and replace them and rebuilding those institutions as I said yesterday, means finding out who are the good people and who are the not so good people? Who are committed to the cause of democracy and the proper management of investigations and who is part of any form of ill intent or malfeasants or serving the interest of those who want to engage in corruption, arising from state capture.

So the HAWKS certainly – and that has been a feature over the last few years. Some so called infringements are investigated, others are not. If you look at for example the conduct of – I think it is General Ledwaba in relation to SARS and accessing documents and victimising Mr Simington who had a particular legal opinion then. That

would be one illustration of the kind of activity that they actually engaged in.

And there are many incidents that are in the public record of the fact that in the early days of 2017 when the Gupta leaks first emerged or even the Estina Dairy issue has – which are the simplest of the transactions by the way, and in money terms is 200/300-million Rands that we are talking about compared to the billions that have disappeared out of Transnet in relation to the locomotive transaction.

At what stage are these investigations? And all of that I think and amongst progressives in South Africa and those watching developments within the state, for them it is quite clear that the HAWKS have not been performing their role and secondly and far more importantly they need to be strengthened once again, which is probably what Mr Cele is doing so that they can play the rightful investigative role.

ADV PAUL PRETORIUS SC: Yes, you have raised questions, Minister, about the Gupta email leaks and the consequences or lack of consequences from an investigatory and prosecutorial angle. Do you know what happened to the personnel in the HAWKS under General Ntlemeza?

You have given a general overview of changes in personnel, have you any idea of the...[intervenes]

MINISTER PRAVIN GORDHAN: No, I think the detail, Chair, will be available from people directly involved. All we have is a general understanding of the pattern that emerged.

ADV PAUL PRETORIUS SC: Alright. You then were dealing with the deliver of the envelope to your offices on 19 February 2016. What happened then?

MINISTER PRAVIN GORDHAN: So say in paragraph 104, Chair, that on/about 19 February 2016 that is a week before the budget and budgets are had on a Wednesday, are delivered on a Wednesday, budget speeches. In the week before my budget speech

an envelope was hand delivered to the Treasury by General Ntlemenza's – or at his instance, I beg your pardon.

This envelope contained 27 questions addressed to me from the HAWKS demanding that they be answered by 2 March 2016. The questions related to the High Risk Investigations Unit within SARS formed years earlier. Charges against me relating to that unit had been filed by Mr Moyane on 15 May 2015.

ADV PAUL PRETORIUS SC: Just before you continue, Minister. Was the delay between 15 May 2015 and February 2016 in processing these charges ever explained to you?

MINISTER PRAVIN GORDHAN: No, but what it does bring to the fore, Chairperson, is one observation I could have made earlier on and that is being appointed on 13 December 2015 is one thing, in the midst of the turmoil, but fairly soon thereafter from late January on it was quite clear to me from various signals, this one in particular and what followed this particular event that a "mistake" had been made in locating me at the Treasury.

And that something needed to be done now to get rid of me. And my submission to you would be that some very harsh lessons were learned from the turmoil caused by the dismissal of Mr Nene and the replacement of Mr Nene by Mr van Rooyen and whatever background he came from.

And so you could not repeat that exercise of firing somebody again so soon thereafter. So other means needed to be found to in essence as you will see later forced me to resign. And pretty much the kind of bullying that we see at the moment is the kind of bullying and intimidation and harassment that the 27 questions and their delivery begin to introduce in our lives at the Treasury, but also in the lives of different persons including myself.

So, because there is no other explanation why for almost a year a sitting

President who actually appointed one to a particular position and said you have a job to do and that is to stabilise the markets, a month later or so then allows his appointees to essentially start the process of harassment and throughout the period between February and about October/November the one narrative that I would hear is that this is all about forcing you to resign and comrades within the ANC and colleagues within cabinet and people outside in civil society and South African Communist Party and so on would say do not resign. You have a job to do and you have heard me say that on various platforms at that time. Do your job, and if he does not want you there then he must fire you.

And I think that for me is the context that we find ourselves in and so firing is not going to be a palatable option, and having learned from the turmoil and almost panicked during that turmoil of December 2015 different formula needed to be found and this securocratic formula is what was found to try to intimidate, harass and literally chase one out of the office.

ADV PAUL PRETORIUS SC: Given your understanding of the context within which these 27 questions were addressed to you, did you then approach President Zuma – former President Zuma?

MINISTER PRAVIN GORDHAN: Yes, I was obviously extremely upset, but also concerned at what was going on and at 105 I said:

"I arranged to visit the then President later that day, Thursday or Friday to present the correspondence and questions from the HAWKS to him and to ask him whether he was aware of and agreed with this law enforcement action against me?"

If I may continue:

"During that meeting I objected strongly about this persecution and asked former President Zuma whether political activists like myself

must now prepare to be eliminated during the democratic era, even though we had survived the oppression and I might say three different detentions in my case, under the security police in the apartheid era. In his response to my objection he merely flipped the pages of the letter, he said he would – he finally says that he would discuss the matter with the then Minister of Police, Mr Nhleko. I received no information from the former President in this regard subsequent to this meeting."

So what describes, Chair, is I received the letter and looking at the questions I am concerned and angry about this particular form of intimidation that was going on and angry particularly, because, anybody in government would know the importance of a budget speech and budget day in the welfare of the country as a whole.

Now who is it, with what kind of mindset that would want to be disruptive on the Thursday or Friday before the budget when we got to finalise the budget documentation and the budget speech over that particular weekend? What kind of mindset actually informs you to say I have to deliver this prior to the budget?

Were they expecting that I would resign when I deliver the budget speech, I do not know, because the rest of the paragraphs that follow is about appealing to me not to do anything that would actually upset the country and investors and the wellbeing of the economy as well.

So it is a fascinating questions that I never quite understood, except to say that this might be a bit of hubris and bullishness replicating in – or mimicking in many ways the tactics of the previous security police that many of us, as you know, are familiar with. Regardless of consequences, regardless of context, we will do whatever we feel like.

And for those of us who are not to familiar with the security police of the past. A Constable in the security police could dictate to a Captain in the uniform branch and the uniform branch would be literally scared of the security police. When we were in detention you could actually see this interaction between the different players.

So there was a unique set of powers in the one hand, but also authority informally or formally that the security police had and that is the only explanation that one can think about. Apparently Mr Ntlemeza had some background in the Transkei Security Police in his previous life.

CHAIRPERSON: When you raised this issue with the former President did you – does your statement say that he did nothing more than just flip through the pages of the letter...[intervenes]

MINISTER PRAVIN GORDHAN: Yes.

CHAIRPERSON: Or did he say anything?

MINISTER PRAVIN GORDHAN: No.

CHAIRPERSON: So your meeting lasted a very short time?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: He did say that he would discuss the matter with the then Minister of Police?

MINISTER PRAVIN GORDHAN: That is on the record, yes.

CHAIRPERSON: Okay, thank you.

ADV PAUL PRETORIUS SC: And then would you please deal with the meeting that you were called to on Monday 22 February 2016. This as I understand your evidence was shortly prior to the budget presentation in parliament?

MINISTER PRAVIN GORDHAN: So as I said yesterday, Chair, the budget documentation is completed the Friday night or the Saturday morning and then sent to

the printers by late on Saturday and there is a whole process of security and so on that is involved with that. Then the budget speech is prepared on the basis of the finalised numbers on the budget documentation of which the budget review is the principle, if you like, overview taxed, and there is a tick book called estimates on national expenditure, which indicates what is allocated to each department and what their programs are that they will spend the money on.

So there is a fair amount of complexity involved in preparing that document. So even by Monday we will be finalising or up to Tuesday morning we would be finalising the budget speech and what that involves is to take the numbers that are available and the kind of tax choices and other choices that government might have made and provide a narrative that is consistent with the times and as much as possible to create some optimism in the public mind and in the markets that we A, we understand the context, B, we have a plan, C, we are working within the kind of frameworks that – particularly the fiscal framework that we had been pursuing before that and D, indicate what the direction might be in numbers terms over a three year period.

And those are of course estimates, but there is a particular science and art if you like, because the estimates very rarely become real in actual terms. So that is the context and then as I say in paragraph 109:

"I was requested to attend the meeting with the Secretary General, Mr Mantashe, Deputy Secretary General Ms Duarte and Treasury General Dr Mkhize of the ANC."

I explained that I have got this speech to finish and Mr Mantashe said please come. So I took an afternoon flight from Cape Town and then there was a meeting at a nearby hotel to the airport and as I say here:

"I entered up the preparation for the budget and flew to Johannesburg

to Cape Town to meet them that afternoon. The 27 questions and this abuse of law enforcement powers for political objectives was discussed with them. I was assured that a political solution would be found to this political problem."

Now, essentially this was about tampering or pre-empting what they thought might be an excessive reaction to the 27 questions, so I assured them that as somebody who tries to always take account of national interest, we would not deliberately play a disruptive role, but at the same time the 27 questions are unwelcome and clearly designed for political purposes to harass one although the full context would become clearer in the months that actually followed.

What is fascinating is the next paragraph that these are – this was correspondence and a set of questions directed to me which I then gave to the lawyers to deal with.

CHAIRPERSON: I am sorry, before you get to that paragraph, let us just go back to that last sentence of paragraph 109. It says:

"I was assured that political solution will be found to the political problem."

Would I be right to deduce from this sentence that those that were at that meeting seemed or took the matter, the problem as a political problem rather than anything else, or is it just your own description?

MINISTER PRAVIN GORDHAN: Well it is a political problem, Chair, in the sense that here you have one arm of the state attacking another arm of the state, without having any clear basis for that, and that it had long been proven by then that the kind of events that they wanted to cover in the 27 questions, had very logical and reasonable and legal answers to all of those questions that were available, both in the public domain and

otherwise.

So yes, it was a political solution – political problem in the sense that here is the pressure under a particular President, you have a Minister of Finance who has got a critical role to play in a few days time, not on his own personal behalf, but on behalf of government, being tampered around in this kind of way and that this could lead to serious disorientation.

Now imagine going back to the whole Treasury team, which we did not do by the way and saying look this is the kind of pressure that we are under, and what happens on that Wednesday morning, if I may just take a minute to advise you, Chair, is that on Wednesday from about 06:00 on budget day, journalists, some of them might be here actually come to parliament. They have their cell phones taken away, their computers do not have any transmission devices or facility on them.

They are the given – they then get into a lock up until 14:00 and they then are given a set of the budget documentation. From about 07:30 onwards officials walk around amongst the journalists to help them with answers to any questions that they might need clarity on, technically and otherwise.

Sometimes we ourselves used to do that as well. At about 10:30 those officials comes back to the Ministers office and say look these are the five or six top questions that we were asked. At about 10:30 or 11:00 we have a press conference with the journalists that is embargoed so they cannot write anything – I mean they cannot transmit anything, but they can start writing their stories and prepare their stories in advance, and we take questions from the journalists as well.

At 14:00 when the words "Madam speaker or Mr speaker" are articulated is when they can press the button and transmit their story. So that is the context on a Wednesday, which means that you want, if you like maximum sanity and stability in that

environment to be able to give the right kind of answers in all those different forums that we have to actually appear.

CHAIRPERSON: Thank you. Mr Pretorius?

ADV PAUL PRETORIUS SC: Thank you, Chair. In paragraph 110 you say that the 27 questions were leaked to the media the day after the budget. I would like to just deal very briefly and on a very general level with the 27 questions themselves. Obviously it is not appropriate at this stage to go into the merits and demerits of all the issues that were raised in the 27 questions.

But do you have a general comment on the content of the questions and why you reached the conclusion that it was improper to visit these questions upon you?

MINISTER PRAVIN GORDHAN: The first point, Chair, is it was beginning to make, when I was taken back to 109 in 110 is that here you have a letter and questions directed from the HAWKS to myself and as I indicated I then hand them to lawyers and one would expect that, that remains in the confidential domain, but you – that Thursday which was immediately after the Wednesday budget speech delivery, the 27 questions and I think the correspondence were then leaked to the media, which means that there is an agenda.

And then subsequent correspondence was also leaked and prior to this there was a pattern of leaking as well in relation to other issues. So who were the forces that were managing all of this? It is an intriguing question for the Commission to look into, because clearly there were some orchestration going on.

And if one wants to now regularly leak information as opposed to give any either the recipient or themselves an opportunity to address in a fair and objective way these sorts of issues with the public, then one must ask what sinister motives are actually guiding the people concerned.

So you can see amongst the questions, you know, were you briefed on the

strategic operations of the unit? Do you know anything about Sunday evenings? Which is still the subject of another prosecution...[intervenes]

ADV PAUL PRETORIUS SC: Just before you go on, Minister, the questions themselves appear for record purposes at page 432 of the bundle N1B, but in any event at page 432 of the bundle. I am informed that it is part of the second bundle N1B, not the supplementary bundle.

I have it in N1A, but be that as it may it is at page 432, Chair.

CHAIRPERSON: So the exhibit in which the questions appear is exhibit what? I think that somebody on your left wants to give you the answer.

ADV PAUL PRETORIUS SC: Well, because I intend not to be ruled by the majority in this case. May I – it is annexure 20 and my informant on my left was correct, I must defer.

CHAIRPERSON: Which exhibit first?

ADV PAUL PRETORIUS SC: Well it is not all the same but N1B I am informed.

CHAIRPERSON: Is it not one of the six that we have...[intervenes]

ADV PAUL PRETORIUS SC: Yes it is, it is one of those. It is the second one.

CHAIRPERSON: And did you not say that they are all marked now?

ADV PAUL PRETORIUS SC: Yes I did, and if they are not I take full responsibility.

CHAIRPERSON: Well, there is EXHIBIT N1C that is not the one?

ADV PAUL PRETORIUS SC: It is N1B.

CHAIRPERSON: N1B?

ADV PAUL PRETORIUS SC: Yes please. Page 429.

CHAIRPERSON: Okay. Okay, what is the page again?

ADV PAUL PRETORIUS SC: Thank you, Chair, page 430 is the beginning of the press article, but it lists the questions according to the press article verbatim at page 432.

CHAIRPERSON: Okay, I have got it.

ADV PAUL PRETORIUS SC: Do you have that list before you?

MINISTER PRAVIN GORDHAN: Yes, I do.

ADV PAUL PRETORIUS SC: Just generally and without going into the merits of each and every question, otherwise we will be here for months.

CHAIRPERSON: You will be.

ADV PAUL PRETORIUS SC: In any event. The scope of the questions, what issues generally did they deal with? Had these issues surfaced before? Had they been dealt with? If you could just deal with it in that light, please.

MINISTER PRAVIN GORDHAN: No the issues had surfaced before. I do not have all the information in front of me, but you recall me making reference to leaks to the Sunday Times, Chair, and the apology that subsequently followed, wherein editors changed from Ms Opelt to the current editor and there are many books and so on available now which demonstrate the malfeasants that actually underpin the leaked stories.

For example – I mean we had references to shebeens on the one hand, but you also had references to brothels on the other hand, neither could be discovered, interestingly. So, that is just one illustration of if you like a security operation of one kind or another.

The second is if you take some of the latter questions pertaining to Mr Pillay, who was then Deputy Commissioner at SARS, now the 27 questions, there was a leak again to the Sunday Times about this issue. Then it appears in the 27 questions. Then it was the subject of former charges from the NPA on 11 October 2016 which charges were withdrawn on 31 October 2016.

And later in the statement I indicate to you that now the Public Protector wants to look at the same issues as well. So what is going on? These are simple legal matters

where there is an immense amount of clarity on what is right and what is wrong and when you are at a deficit in terms of finding plausible reasons to do the kind of things that you want to do then you really scrape the bottom of the barrel including using slogans developed by Bell Pottinger and so on.

So that is in regard of the emails as well. It is not my concoction. So, what the conclusion one can come to following this, I mean I had family members who have had demonstrations in front of their house by some of the protagonists of the views that I am talking about.

What for? If I am just an ordinary guy, I forget the colloquialism again, doing a piece of work, nobody can find any fault with what I am doing or my team is doing and we are doing collectively, why all this narrative and actions that we actually see to attempt to bully and intimidate and misinform the public?

An issue that I will come back to later. So the short answer to the question, Mr Pretorius and Chair, would be that those would be the reasons that I suggest underpin the 27 questions and whatever follows.

ADV PAUL PRETORIUS SC: As I understand your evidence, if I may summarise? You regarded the subject matter of the charges as being matters which had been raised, questions had been answered and as he 27 questions and whatever follows.

ADV PAUL PRETORIUS SC: As I understand your evidence if I may summarise you regarded the subject matter of the charges as being matters which had been raised, questions had been answered and as I understand your evidence you say that that was an abuse of power, is that correct?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: Is there not an argument that could be put to you that these were genuine investigations in relation to matters of potential unlawful activity?

MINISTER PRAVIN GORDHAN: You know there is a term, Chair, that Bill Clinton I think was made famous for. It is the economy is stupid meaning you have got to look at a wider set of issues when one answers a question like that.

So what is the context? Context matters. You are not looking at one isolated issue in its own right and saying is this a possible, if it was just that then it is really easy to accept the *bone fides* of a general enquiry.

We just want to know from you what is – can you give us any more clarity about X and Y and Z? Oh, you will be welcome. You will get a cup of tea and we will talk about it as the Public Protector did, the previous one and we will give you the information that we have or I have in a particular regard.

Why all this intrigue delivering envelopes prior to the budget, leaking the letter etcetera and what follows later on the same subject matter.

So there is a consistency both in the narrative and in the actions that are actually taken. So there has to be something more than this genuine enquiry if one can call it that.

ADV PAUL PRETORIUS SC: If we could then move on to your evidence, thank you, Minister, at paragraph 114.1 where you deal with an issue that is encapsulated in paragraph 1.7 of our terms of reference and about which evidence will be given later this week and that is the appointment of advisors to Mr Nene's replacement Mr Van Rooyen.

CHAIRPERSON: Well before you go there Mr Pretorius. Minister, at 111, paragraph 111 of your statement you mentioned that State Security Minister David Mahlobo and Minister Nhleko held a joint press conference on 2 March 2016 defending the investigation and the timing of the questions posed to me by the Hawks.

Maybe I can understand Mr Nhleko there but why would Mr Mahlobo have been there? He is not Minister of Police. Do you know or not?

MINISTER PRAVIN GORDHAN: It is a good question, Chair and I was going to take Mr Pretorius back to that in two respects. One is in respect of what you have just said. So why is the State Security Minister always present if one puts it very euphemistically when these sorts of occurrences arise and it is a fair question to ask and the second is that we have in fact prepared for the Commission, Chair clips of these press conferences to demonstrate a) the language used, b) the explanations offered and in this particular instance it was a Cabinet meeting at which all of us were present and the Cabinet meeting ends and suddenly I am told that these two Ministers are having a press conference.

I said about what? No, it is something to do with these matters around the 27 questions. So only later of course I hear what they have had to say. But again it provides further evidence that this was not just a gentle academic objective legal enquiry that we were talking about.

Why must two Ministers actually get involved? If you are leaving it to a law enforcement agency to do its work in an objective and legal way and even if there are criticisms let the agency defend itself or explain its conduct in whatever way it might actually want to explain its conduct.

But you had this particular press conference. Now there was an apprehension on the side of the legal team that if we attempt to show the clip maybe the technology might not be able to cope. But during lunch we could see if you want to, Chair, whether we could get the technology to work or you could view it in your own time because we have – what do you call these things? Links to You Tube videos which you could look at.

ADV PAUL PRETORIUS SC: But we have downloaded those which are available for viewing.

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS SC: If we have time.

CHAIRPERSON: Yes. Okay. One would have expected that – well maybe I should not say one would have expected. Did you expect that if Mr Nhlangeni was to serve you with those kinds of questions is it something you would have expected your colleague in Cabinet for the Police as a collegial courtesy mention to you as something you expected he would have known about or not really? It might be difficult to say.

MINISTER PRAVIN GORDHAN: No, it is a good question, Chair. I think nothing – there is nothing illegal with saying that I am sorry but you know this agency is looking into this matter and you can expect X. I am not involved in the investigation.

I am not involved in the detail but they will explain to you whatever they need to do so please cooperate with them or whatever the case is. So that certainly is a collegial courtesy that could be extended if there is a will to do so.

CHAIRPERSON: And before the two Ministers held the press conference they did not speak to you about these questions, these 27 questions?

MINISTER PRAVIN GORDHAN: No.

CHAIRPERSON: Okay. Thank you.

ADV PAUL PRETORIUS SC: You have related, Minister Gordhan the fact that you were called to a meeting days before you were due to present the budget speech on 22 February. You have related the manner in which the questions were delivered. Just to round off that evidence at page 442 of Bundle N1B is the press record of the press conference to which you have just referred.

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: The Chair asked about the involvement of the Minister of State Security and a remark is made then on the second page of that report at page 443. The penultimate paragraph which begins: "On the other hand" would you please read that paragraph into the record?

MINISTER PRAVIN GORDHAN: Sure. Chair, it reads:

"On the other hand Minister of State Security David Mahlobo who sat next to Nhleko was as cool as a cucumber, inscrutable as one would expect from a man who holds a lot of secrets. He calmly waited as the Minister of Police read out a [indistinct] history of the apparent origins of the rogue unit SAGA adding that Hawks, the Hawks' questions to finance Minister Gordhan did not mean he himself is facing an investigation or is even being charged."

This is disingenuous because I was charged eventually. That the close of the quotation.

ADV PAUL PRETORIUS SC: Is it correct – I really wanted to draw the Chair's attention to the reported allegation and I stress that it is a reported allegation that the investigation or charges were non existent. You say that is not correct?

MINISTER PRAVIN GORDHAN: The charges were? Sorry?

ADV PAUL PRETORIUS SC: That you had not been charged. As I understand it there had been a charge previously.

MINISTER PRAVIN GORDHAN: Not previously. Subsequently.

ADV PAUL PRETORIUS SC: Subsequently. The Moyane ...[intervenes]

MINISTER PRAVIN GORDHAN: You mean the laying of a charge, Chair?

ADV PAUL PRETORIUS SC: Yes.

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: The charges that were brought against you and filed by Mr Moyane ...[intervenes]

MINISTER PRAVIN GORDHAN: In May.

ADV PAUL PRETORIUS SC: Were in May 2015.

MINISTER PRAVIN GORDHAN: That is right. I became aware of that...[intervenes]

ADV PAUL PRETORIUS SC: In 2016.

CHAIRPERSON: Okay I think the two of you spoke at the same time.

MINISTER PRAVIN GORDHAN: I beg your pardon.

ADV PAUL PRETORIUS SC: I am sorry.

CHAIRPERSON: But I think you wanted to give the time when something happened in May.

MINISTER PRAVIN GORDHAN: Sorry Mr Pretorius' question – sorry my apologies for interjecting in that way. Mr Pretorius' question is with reference to a charge laid by Mr Moyane at the Brooklyn Police Station sometime in May 2015.

I am referring to the charges lodged or delivered to us on 11 October 2016 by the NPA.

ADV PAUL PRETORIUS SC: Right. Nevertheless they covered the same material at least in part?

MINISTER PRAVIN GORDHAN: Same material. May if you do not mind before we skip to 114 at 113, Chair...[intervenes]

CHAIRPERSON: Yes?

MINISTER PRAVIN GORDHAN: May I read the latter part of or maybe the whole of 113?

"This set of events combined with what is set out below was the beginning of what appeared to be a campaign to force me to resign as Minister of Finance and continue the efforts to capture the Treasury thereafter.

I believe that my reappointment has thwarted these efforts and I believe Mr Nene was removed from the National Executive for the same reason to obtain full control of the Treasury."

Now I want to if I may, Mr Pretorius and Chair draw your attention to Annexure it might be 23. I beg your pardon, Chair or it is actually attached to some of the other documents but page 473 of Bundle N1B.

CHAIRPERSON: The one I just used? The one we just used?

MINISTER PRAVIN GORDHAN: Yes.

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS SC: It is in Annexure 22.

MINISTER PRAVIN GORDHAN: Yes.

CHAIRPERSON: So what is the page? 44?

MINISTER PRAVIN GORDHAN: 473.

CHAIRPERSON: Thank you.

MINISTER PRAVIN GORDHAN: And this is also important Chair for the record because it fits into the conversation or engagement we have just had on this matter. May I just read some paragraphs here?

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: Thank you, Chair.

"The malicious rumours and accusations about espionage activities are false and manufactured for other motives. There have also been reports of business people claiming inside knowledge of or influence over state institutions.

If such reports are true that alleged conduct will undermine the integrity and honesty within the Treasury and key institutions. It is particularly painful to me and I am sure to many earnest Democrats to witness this unrestrained attack on honest and hardworking people and institutions meant to strengthen our democracy.

Millions of people will pay the price. There will be less money to relieve poverty and support job creation programs if this subversion of democracy is left unrestrained and unchallenged. I appeal to all South Africans to protect the National Treasury staff who have diligently, honestly and skilfully served the national interest with the best of their ability. They are recognised worldwide for their professionalism and competence."

So that also gives you some context and the kind of concerns that were prevalent at the time both at a personal level but I think more importantly at an institutional level as well.

ADV PAUL PRETORIUS SC: That document from which you have read is a media statement made by yourself as Minister of Finance on 17 May 2016?

MINISTER PRAVIN GORDHAN: That is right.

ADV PAUL PRETORIUS SC: You have made the statement before you referred to that press statement, Minister, in paragraph 113 about how you saw and how you regarded what you had described as a campaign to force you to resign. In paragraph 114 you provide some detail in relation, I presume, to that understanding of the events yourself or [indistinct] and by yourself.

MINISTER PRAVIN GORDHAN: Again, Chair if I can just read this?

"I refer the Commission to the contents of subsequent media reports that reveal that shareholders and Gupta linked consultancy group Trillian allegedly were warned in advance or rather informed in advance that Mr Nene would be fired as Finance Minister and that Trillian, the company, planned to exploit access to the Treasury under Mr Nene's replacement Mr Van Rooyen.

Mr Eric Wood Trillian's Chief Executive Officer at the time denied the allegations and suggestions that he, Trillian and other Gupta connected individuals had profited from the market turmoil that followed Mr Nene's removal.

Evidence provided by a Trillian whistleblower to the parliamentary enquiry into Eskom established that Wood may have profited thanks to his prior knowledge of the removal of Mr Nene."

That witness is a lady Ms Mosilo Mothepu who was very courageous to be a whistleblower and made her appearance at the parliamentary enquiry. The Commission will benefit from her evidence to you as well.

ADV PAUL PRETORIUS SC: If we...[intervenes]

MINISTER PRAVIN GORDHAN: Similarly Advocate Budlender...[intervenes]

ADV PAUL PRETORIUS SC: Sorry.

CHAIRPERSON: I am sorry. Would the legal team have the name already or...[intervenes]

ADV PAUL PRETORIUS SC: Yes we have the statement.

CHAIRPERSON: Oh you have got a statement?

ADV PAUL PRETORIUS SC: The statement was presented to Advocate Budlender in his enquiry and findings were made by Advocate Budlender but let us just put it in context. Minister, the evidence to the parliamentary enquiry into Eskom was given whilst you were in Parliament as I understand it.

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: Were you present when that evidence was given?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: If I may refer you to page 475 of Bundle N1B. This article

refers to the version of Eric Wood in relation to that evidence.

MINISTER PRAVIN GORDHAN: That is correct.

ADV PAUL PRETORIUS SC: Just for record purposes. Chair, I am informed by the minority that it is almost 13:00 and perhaps this is an appropriate time.

CHAIRPERSON: And you allow yourself this time to be ruled by minority?

ADV PAUL PRETORIUS SC: A whole two minutes before 13:00 yes.

CHAIRPERSON: Okay, thank you. We are going to take the lunch adjournment and we will resume at 14:00.

ADV PAUL PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: We adjourn.

HEARING ADJOURNS

HEARING RESUMES

ADV PAUL PRETORIUS SC: Thank you ...[indistinct].

CHAIRPERSON: Thank you Mr Pretorius. You may proceed.

ADV PAUL PRETORIUS SC: Minister we were dealing with the period in your second term of office as Minister of Finance and we had just dealt with a period prior to that when you refer to evidence of a Ms Mothepu before the parliamentary inquiry into Eskom at paragraph 114.1 of your statement. In paragraph 114.2 you state that you learned of a controversy relating to term of reference 1.8 of the terms of reference of this Commission. It dealt, it deals and the evidence dealt with the appointment of two persons to accompany Mr Van Rooyen to the Finance Ministry following his appointment in December 2015. Would you deal with that issue please?

MINISTER PRAVIN GORDHAN: Good afternoon and thank you...[intervenes]

CHAIRPERSON: Good afternoon, thank you.

MINISTER PRAVIN GORDHAN: Chair. Yes the controversy there was pertaining to

three individuals that accompanied Mr Van Rooyen but much of that interaction took place as you would understand between the Treasury colleagues and Mr Van Rooyen and the individuals concerned. I believe you have Mr Fuzile tomorrow who would elaborate on that. When looking at a transcript of a discussion or interview with the previous Public Protector Ms Madonsela I see in there I make the point that literally over night when the parliamentarian becomes a Minister in this instance he is able to find three people who would accompany him to his new job first thing the next morning amongst them being two advisors. Finding advisors normally takes a bit of time in this sort of occupation and I think what you will hear from the Treasury colleagues is the person who or above the person who becomes the Chief of Staff Mr Whitley, Mr Bobat whose name appears in many different circumstances from Trillian to Treasury, to COGTA. I am not sure where he is now and a third person who I was told who was also there, but again you will hear probably a lot more about that tomorrow Mr Mabaso as well. So at, if Mr Pretorius is going to direct you there at annexure 24 which is in N1B.

ADV PAUL PRETORIUS SC: At page 481.

MINISTER PRAVIN GORDHAN: At 481.

CHAIRPERSON: You have mastered it.

MINISTER PRAVIN GORDHAN: I am getting there.

CHAIRPERSON: So what was that page four?

ADV PAUL PRETORIUS SC: 481.

MINISTER PRAVIN GORDHAN: 481.

CHAIRPERSON: Okay, thank you.

ADV PAUL PRETORIUS SC: Do you have that?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: The article makes reference to certain questions put to Minister Van Rooyen or Mr Van Rooyen depending on the time period that we are talking about. I would just like to draw your attention to three of those questions. At the bottom of page 481 questions around taking the finance positions and bringing in Whitley and Mohamed Bobat aligned with the Gupta family as advisors to Treasury. Questions around the procedure followed in appointing Whitley and Bobat and thirdly questions on Whitley and Bobat's involvement in the SAA Airbus swap deal among others. Is that the so-called controversy that you are referring to?

MINISTER PRAVIN GORDHAN: That is correct and at 114.3 of my statement I then go on to indicate that apart from the reference made to the President at the compound in Saxonworld in the first part of 114.3 there was reference to a third individual Mr Mabaso and Mr Bobat's interest in SAA at the time and he approached one of the advisors that were with me, that was with Mr Nene, I beg your pardon about who is dealing with the SAA matter, the swap deal that we referred to earlier on.

ADV PAUL PRETORIUS SC: That is the deal you referred to earlier on approved by Mr Nene.

MINISTER PRAVIN GORDHAN: That is right.

ADV PAUL PRETORIUS SC: Minister Nene and then at paragraph 114.4 Minister you deal with what is politely calling sharing of a confidential Treasury document. Would you explain the context of that statement of yours please? Where did the document come from? What was it intended to do and where did it finally come to rest?

MINISTER PRAVIN GORDHAN: Again I think Mr Fuzile is best qualified to give you the detail, but as I understand it this was let us call it an economic outlet document, which would indicate A the status of the economy at that point in time and B what are some of the measures that could be taken to create a better environment for but also

higher levels of inclusive growth and job creation in our economy.

ADV PAUL PRETORIUS SC: A strategic Treasury document.

MINISTER PRAVIN GORDHAN: That is right. So Treasury would from time to time during the course of the year Chair produce such documents either to brief the President or to brief Cabinet or to brief the Minister's committee on the budget. It would provide updated numbers on the one hand that would be available, but secondly it provide a basis for debate about what actually needs to be done. So my attention was drawn to this e-mail that is at page 500 of N1B, which just says Gents finally. Now we can draw all sorts of interpretations, but it would appear that somebody was obviously looking for this document. So it could mean Gents finally I have got the document or finally I have got something useful for you, but I leave it to the Commission to draw its own conclusions about this.

CHAIRPERSON: In terms of your own understanding and knowledge of procedures for appointment even of people such as ministerial advisors would you know whether within that short space of time of Mr Van Rooyen's appointment these people that he brought with him would have been formally have been appointed as his advisors? I am assuming there must be some documentation that must be there if they are, they have been properly, they have been appointed formally or if they can be called, I do not know if they are employees, they would have been employees, but if they would be employees of the Department so to speak.

MINISTER PRAVIN GORDHAN: No it is highly unlikely, because there is a process as you indicate Chair and the process is obviously firstly you take office as a Minister and secondly you look at what the Department has to offer in terms of technical or other skills. Thirdly, you might want to entertain the idea of a political cum technical advisor. Fourth, you find the individual concerned, you get their CV, you have to show

that they actually justify an appointment of that sort and some of the procedures are then prescribed in the ministerial handbook, but what it involves in summary is that once you have the individual, the CV you actually as a Minister then have to approach your colleague the Minister of Public Service and Administration, indicate who is the person, what is the role and what are the qualities that the person has, competencies the person has to do the job that you want them to do as advisors. There is a limit of two advisors per Minister in most instances, but you need to provide evidence to your colleague if you want more than two advisors and once you get the approval then the individuals concerned i.e. the advisors are on the payroll of the institution, in this case the Treasury, and they form part of the budget allocation for the office of the Minister. That is the process that we would follow.

CHAIRPERSON: And then, and you say it is highly unlikely that all of that would have happened within the time...[intervenes]

MINISTER PRAVIN GORDHAN: Yes...[intervenes]

CHAIRPERSON: Before the weekend.

MINISTER PRAVIN GORDHAN: Highly unlikely unless there was something very, a special track was available.

CHAIRPERSON: Thank you.

ADV PAUL PRETORIUS SC: Thank you. Minister Gordhan the sequence of events which at this stage are allegations as far as the Commission is concerned, but will be dealt with in evidence fully this week are described on page 501 and 502 of Bundle N1B and if I could just take you there. There is quite a neat description of the allegations and the sequence of events. Do you have it?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: The first paragraph, do you have it Chair?

CHAIRPERSON: You say 501?

ADV PAUL PRETORIUS SC: 501 which would be in the N1B.

CHAIRPERSON: I have got it. I have got it, yes thank you.

ADV PAUL PRETORIUS SC: The first paragraph reads:

"Just two days after Des Van Rooyen's disastrous appointment as Finance Minister in December last year his team leaked a confidential Cabinet document to close Gupta associates."

And then if we can go down the page to the paragraph which reads:

"The e-mails include a document prepared by the Treasury's Director General Lungisa Fuzile for economics cluster chairman Gugile Nkwinti."

Is that the document you referred to?

MINISTER PRAVIN GORDHAN: Yes to the best of my knowledge. I have not seen the document, but it is fairly well described here.

ADV PAUL PRETORIUS SC: Yes the article goes on to say:

"Details economic opportunities in Africa for South African companies, the effects of rating agency's decisions, a breakdown of government expenditure, matters to do with state owned companies, corruption and perceptions thereof, beneficiation and mining as well as South Africa's nine point plan for an economic turnaround and each department's contribution to it."

The origins of the document are described as being a request from Mr Nkwintie for input from Directors General to the cluster to prepare for a meeting of Ministers on Tuesday December 15th 2015 on how to turn around South Africa's ailing economy. These would have then fed into an ongoing cabinet discussion on the topic

and you have already given evidence about the status of documents intended for cabinet as being secret if not ...[intervenes]

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: The article continues:

On December 12th just hours after receiving the document Whitley shared it with Bobat and Essa's former business partner Malcolm Mabaso who was special advisor to Mineral Resources Minister Mosebenzi Zwane."

Then over the page if I may continue briefly Minister he began the e-mail simply "Gents Finally." Bobat then forwarded the e-mail to Wood his former boss in the private sector as well as another unknown nongovernmental e-mail address. Wood is the CEO of Trillian Capital Partners a company owned by Essa. The senior government official said the leak was a serious breach as any documents known to be intended for Cabinet consumption were treated as confidential and received an even higher classification once they became Cabinet memo. Does that description accord with your own information or memory of the incident?

MINISTER PRAVIN GORDHAN: That is my understanding, yes.

ADV PAUL PRETORIUS SC: If we may then go Minister to the New Age budget breakfast cancellation that you referred to in paragraph 115. If you would just give the Chair a brief background to New Age and New Age breakfast and the relationship between those events and government attendees and finances.

MINISTER PRAVIN GORDHAN: I will do that Chair. As a prelude to this may I indicate to you that what Mr Pretorius has just read allows us to connect two dots. What I said at paragraph 80 about the takeover of the Treasury and the purpose of that and you can see here how on day 1 literally information begins to leak to Gupta associated

entities. I said to you earlier also in relation to the HAWKS that there is surprising inaction on very old information that is available in the public domain. To the best of my knowledge Mr Woods has not been charged with the fact that or any of the others with the fact that they have been transacting on confidential governmental documentation. In this case it is fairly sensitive because it begins to indicate possibilities and plans that government has in mind to re-float the economy and which people who engage in trading as they call it would be able to capitalise on. So just to connect those two dots for you. At 115 another decision which I believe may have contributed to my eventual removal as Minister of Finance in March 2017 was revealed on 21 February 2016 three days before the budget was presented to Parliament when a Sunday Times newspaper reported that National Treasury had cancelled the Gupta owned the New Age newspaper's sponsorship of a participation in the post budget breakfast briefing. What this refers to Chair is that Minister Manuel had set a tradition over the years at Treasury that after the budget the following morning in particular there would be this post budget breakfast and it would be transmitted live by one or other TV station. Usually the SABC but more laterally ENCA had an opportunity there as well. At a particular point in time New Age i.e. the Guptas and the SABC had a if you like close shop arrangement that they would be the ones that would do these sorts of transmissions. Particularly they started with the sorts of breakfasts after the State of the Nation address that the President delivers. I make reference to that later on and one or other SOE usually Eskom or Transnet would sponsor those breakfasts and the beneficiaries obviously would be New Age which would get reasonably free advertising in the process and these were some of the occasions on which Ministers that is the post SONA breakfast that Ministers will accompany the President and sometimes from the platform he would refer questions that are asked to him to a particular

Minister that could include me as well to answer.

In this particular instance we decided at the Treasury that we do not want to be part of that arrangement and implicit in that if not explicit is the fact that we do not want anything to do with the Guptas and we then did not pursue that formula of New Age and SABC.

We said that we would give others an opportunity and during my term of office we attempted that in many different ways, sorry and in this instance as 115 points out both SABC and ENCA were given the opportunity to rotate the broadcasting of these breakfasts which had become quite popular in terms of giving both Ministers on the one hand but businesspeople in particular but other constituencies as well an opportunity to interact, ask questions and then the public more generally to view that.

ADV PAUL PRETORIUS SC: Thank you. Is it correct or not correct that on occasions Ministers even paid for the privilege of attending the breakfasts?

MINISTER PRAVIN GORDHAN: Not to the best of my recollection. I would not have.

ADV PAUL PRETORIUS SC: There may be evidence to that effect at some stage.

MINISTER PRAVIN GORDHAN: Not that we look for free opportunities.

ADV PAUL PRETORIUS SC: Right. Then would you deal with the exchange that you had with Mr Jonas in March, well in October 2015 but just by way of background deal with the issues in paragraph 116 of your statement please.

MINISTER PRAVIN GORDHAN: So these were a number of interactions, Chair between October 2015 and post the budget of 2016 but in particular from October to the end of December with Mr Jonas and you have heard him already in this regard that a – he had been at a meeting with two individuals Hlongwane and Zuma, the young man, and one of the Gupta brothers.

That he had been offered the Finance Minister's job and an amount of money

R600 million in a bank account somewhere and R600 000 in a brown bag that – or whatever coloured bag it was that was available on that occasion.

Secondly he did sometime close to that interaction with the people concerned and the offer being made he called me and said he would like to see me and we arranged that. It was a Sunday evening when we finally met and my wife was present for parts of the discussion as well because it was at my house and he appeared very distraught and upset and wanted to resign and so on.

So we had these discussions. It then became clearer over time that this was a very serious offer and then if you like the pennies dropped when Mr Nene was dismissed. As to what all of this was about it was about in a sense already knowing that Mr Nene is going to exit.

It was about preparation for somebody to take his place and the preparation involved finding if possible a compliant individual to take over that particular position and if it involved money well so be it.

I mean the overall scheme of things R600 million it looks big but when you have billions at stake and I think in that conversation he was told by whoever amongst the Gupta brothers was present that you know we have got R6 billion from the state.

Next year we want eight. I do not know where they thought they will end up by now but take that for what it is worth. So R600 million to have three or five years of a compliant individual who would overlook or rather not look too carefully at various transactions like Denel Asia and others would be hugely beneficial to let us call it the Gupta complex in this particular instance.

We then move across 2015 into 2016 and what happens is a new concern now. When does he talk about it publicly and clearly now we are heading for budget time. We have had the difficulties of familiarising ourselves in a very short period of time as I

indicated with the budget documentation and direction and numbers and secondly both of us are very committed as were the Treasury staff to not do anything disruptive or sending the wrong signals to the public and to investors as well *i.e.* that there was a possible manipulation which in any event happened once Mr Van Rooyen took over for the two working days.

So we decided that he would keep quiet and let the budget period pass and then of course we are all familiar with the fact that he made a public statement in this regard which then started its own cycle of events as well and increasingly made the Treasury more of a target so to speak for some of the activities that we saw from law enforcement and other agencies. So that is summing up a period of time.

ADV PAUL PRETORIUS SC: Thank you, Minister Gordhan. The evidence from Mr Jonas' point of view has already been given to this Commission and unfortunately we need to go into some detail. Our term of reference concerning the events concerning Mr Jonas and Ms Mentor expressly requires us to examine the veracity of the allegations made by Mr Jonas and Ms Mentor and for that reason I just want to ask you a few questions about his version of events and what he reported to you on your version of events.

Mr Jonas' version appears at page 38 of the supplementary bundle. It is common cause that he reported to let me say at the outset and...[intervenes]

CHAIRPERSON: I am sorry you said page 38 of?

ADV PAUL PRETORIUS SC: Of the supplementary bundle.

CHAIRPERSON: Oh.

ADV PAUL PRETORIUS SC: N2.

CHAIRPERSON: I have got 38.

ADV PAUL PRETORIUS SC: Paragraph 34.

CHAIRPERSON: Oh, yes.

ADV PAUL PRETORIUS SC: Of the statement of Mr Jonas.

CHAIRPERSON: There is a portion of his statement.

ADV PAUL PRETORIUS SC: A portion of his statement yes. He says there, Minister Gordhan, he says that on Sunday 25 October he spoke to you and asked if he could see you to seek advice and guidance. You went, he, that is Mr Jonas went to your house in Pretoria and when he arrived he was sitting – you were sitting with your wife.

He then goes on to say:

"Given that his wife was present I decided to provide him with a high level outline of what had happened. I told him that I had been invited to a meeting and that the individuals present at the meeting had told me that I would be made Minister of Finance and that they had offered me money and that I had refused their offer. I was still deeply shocked, angered and dispirited and told him that I thought I should submit my resignation the following day."

Your evidence is that he did not disclose specific detail about what had caused him to be so distraught on that Sunday on which he met you at your Pretoria home in the presence of your wife and I understand your evidence to be that that evidence was supplemented or that information was supplemented at a later stage.

So the only difference in the version that certainly is apparent to us is that Mr Jonas says he told you the detail albeit at a high level if that is consistent on this first occasion he met and related the story to you. Your version seems to be that he did not give you detail on the first occasion but supplemented that version later with more detail.

CHAIRPERSON: Well Mr Pretorius is that right or am I missing something to say Mr Jonas says he told Mr Gordhan details? He says he told him a high outline and I was

thinking that is not detail but I may be wrong.

ADV PAUL PRETORIUS SC: Well yes leaving aside what high outline might or might not mean the narrative continues just after halfway down paragraph 34 on page 38 to say that he told Minister Gordhan of the invitation of the individuals present, the offer to be made Minister of Finance and the offer of money.

CHAIRPERSON: Okay, okay. I thought the preface given that his wife was present was, meant that he was not going to give him details but from what you, from what comes after that maybe...[intervenes]

ADV PAUL PRETORIUS SC: Well that may be the explanation Chair.

CHAIRPERSON: Yes.

ADV PAUL PRETORIUS SC: It may indeed be the explanation and perhaps Mr Gordhan should be grateful to you for that.

CHAIRPERSON: Okay thank you.

MINISTER PRAVIN GORDHAN: I did not want him to cause domestic trouble now Chair. So just for the record Chair 117.1.2 and 3 and 4 consistent with 34 and 35. It is only the question of when the details and they appeared as I was giving my summary over time.

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: And I might have even got some of the let us call it extreme details...[intervenes]

CHAIRPERSON: Yes...[intervenes]

MINISTER PRAVIN GORDHAN: After the budget in preparation...[intervenes]

CHAIRPERSON: Yes...[intervenes]

MINISTER PRAVIN GORDHAN: For his statement on the 16th of March.

CHAIRPERSON: Yes. Thank you.

ADV PAUL PRETORIUS SC: And I might just say for the record the record of events as

you have set out in paragraph 117 is consistent with the transcript of your own evidence before the Public Protector. Then if we may proceed to your evidence in regard to your interaction with Gupta family members and if you would tell the Commission about that issue and the record of your communications or interactions with members of the Gupta family. You deal with it at paragraph 118.

MINISTER PRAVIN GORDHAN: No, thank you. If I may firstly Chair state a few things for the record then I will make reference to the paragraphs that Mr Pretorius makes reference to, because of the leakage of the statement a lot of the focus for people looking for sound bites has been trivialised into did he meet the Guptas or not? Not what did he do with them. Not who else have you met and entered into any corrupt or let us call it unsavoury deals and it is important for me to provide as much clarity and definiteness about this particular issue. So let me start by saying that I was asked to address this issue by the Commission it is not that I wanted to hide it.

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: As far as I am concerned this set of interactions I am going to talk about are fairly trivial in overall context as far as my, I do not even want to use the word relationship with the Guptas because there was no such relationship. So that is the first point. The second is what I said earlier on Chair that I want to make it absolutely clear that whatever the interactions might have been there was no so-called meeting where two people sit, they transact. There were interactions or we happen to be in the same place and I will come back to that point in a moment and so I am quite emphatic about the fact that I am not for sale or influence. If I was then I would be sitting in a very different capacity. The third point is that according to my office at the time in the Treasury there were repeated efforts to try to meet me or get me into a meeting all of which either the office turned down or if I was informed about it I turned down. So at no

stage would I have entertained a meeting directly with the Guptas.

The fourth point is that I have never been to Saxonwold and the so-called compound nor by the way as I indicated earlier did I look for the shebeen in its vicinity. I have never been to the wedding and did not take any cognisance of the so-called invitation. I think they did describe what the invitation looked like. So it was a fairly sizable box lying on the desk of my PA. I am told, I checked this morning and I am told it had some fruit of some kind. I might have said earlier it had condiments and a very fancy invitation and with due respect to the invitation it finally found its way to the wastebasket which is where it should belong.

The fifth point is that I have had no direct one on one meetings with the Guptas and I hope the media gets this clear. Now it appears that the narrative that we are buying into in the public domain is that if you are wearing a white or a blue shirt and there happens to be a little dot then it is no longer white or blue. So a bit of ink fell on it and then it contaminates the whole colour.

So yes as I say in the statement I have seen them at cricket matches on one or two occasions. I have seen them at – and a relative of mine said tell the Commission even ice cream vendors are at the cricket match as well. So that does not mean that they have had meetings with the Guptas and as I indicated earlier on there were these post SONA New Age/SABC breakfasts sponsored by one or other SOE and we were required to be there to support the President and that was the capacity in which I was present at that and that would mean that we were sitting in the same room. It was about this size at 50 different tables and they might be sitting with the President. I have had meetings with Mr Ambani as a business person and a billionaire from India who runs a communication company called Reliance Communications and there are documents in one of the packs here which I will come back which show a number of efforts by both his

company and Bharti Airtel to enter into some kind of transaction with MTN and the reason I agreed to meet with Mr Ambani is because he could be a potential investor in South Africa according to Mr Mogajane who was present. The fact that I do not even remember this person being there shows you the amount of significance I have attached to it. It is not about hiding it is about not giving any cognisance to that fact and so I agreed to meet Mr Ambani as a potential investor in South Africa.

So at 123 Chairperson I clarify what, let me say at 122.1 the second instance apart from these public occasions was when as I describe in 122.1 I had a meeting or I was requested to be at a meeting with the President and you have been to Mahlangu Ndlovu so you know that there are many different rooms. I was waiting in another room for a while for the President to finish whatever earlier engagement he had. I was then asked to go to the room where he was present and I find a short gentleman sitting there and I am introduced to him or he is introduced to me by the President as his friend and so and so Gupta and that he has some expertise in small business and finance. As a courtesy to the President I did not want to say I do not want to talk to him. I listened to whatever little comments he wanted to make about business and finance for about two minutes and I think it became quite evident to him that I am not interested and he left and my meeting with the President continued. So that is what I describe in 122.1.

ADV PAUL PRETORIUS SC: Is that the same meeting that is referred to in 122 on the previous page?

MINISTER PRAVIN GORDHAN: Just let me check that. Yes point 122.1 is an elaboration of that.

ADV PAUL PRETORIUS SC: Thank you. You were going to deal with the meeting with Mr Ambani.

MINISTER PRAVIN GORDHAN: Yes. So paragraph 123 Chair if I may read that on the

record.

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: I had forgotten of another instance where one of the Gupta brothers may have been present at a meeting I had with billionaire Indian businessman Anil Ambani of the Reliance group of companies in or about June 2010 and the documentation in the packs Chair will show you that the Ambani brothers were in South Africa to attend the World Cup matches, the Fifa World Cup matches. I stress that I do not recall the details set out below since it proved to be a meeting of little significance at the time, but have been assisted in this regard by my former chief of staff Mr Mogajane.

At 123.1 I say the following:

"I am told that the Presidency put Mr Rajesh Tony Gupta in touch with Mr Mogajane. Mr Gupta called Mr Mogajane repeatedly asking for a meeting with me, however, he never advised Mr Mogajane who would be at such a meeting and what the agenda for the meeting was to be. We were even asked to attend the meeting at the Gupta family compound in Saxonworld. I refused to schedule a meeting with the Gupta family whether at their residence or anywhere else."

So let me repeat that sentence. I refused to schedule a meeting with the Gupta family whether at their residence or anywhere else. 123.2:

"Eventually Mr Gupta told Mr Mogajane that one of the Ambani brothers from the Reliance group of companies in India wish to meet me and that it was concerning a possible MTN transaction. Bharti Airtel had called off merger talks with MTN both in 2008 and again in 2009 and Reliance Communications was reported to have been interested in pursuing the acquisition of MTN during 2009. We were

advised that Mr Ambani was in South Africa for the 2010 Soccer World Cup which I indicated earlier and that he would like to meet me regarding the possible MTN transaction."

At page 511 of N1B there are a number of copies of press reports that would support what I am saying. The next paragraph says:

I agreed to a meeting with Mr Ambani who had the potential to be a significant investor in South Africa. The meeting was held at a hotel in Pretoria which I had to attend on a Sunday morning. I attended the meeting together with Mr Mogajane who advises me that the meeting lasted less than an hour. Discussions in the meeting were between Mr Ambani and I. It commenced with general conversations about the World Cup, the Ambani family's visits to Kruger National Park and Indian and global politics. Just for a bit of gossip the two brothers in the family were in a huge disagreement at the time and the Kruger National Park provided the venue where they reconciled from what the report say."

I do not think they got any counselling from me in that regard. At 123.5.4: "Eventually Mr Ambani asked about the legal and regulatory processes that would be required to obtain approval for a transaction such as the purchase of MTN and we spoke in general terms of what processes would need to be followed and the role of the National Treasury. The meeting ended inconclusively and we parted ways and left."

Mr Mogajane has advised me that he recollects that Mr J Gupta was present at the meeting. I do not recall him being present, but ...[intervenes]

ADV PAUL PRETORIUS SC: Before we go on may I just ask Minister do you now recall

whether he was present or not with hindsight? Alternatively do you accept what Mr Mogajane says that he was in fact present? That is Mr A J Gupta.

MINISTER PRAVIN GORDHAN: The alternative. I accept Mr Mogajane's view. He is younger so his memory is better. Then, Chair, if at all any so called credentials that are required and departing from the statement in terms of my standing in relation to the Guptas.

Let me reiterate what I have said. No visits to their compound. The New Age breakfast cancellation prior to the 2016 budget is evidence of my attitude. The refusal by myself and the Treasury to have any part of Minister Zwane's attempts to get some kind of intervention going and the bank accounts being closed which we I think are still to come to, the court action that actually followed in relation to these accounts where I sought a declarator from the Pretoria High Court in North Gauteng and for example my refusal and the Treasury's refusal to have anything to do with Denel Asia on the basis that we were being pressured to do are all a few of the indicators about where I stood in relation to this particular issue.

Finally in relation to 123.7 I intend to write to the Speaker to clarify the issues in respect of the Parliamentary question from the Democratic Alliance as I indicate in 123.7. It is apparent in my written response that I do not make mention of the 2010 meeting with Mr Ambani of the Reliance Group which a Gupta brother may or may not have attended.

This is simply because at the time of submitting the written response I have no recollection of the meeting but to emphasise that meeting was with Mr Ambani not with a Gupta representative.

ADV PAUL PRETORIUS SC: So your reply appears at page 526 of Bundle N1B and you say you wish to refer the Commission to that reply. May I ask you to turn to page 526 of

the bundle?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: Perhaps you could read the question, Parliamentary question from the DA onto the record and your reply.

MINISTER PRAVIN GORDHAN: So yes I confirm that that was the reply and I have given the context that I was meeting Mr Ambani not Mr Gupta whichever of them was present and this is in a context, Chair, as you would understand as Minister of Finance which we pointed out to you on behalf of the country would be meeting hundreds of investors, oversees business people, rating agencies and so on and this was just one amongst many meetings at the time and the second point that the Commission would want to look into is that it is during this period that the Guptas and South African business people would complain about this that the Guptas would want to demonstrate to particularly Indian business people but others as well that they are the sole channel if you like to gain access to higher office in South Africa and I must try and recall some names if I can of people who have been on a state visit to India for example where the Guptas would be very clear that if you want to meet either the South African side or the Indian side theirs is the channel that needs to be utilised.

It is in this way that they were able to manage patronage if you like at both ends of the equation as well. So finally let me just reiterate that – reiterate that I am not for sale to anybody.

ADV PAUL PRETORIUS SC: Just to close the loop and to put the proposition to you in its most extreme form if you will forgive me Minister Gordhan. It has been put that in fact you did not forget at the time you made the reply and you misled Parliament. What is your answer to that?

MINISTER PRAVIN GORDHAN: Well I gave an answer already.

ADV PAUL PRETORIUS SC: Thank you.

MINISTER PRAVIN GORDHAN: That the [indistinct] or whoever it is that is putting the question is telling me that I am lying and I would not lie to Parliament. So if I wanted to lie by the way I could have left this meeting out of the submission to you, Chair and you would not be any wiser about it.

So the fact that it is here and it is declared and the fact that this was a meeting with Mr Ambani is evidence of both my efforts and my office's efforts to be frank in relation to this matter.

ADV PAUL PRETORIUS SC: Yes and the Chair has already invited those who wish to make any allegations or lead any evidence to come and do so within this forum rather than elsewhere.

MINISTER PRAVIN GORDHAN: I am not sure they are hearing that voice but that is another matter.

CHAIRPERSON: Well just going back to the issue of a meeting my understanding is firstly that you never had any meeting in the normal sense of the word meeting with any of the Gupta brothers.

MINISTER PRAVIN GORDHAN: Yes.

CHAIRPERSON: That is the first point. The second point you make and that is anywhere you know, then the second point is you did have I think what you may have termed in your parliamentary reply encounters at official functions am I right?

MINISTER PRAVIN GORDHAN: Yes that is right.

CHAIRPERSON: And then of course you mention in that meeting with that potential investor where there was somebody from the Gupta family but for the meeting you were having was with the potential investor.

MINISTER PRAVIN GORDHAN: That is right.

CHAIRPERSON: Yes. Then you mention, you mention the occasion when you – when the former President introduced to you was it Mr A J Gupta or was it another member of the Gupta family at the short meeting?

MINISTER PRAVIN GORDHAN: Yes sometimes I have difficulty distinguishing one from the other so...[intervenes]

CHAIRPERSON: Yes but one of them.

MINISTER PRAVIN GORDHAN: That is why I keep referring to them as the Gupta brothers unless you want to refer to them as the Three Musketeers.

CHAIRPERSON: So where at least one of them was introduced to you.

MINISTER PRAVIN GORDHAN: That is right.

CHAIRPERSON: Yes and you also make the point that you have never had any relationship with them. You made that point as well.

MINISTER PRAVIN GORDHAN: Yes.

CHAIRPERSON: Yes. Okay, thank you.

MINISTER PRAVIN GORDHAN: Thank you for the summary, Chair.

CHAIRPERSON: Thank you.

ADV PAUL PRETORIUS SC: In paragraph 123.7 just to explain a possible misunderstanding of that statement you say in line four you did not make mention in the DA reply of a meeting with Mr Ambani at which a Gupta brother may or may not have attended.

I understand that to – that statement to be in the context of what Mr Mogajane informed you, am I correct?

MINISTER PRAVIN GORDHAN: That is correct.

ADV PAUL PRETORIUS SC: A nod will not be recorded by the machine. Your answer

is yes?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: Would you then go please to the events of 2016 or at least return to the events of 2016 as you outline them in paragraph 124 of your statement please.

MINISTER PRAVIN GORDHAN: So in this – let me read this paragraph, Chair with your consent.

CHAIRPERSON: Are you getting to paragraph 124?

MINISTER PRAVIN GORDHAN: 124.

ADV PAUL PRETORIUS SC: Yes, Chair, 124.

CHAIRPERSON: Oh, before you do so now that you mentioned – you testified that the Gupta brothers you understood that they would conduct themselves, and I am putting this in my own words, conduct themselves in such a way that people would think that the only way to access certain people in certain high office would be through them. That is right?

MINISTER PRAVIN GORDHAN: That is right.

CHAIRPERSON: Yes may I just ask and this is a little for something else. There was a state visit to China I believe in 2010. I may be mistaken. Do you know – do you remember whether you may have been part of that?

MINISTER PRAVIN GORDHAN: Not that I recall, Chair.

CHAIRPERSON: And the one to – there was one to India, state visit.

MINISTER PRAVIN GORDHAN: I was not part of that either.

CHAIRPERSON: You were not part of that. Oh, okay. Well there was something I wanted to ask.

MINISTER PRAVIN GORDHAN: I did go to France.

CHAIRPERSON: Sorry?

MINISTER PRAVIN GORDHAN: I did go to a state visit to France and to the UK.

CHAIRPERSON: Yes. Okay thank you.

ADV PAUL PRETORIUS SC: That takes us back, Minister to paragraph 124 and you continue to relate the events that occurred during 2016.

MINISTER PRAVIN GORDHAN: Yes I was asking for consent to read 124 into the record. So returning to the events of 2016 it was a year marked by ongoing harassment and attempted distraction of me by law enforcement agencies, some media houses and a persistent social media campaign of fake news and personal attacks that appeared antagonistic towards me and the work being done by the Treasury.

I was a target of an orchestrated campaign that appeared – that it appeared aimed at forcing me to resign as Minister of Finance. The role of the Public Relations Agency Bell Pottinger was central to this orchestrated campaign and I am sure it is well known to the Commission.

ADV PAUL PRETORIUS SC: Two questions.

MINISTER PRAVIN GORDHAN: If I go on ...[intervenes]

ADV PAUL PRETORIUS SC: Before you go on just two questions which you may answer briefly please. The orchestrated campaign you have referred to part of it as you describe it in your evidence today. Is there anything else by way of detail that led you to believe that it was orchestrated?

MINISTER PRAVIN GORDHAN: If we could get footage from ANN7 for example during the course of 2016 and I come to one of the issues later in the statement on the Financial Intelligence Centre Amendment Bill for example.

That is one illustration. So there would be sometimes ANC officials so called analysts and they will consistently be the same analyst in some instances. At other

instances there would be a variety of them and that medium including the New Age Newspaper were the two key channels through which at one stage the attacks were being launched against the Treasury and myself.

Then the Gupta leaks revealed the role of Bell Pottinger and I am told – somebody needs to confirm that they were paid to the tune of £100 000 a month to play their role. Now one of the creations of Bell Pottinger together with I think it was with Mr Duduzane Zuma according to the emails but I might be wrong is this concept of white monopoly capital.

So then for a whole period of time that would say we are white monopoly capital orientated or bought off by white monopoly capital or even appointed by white monopoly capital but depending on the context and the situation the narrative would shift in one way or another.

So I was reminded of an elder family member in Durban and I will come back to this in some of my closing remarks as well with the interesting saying, there might be something in the Zulu language in isiZulu as well. It says the tongue has no bone. Now anatomically that is true. It is one of your most flexible instruments in your body. So you can say anything at any time because it does not really matter. You can go this direction or the other. In other words contradictions and so on do not matter.

So if you recall Chair white monopoly capital reached a peak at a particular point in time. Then the former Minister in the Labour Cabinet Peter Hain became aware of the Bell Pottinger role in South Africa and together with investigative journalists that role became more exposed to the public domain. The e-mails then helped the public to understand what was actually going on. The matter is then raised in the United Kingdom by Mr Hain. You might want to call him as your witness as well at some stage to give you some insights into this organisation and a few others and their role in state capture here

and then I think there is a public relations or regulatory board or institution in Britain that looks into the matter and as I understand it in formal terms Bell Pottinger does not exist, but if you look into the history of Bell Pottinger and the manner in which that institution has related to political events in different parts of the world it seems to have an interestingly notorious history, but to come back to South Africa what that initiates is a whole new campaign now through the digital media. I was watching a recorded BBC interview last night or rather a program with representatives of Twitter, Google and Facebook, but this was taking place in an Indian context and the interview was done in India before an audience and what each of these institutions are doing to manage fake news and what we today call bots and the manner in which that kind of digital media can be manipulated to influence for example the US elections and I think you are familiar with the manner in which data collected by Facebook was then analysed and manipulated by an institution called Cambridge Analytical and that then enabled the campaigners for the current President in the US to target specific messages from insights obtained from the usage of Facebook. Then you have a similar phenomenon called bots where they are automated. I am not too familiar with this myself, but I am learning. There are automated systems that are developed so you feed in one message and then a variation of that message is produced and now you can have a thousand bots going out at a time. So the most recent example I saw of the negative effects of this and what happens when it is exposed or when Twitter acts in the right kind of way is Helen Zille saying that overnight once she complained or something like that 7 000 so-called, yes they are called followers on Twitter disappeared. So those were obviously these bots that are operating.

So I think I did indicate yesterday that the commission might benefit from a digital communication expert and how that has influence narratives in South Africa. So the onslaught still continues even today. Whether it is against members of my family

having accounts all over the show or shares that I own or whatever all of which is disclosed in Parliament by the way, there is no secrets there, in order to manipulate public opinion as well. So in 125 or rather 124 that is the phenomenon that we are describing and investigative journalists have also produced some interesting insights into this regard as well and it does undermine our democracy. Fake news undermines democracies and can influence citizens to begin to do the wrong things and it can have fairly serious consequences as a result of the choices that citizens make on the basis of what they are actually fed. So that is 124 Mr Pretorius.

ADV PAUL PRETORIUS SC: You then deal Minister Gordhan with the effect that this campaign as you describe it had on yourself, your family and others.

MINISTER PRAVIN GORDHAN: So in 125 you are basically saying notwithstanding this kind of campaign to force us to resign and in this I include Deputy Minister Jonas as well we decided that we will resist, we will do our best to protect the institution i.e. the National Treasury and I must compliment the senior staff and leaders of the National Treasury. All of them Chairperson can walk out literally tomorrow and some of them have already and get three times or four times the salary that they are earning and have bonuses far in excess of anything that they will earn in government. Such is the order of the technical skills that they have and all credit goes to Ms Ramos and Mr Manuel for building up the environment in which such expertise can actually operate and such quality people can be recruited. Nobody stays in organisations for 15 to 20 years these days and the senior management was equally committed to saying we are going to stick it out unless and until some of us get fired and that has helped I think the country up to a point. As I say at the top of page 46 the sentiment seem to be that we should not make it easy for them to get rid of those of us who are seen as obstacles to the state capture project and the looting of public resources.

ADV PAUL PRETORIUS SC: Would you then please Minister Gordhan deal with your relationship with and your interactions with Mr Moyane whilst you were Minister of Finance and he was SARS Commissioner?

MINISTER PRAVIN GORDHAN: Yes so I would not like to call it a relationship. So Chairperson when you are appointed as a Minister and as we indicated I think somewhere in our discussions yesterday one would expect that heads of institutions that report to the Ministry would understand their role and their accountability and I think I mentioned it, all of this in the context of the appointment question arising from section 6.1 of the SARS Act and mature leadership requires, and humble leadership requires that when a new Minister comes into office you do the necessary. Of course in this instance the necessary is a bit difficult because preceding my appointment in December 2015 there were all of these leaks to the Sunday Times some of which included attacks on myself as well particularly on the so-called pensions issue which seems to have a life of its own over this two year period.

So that is the first point. The second point is that part of that accountability would be that let us take a very elementary thing. I am going on leave...[intervenes]

CHAIRPERSON: I am sorry.

MINISTER PRAVIN GORDHAN: Sorry.

CHAIRPERSON: I am sorry Mr Gordhan I am going to take you back. I am not sure whether you completed the point you were seeking to make about what happens when there is a new Minister you do the right thing and – I thought you did not complete it.

MINISTER PRAVIN GORDHAN: Let me be more specific. No thank you Chair. No, no all I was saying is that accountability to the Minister means accountability to the Minister i.e. you follow simple administrative processes that are necessary. So if you want to take leave you apply for leave on a leave form that is available in the public service. You

submit it, you get your approval, you take leave. If there are difficulties you negotiate about the date and then still take your leave. The second level you report on the day to day operational results. In this case revenue collection or enforcement actions and the consequences thereof all of which are at the annual reports of the revenue service, but thirdly if you are undertaking major changes in the organisation then tell the new Minister this is what is going on and find the first possible opportunity to brief the Minister in that particular regard. So...[intervenes]

CHAIRPERSON: Thank you.

MINISTER PRAVIN GORDHAN: You have the e-mail that I made reference to earlier on where Minister, Deputy Minister Jonas and I paid a visit to Mr Moyane. Of course he makes a big thing about me not shaking hands with him, but that is why I say I have no relationship because I thought he was rude to me when the first of the Sunday Times reports were coming out I actually phoned him, because Minister Nene was in the US for a meeting of the IMF. He did not return my call and that is, normal protocol is that even if another Minister is calling you, you have the courtesy of returning the call, but anyway. Those ten issues, part of the ten issues is substantial changes to the operating model of SARS which we now Judge Nugent has been pursuing. So I do not want to trample that ground now safe to say that if there is something new happening find the first opportunity to brief the new Minister, see if he or she is comfortable where you are going and if not persuade the Minister that this is the right thing and in the best interest of the institution and that is simple accountability amongst many others that would, all of us would regard as normal in terms of executive accountability. So that is covered in 127.1 and 127.2 looks at the similar question. I faced further ongoing personal and institutional attacks, antagonism and an evident lack of accountability from Mr Moyane. Indeed the Commissions is respectfully referred to the affidavit filed in the ongoing disciplinary

proceedings against Mr Moyane for further detail regarding the deterioration although I mistakenly used the word here, my relationship with him. Now those are ongoing matters between the President and Mr Moyane. So I do not want to enter that territory with due respect Chair and if Mr Pretorius agrees.

ADV PAUL PRETORIUS SC: Should the Chair be interested or concerned about the disciplinary proceedings those appear at page 527 to 596 of Bundle N1B. What happened however was that Mr Moyane declared an intergovernmental dispute, am I correct? Against you.

MINISTER PRAVIN GORDHAN: Yes one would argue that chapter three of the Constitution is not meant to sort out these simple accountability matters as I understand it and I had the privilege of being part of drafting it as well. This is about institutional disputes at different level and which requires that efforts be made to resolve them before one approaches or any institution approaches a court for a solution and it also sets out the importance of having the right kind of relationship and interactions between institutions...[intervenes]

ADV PAUL PRETORIUS SC: Yes.

MINISTER PRAVIN GORDHAN: Of the state. So 127.3 I think that is the point that you are raising. At 127.4 we make reference to the former, well I do not know whether it is former but legal advisor of the former President who attempted to make it appear that he was going to mediate these difficulties and I might have met him once I think in that context, but that was it and nothing further emerged.

ADV PAUL PRETORIUS SC: No doubt if Mr Moyane accepts any invitation to cross-examine or question you in relation to your evidence Mr Gordhan he can deal with it in more detail, but the declaration of the inter governmental dispute appears at page 599 of the bundle N1B where he asks interestingly for a retired Judge to appear as facilitator.

It turns out that the former President's lawyer whether at the time or not attempted to mediate the dispute. What role did the former President Zuma play in relation to the dispute between yourself and Mr Moyane?

MINISTER PRAVIN GORDHAN: None that I can recall.

ADV PAUL PRETORIUS SC: Do you know whether he would have instructed Michael Hulley to mediate the dispute?

MINISTER PRAVIN GORDHAN: Not at first. He might have, but obviously Mr Hulley would not appear on the screen without his consent.

ADV PAUL PRETORIUS SC: Then at paragraph 128 you deal with a communication between the then Minister of Social Development Bathabile Dlamini and the former President Zuma that took place around June 2016.

The letter is marked confidential but it since came into your possession as I understand it.

MINISTER PRAVIN GORDHAN: That is correct.

ADV PAUL PRETORIUS SC: And it appears at page 603 of Bundle N1B. It is a lengthy letter and runs from 603 to 614. Do you have it there?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: The letter might be instructive insofar as it might highlight certainly as far as the Department of Social Development is concerned some of the issues that concerned another department and National Treasury and it is being put up by your legal team as part of the bundle and if I may I would like to draw your attention to some of the disputes or issues or contentions raised by Minister Dlamini and give you an opportunity to respond thereto.

The first is the issue concerning the appointment of Cash Paymaster Services for the payment of social grants and the withdrawal of condonation allegedly without

substantive explanation and political and administrative implications that that might have had and this was a condonation granted by Treasury.

Without going into too much detail would you explain to the Chair your – what the issue was and your response to that issue or the response of Treasury to that issue? I may be unfair ...[intervenes]

MINISTER PRAVIN GORDHAN: The Cash Paymaster Systems Chairperson has been very much part of your work in another capacity and obviously it has presented government with many challenges. So I cannot remember the details of the condonation but what the letter generally illustrates in that issue as well is the kind of attacks that Treasury would be subjected to using these sorts of issues I believe unjustifiably to essentially say that again Treasury is an obstruction to what is going on.

We do not want to get into the details of SASSA and CPS and so on but the Treasury colleagues together with the Reserve Bank I think it was in December 2016 spent an extraordinary amount of time trying to find alternative solutions other than CPS which was an expensive option to pay social grants and make sure that people who are recipients of grants actually get their grants in a reliable kind of way.

Now later I think somewhere in the letter there is a complaint about bias towards the private sector but when and I was not in those meetings but from the reports that officials of the Treasury offered and as you would recall, Chair the Reserve Bank is the body that has the banking regulation function.

So they would be able to get banks for example to cooperate on a short term basis to distribute grants, to issue cards or whatever the case might be. Treasury would be looking at the procurement issues on the one hand but cost savings on the other hand as well and obviously from a social development SASSA point of view their concern would be whether on a monthly basis the right amount of money would be actually paid out and

notwithstanding I think it was late December 16 not 2016 as I say after weeks of hard work a solution having been either being close to being found or found.

It was all turned down and then we get into the morass that the Constitutional Court had to eventually intervene in as well. So it again illustrates that in a sense we were right to raise our concerns and the manner in which this issue was being dealt with.

There is still I think room for further investigations in terms of whether unfair benefits were obtained improperly in this context by CPS in particular but that is for another day. There is also reference if I may be proactive in relation to grant payments to payments of grants in the month in which local government elections took place and I think we were required to assist in bringing the payment date forward.

Now what all that means is that we have got to make sure as I described yesterday that the cash is available in order to pay those grants and as I can recall it we did everything possible to accommodate that because it is an understandable requirement that you do not want election date and payment date to clash in any kind of way.

So that is just around the issue of SASSA and the grant payments.

ADV PAUL PRETORIUS SC: Yes. There are in this letter a number of issues raised by Minister Dlamini in relation to SASSA, the South African Social Security Agency on the one hand and Treasury on the other hand.

Earlier in your evidence you gave testimony to the role and function of Treasury in the Department of Finance in relation to other departments and how very often there were clashes and the Minister of Finance Treasury would not always be very popular because of the different priorities that were served on the one hand by departments of state and on the other by Treasury. Is this an example of such a clash or is there something more to it than that?

MINISTER PRAVIN GORDHAN: No, the only qualification Chair I would make to what Mr Pretorius has said is to the word often because the kind of approach that certainly we tried to promote is one which said that where there are difficulties or differences let us sit around the table and find a common solution.

So invariably we would find the solution but there would be reasons and there Mr Pretorius is right where a level of intransigence will begin to enter the equation particularly the other agendas at play rather than the particular responsibility that we have at a point in time.

ADV PAUL PRETORIUS SC: By way of further example Minister at page 605 the Minister raises the issue that officials of National Treasury seem to have more power than Min Com Bud itself in deciding on which government priorities get funded and which do not.

First, what is Min Com Bud?

MINISTER PRAVIN GORDHAN: That is a structure I described earlier which is it is a sub committee of Cabinet created before my time called the Ministers Committee on the Budget. It has normally about six, seven or eight Ministers.

It also has Directors General of Treasury, Presidency, Planning, Monetary and Evaluation and I think Public Service and Administration and its responsibility is to assist the Finance Ministry and the Treasury to look at economic data, to prepare for the approach to budgets both the medium term and the February final budgets as well.

This is where at least once a quarter you would present economic updates and in particular ask them to help make the choices between large request and limited resources as well. On some occasions certainly before my time and one or more occasions after or during my time specific departments who make requests could even be asked to come over to a Min Com Bud meeting and motivate the kind of request or

projects that they want to actually engage in.

That is now at a ministerial level. That motivation as I described yesterday would still happen at an officials level in what is called the Min Tech process or Mtech process.

ADV PAUL PRETORIUS SC: In short the allegation here by the Minister appears to be that officials of National Treasury exercised an overriding power or sought to exercise an overriding power greater than that of Min Com Bud.

MINISTER PRAVIN GORDHAN: If you have six or seven Ministers in the room and two or three officials from the National Treasury I mean a huge discredit is being done to the other Ministers that they do not have the ability to hold officials to account and make their own judgments.

Now clearly technically speaking a person from the budget office will have fiscal expertise and you know one can either both learn and engage with that expertise and correct it politically in terms of what kind of direction it is going in.

There will be a macroeconomic expertise that we as Ministers do not have technical skills on but where we can apply our political judgment which is what we are supposed to do. In other words what is in the best interest of the country at a particular point in time taking account of both the technicalities but also the politics of the occasion.

ADV PAUL PRETORIUS SC: I am not sure whether it is fair to ask you to go into the detail of every dispute raised in this letter but there is one more aspect of this letter that I would like to put to you. On page 607 reference is made to a policy discussion and the alleged attempt by National Treasury to take over policy making responsibilities of what the Minister refers to as our departments and on that page in the third paragraph that is page 607 on page 608 in the third paragraph and again on page 611 in broad summary the accusation is that National Treasury adopted a position that was not in the interests

of the work certainly of her department but rather exhibited a bias to the financial sector.

That allegation appears on the third paragraph of page 607. The third paragraph of page 608 where the Minister says:

"It has however become clear that the National Treasury wanted to rewrite the entire paper, that is a policy paper, based on the views of their consultant who holds a narrow interest of protecting the financial sector at the expense of the rest of our society."

And similar allegations are made further on the papers. Without going into too much detail the overall accusation there is that the Treasury had particular interests in mind at the expense of the broader South African society. What is your response to that?

MINISTER PRAVIN GORDHAN: At a general level, Chair I think it is highly unfair to say Treasury is working against the interests of the country because all the evidence points to the contrary. So that is the first point.

The second is that what is referred to here is a policy document called the Comprehensive Social Security Paper/Policy. Now the background to this is that over the democratic era 1994 let us say up to 2010, 2011, 2012 South Africa has established a fairly good safety net and is probably ahead of most developing countries in the world *i.e.* we have a Child Support Grant, Disability Grant, Foster Care Grant and if you use a slightly wider concept of the social wage, the social wage involves expenditure on housing, on education, on health and on social security and related matters and I think I told you at some stage that in our case there would be years in which the non interest expenditure being taken into account some 50, 57 percent of our non interest expenditure goes to the social wage and that is correct given the kind of history and imbalances that we have actually had in our society.

So but there are still gaps in the social security system. So for example you

have a large unemployed population. Now is it possible from the fiscus to support them by providing some kind of income? What we have is the UIF, the Unemployment Insurance Fund to which working people contribute. So all of us contribute in some way or the other and when you are unemployed you can draw on that fund for a year or so as I understand it to assist you to bide your time until you can find a job, but if you are unemployed you do not have access to the UIF.

So in terms of principle I think it is correct that unemployed people should be supported. The question is similar to the nuclear issue what is your fiscal capacity to be able to do so? Do you have the money and if you start in year one you cannot stop in year two. You have got to be able to carry it forward. In the early years of Minister Manuel's time there was the huge debate in the country about the basic income grant that some of us might remember. Now in an interesting way the world has gone almost 360 degrees on that issue, because of the fourth industrial revolution and digitisation of production. The idea is that or the prognostication is that over time you are going to get more and more unemployed people or less employed people because machines are doing their work. It worsens some claim with artificial intelligence and so on.

Now the question of the state then supporting people, the citizens generally with some kind of income grant is now even amongst very conservative papers like the Economist on the scene as well, but the question that nobody is still answering is where does the money come from? So to come back to this in summary without boring everyone there were disagreements between amongst the officials on the principle and the practicality on this approach and there were a few other issues. I do not want to bore you with that, but I can recall around how social security grants are paid for example or how do you create a common front. So the one thought was you take all of the pension

funds in the country, combine them in some kind of way and combine them with the government pension fund and use that as a pool of sorts that people could benefit from and that we could leverage. Now the technicalities of that involve actuarial science, actuarial calculations and you know different experts might come with different views on some of these issues. So yes this has been a longstanding issue, but it is nothing to do with Treasury being X and Y and Z. I think if there are pragmatic people around the table the key thing is not keep disputing it but get on with it. Now we have a similar set of debates and engagements that would be taking place on the National Health Insurance for example. So if you have the Minister of Health here and the Minister of Finance here they will give you their respective perspectives on what do they mean, how would they fund the particular program and what does it mean in practical terms tomorrow morning or next year for that matter.

ADV PAUL PRETORIUS SC: Mr Gordhan may I just to round off on this chapter just put to you two different questions? On page 612 Minister Dlamini says the following about National Treasury and would ask you please to comment on what was said there.

"Mr President, she says, it is for this reason that I have elaborated in such depth on this policy matter as it appears that some in the National Treasury are opposed to the radical socioeconomic transformation which is the cornerstone of the second phase of our country's transition to meaningfully address poverty, unemployment and inequality."

Do you have a comment on that statement?

MINISTER PRAVIN GORDHAN: Yes. Well I think the current office bearer should come and answer not me. They say you should not rule from the grave, but at an academic level or notional level that is actual drivel because there is radical socioeconomic transformation as the slogan and there is what I think we explained earlier on in our

testimony as the substance and the substance about radical economic transformation is how do you change the structure of the economy so that we both make greater use of the resources we have now and the anticipated opportunities that we have, but at the same time make sure that the benefits of those changes accrue to all citizens not to a select few. So, and the Treasury if government policy is to work in that direction the Treasury's job is to give effect to it. Now Treasury is not the only department in government. So too much is being made of this. As I explained to you Chair in response to your question if I remember yesterday Department of Trade and Industry will have a particular responsibility. Mineral Resources will have other responsibilities. The Small Business Department will have yet other responsibilities, but they all should be working within a broad set of policy parameters that government itself provides.

ADV PAUL PRETORIUS SC: Yes that leads to the last point that may be made in relation to this. I has been brought to my attention that there are passages here that talk about the political implications of financial decisions for example at the bottom of page 604 the allegation is made that officials of the National Treasury have very little if any regard to important matters that have huge political implications for the ruling party and that sentiment is expressed elsewhere. Do you have a comment on that?

MINISTER PRAVIN GORDHAN: No the National Treasury is not a planet on its own orbit. It is part of the solar system. So it is part of the governmental system and again you have the opportunity of Mr Fuzile I believe tomorrow in your presence. So you could ask him how the National Treasury operates, but the Minister of Finance will certainly take into account political implications. That is his job and at the same time take into account the policy advice and the technicalities that accompany it as well. So I am sure if you have Minister Mboweni here he will be to more than adequately address that.

ADV PAUL PRETORIUS SC: There are further issues arising out of this, but in the

interest of time if I may move on Chair. Would you deal...[intervenes]

MINISTER PRAVIN GORDHAN: Although I must ask Mr Pretorius what does this, what is the relationship between some of the questions of state capture? Let us leave it at that.

ADV PAUL PRETORIUS SC: Yes it, well in the first place your legal team put this document up, but I am fully accountable for the questions arising, but it seems that the relationship of Treasury to other departments in state may or may not be related to state capture. In other words the suggestion may be made that the time, at times antagonistic relationship between Treasury and other departments has its roots in other matters rather than in issues relating to state capture.

MINISTER PRAVIN GORDHAN: And if I may Chair what I am saying in summary is that the Treasury works within the broad political parameters set by the governing party, firstly. Secondly, there are sometimes if you like incompatibilities between a political choice and its fiscal viability and the Treasury has a responsibility to bring that to people's attention and that thirdly the reason we put forward this document is to show how within government itself you could get the creation of a narrative that could falsely start accusing the Treasury and become part of the overall attack on the Treasury as well. Now your point is fair, I would say Chair, that you are inquiring into whether there are things that the Treasury did that might have brought this upon themselves. Now I was there for six and half years. Treasury has been around for 20 odd years as well. So I accept your point that we have to reflect. I am no longer there so they have to reflect on some of those issues, but I can assure you that Treasury does not work outside of the government orbit.

ADV PAUL PRETORIUS SC: Then in paragraph 129 and following Minister you deal with the issue of the amendment of the Financial Intelligence Centre Act in order for us

in the Commission, I hesitate to say in order for the Chair, but in order for the general public out there perhaps some background as to what that Act entails and the issues that underlie the need to amend that Act and what happened as a consequence. You are...[intervenes]

MINISTER PRAVIN GORDHAN: So some of these developments Chair occurred in the context of the post, what is called the post 911 period. So you have the 911 attacks in the United States and that begins to draw attention to terror financing and the United States has this power as the biggest economy on the globe and the Dollar being the reserve currency meaning that most international transactions occur through the US Dollar as many of you would know when you travel overseas. It also has legislation in the United States the Foreign Accountability Act or something like that which allows them to become extraterritorial. So if you are facing sanctions as a country for example let us use Iran as an example now from the United States and if South Africa or any other country does any trade in Dollars with that particular country then this particular Act can begin to kick in and impact negatively on our own country, but let me go back to 2001. The attacks take place in New York. There are various responses to this including the establishment of the Homeland Security Department, but one of the other responses was to start looking at terror financing.

So the financial action taskforce was created. It was a sort of voluntary association of about 20, 30 countries at the time and without boring you this late in the afternoon that institution then began to formalise the approach to terror financing and in particular money laundering. Now money laundering is also of interest to ourselves, the African continent and more generally if you remember President Mbeki's report for the African Union on illicit flows out of Africa and there are also illicit flows out of South Africa as well. So money that is not declared here in any way and finds its way out, but should

in fact make a contribution to the economy here. So the look at terror financing led also to a look at money laundering and then of course illicit financial flows and these institutions now called Financial Intelligence Centres then began to emerge and in Minister Manuel's time the first act I think was passed, the institution was established, Mr Mosheu was appointed as the first director of the Financial Intelligence Centre reporting into the Treasury. Subsequently of course there were many other interactions in this institution called FATF and more countries joined the network as well and they then began to develop a set of criteria which would certify a country. Are you, are your systems compatible with the requirements and have you established all of the legislation and checks and balances which they think they actually require and that is what is contained in the Financial Intelligence Centre Act. What section 129 does is to explain a subsequent development around what I call politically exposed persons.

ADV PAUL PRETORIUS SC: Paragraph 129.

MINISTER PRAVIN GORDHAN: 129.2 mentions that and if I may read that most controversially the amendments introduce additional security, scrutiny of personal finances and transactions of so-called politically exposed persons which in the Act are termed prominent influential persons and their families and associates as well as a requirement to record the beneficial owners that is the natural persons of bank accounts. So there is two concepts here. The PEPs or PIPs and the beneficial owners. Now very rich people and people engaging in malfeasance set up trusts as you know Chair and you could have layers of trusts. So if you keep digging five, six, seven layers down you might still knock into a trust, but what this provision requires is whose, who are the individuals that are managing ultimately this set of trusts? So who are the beneficial owners of the business or a trust or whatever the case might be. As far as the PEPs or the PIPs are concerned attention was drawn to the fact and this relates to the illicit

financial flows as well because we have had for example instances in Nigeria where former President, I cannot remember the number now, but took away billions of Dollars which has just recently been recovered to some extent as well. So these PIPs or PAPs are prominent individuals particularly in government.

I was saying to some colleagues the other day it should also include people in the private sector but we will come back to that and that they should actually receive let us call it extra scrutiny. Now what the Financial intelligence Centre does is that it gets reports from the financial institutions.

So if account A belonging to individual B has a particular pattern suddenly emerging where over five years all you will see is a maximum 100 000 in that account but suddenly there is deposits of 5 million, 10 million etcetera and they are disposed of fairly quickly then those would be considered to be in terms of their FIC Act suspicious transactions and that suspicious transaction must be reported to the FIC and the FIC developed analytical capabilities to assess whether there are patterns and it has a responsibility to also then report to and this might become part of an interesting part of your brief as well, Chair, to report to law enforcement agencies.

So particularly SARS, the Hawks and I think the Prosecuting Authority as well whose job is if there is sufficient *prima facie* evidence that there is something appearing out of the ordinary that they should actually then investigate or prosecute in that regard.

I am no expert here but that is my simple understanding of the requirements. So partly it is global compliance with FATF and FATF requirements and partly it is with our own requirements to understand financial flows in this country.

In the Oakbay case the Financial Intelligence Centre appended the 72 suspicious transactions you might recall. We are going to get to it at some stage and that I think sent shivers down the spine because nobody quite understood it is possible

for financial institutions to actually scrutinize patterns in accounts in the way that we did.

There were some and what we describe in 129.3 and 129.4 is the resistance firstly within the security cluster but also outside of government and we name a few individuals in that regard to actually allowing these amendments to go through because apprehension might have been that people who should not be detected might be detected in terms of these sorts of practices.

In 129.4 we say the former President also delayed signing the amendments into law until litigation was commenced to force him to do so.

ADV PAUL PRETORIUS SC: Before you go on Minister there are just one or two questions.

MINISTER PRAVIN GORDHAN: Right.

ADV PAUL PRETORIUS SC: If I may. Would it be fair to say that the purpose of the amendment to the Financial Intelligence Centre Act was to make the financial controls more comprehensive and more effective ...[intervenes]

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: To enable the law enforcement agencies ultimately to do their work in relation to money laundering, money flows and the like.

MINISTER PRAVIN GORDHAN: I concur with that.

ADV PAUL PRETORIUS SC: That is one of the purposes at least apart from international compliance. Is it also correct that the Amendment Act and if I may lead here, Chair for the sake of time, the Amendment Act sought to grant certain powers that would ordinarily be exercised by law enforcement agencies to the Financial Intelligence Centre search and seizure for example.

MINISTER PRAVIN GORDHAN: I think it was part of the original formulation and there were some qualifications that were then introduced as I can recall.

ADV PAUL PRETORIUS SC: Yes and you refer to issues that arose between the security cluster and National Treasury officials or National Treasury oversight provisions or in relation to National Treasury oversight provisions. I am referring to paragraph 129.3.

Is it correct to say that there was an attempt to move the FIC lock stock and barrel to the security cluster or does that statement relate to powers of the security cluster and their potential exercise by the FIC?

MINISTER PRAVIN GORDHAN: I think powers in the first instance and if that succeeded it might have moved on to other things as well.

ADV PAUL PRETORIUS SC: And then if you could deal with the issues you raise in paragraph 129.5.

MINISTER PRAVIN GORDHAN: Yes ...[intervenes]

ADV PAUL PRETORIUS SC: So in summary that, sorry I do not know if you have dealt with paragraph 129.4 that although delayed the amendments finally became part of the amended Act.

MINISTER PRAVIN GORDHAN: Yes some of this was during Minister Nene's time and some of that during – I think I just want to recall there are different periods in which each of these matters were dealt with but some of it in my time as well.

So that is 129.4 and 129.5 is media and again this refers to the earlier point I made about media campaigns. The media outlets owned by the Gupta family ANN7 in particular launched several determined attacks on the amendments.

Commentators such as Mr Manyi, Kadima and Ms Baloyi of the Business Council appeared before parliament or some of them appeared before parliament. Again Treasury officials can give you the details of that because they managed that exercise to oppose the provisions of the amendment.

ADV PAUL PRETORIUS SC: You do say in paragraph 129.7 Minister that the

Amendment Bill was eventually passed into law during May 2017.

MINISTER PRAVIN GORDHAN: That is right.

ADV PAUL PRETORIUS SC: Under your successor that would be Minister Gigaba.

MINISTER PRAVIN GORDHAN: That is right.

ADV PAUL PRETORIUS SC: Then in paragraph 130 you refer again to the orchestrated campaign as you refer to it against you and other leaders of National Treasury within the Cabinet, institutions of state and on certain media and social media platforms. The detail in that regard is that the detail that you have already given and the evidence to follow in your statement?

MINISTER PRAVIN GORDHAN: That is right.

ADV PAUL PRETORIUS SC: Is there anything other than that that we need to have regard to?

MINISTER PRAVIN GORDHAN: No.

ADV PAUL PRETORIUS SC: And you have already said that these issues that you have raised in what you have described as the orchestrated campaign are more than simple disagreement in the ordinary course of politics?

MINISTER PRAVIN GORDHAN: Yes politics with respect, Chair, would involve ideological discussions or political or philosophical differences and that would take a different form from the kind of narratives and actions that we actually saw during this particular period.

ADV PAUL PRETORIUS SC: Would you then deal and perhaps we could conclude this before the break with the charges levelled against you during October 2016. You deal with that at paragraph 131 of your statement.

MINISTER PRAVIN GORDHAN: So that is to repeat the point I made earlier on that on 11 October 2016 the former National Director of Public Prosecutions Mr Abrahams

announced that charges were to be brought against me as well as former SARS Commissioner Magashula and Deputy Commissioner Pillay.

The charges alleged fraud relating to Mr Pillay's early retirement which had been approved by myself and Mr Magashula in 2010 and I think we have a video clip that would assist you as well. It is quite unusual for the National Prosecutor to appear on TV and a press conference to announce charges.

At 132 subsequent media reports revealed that Mr Abrahams had met Mr Zuma, Mr Mahlobo, Mr Masutha and Ms Dlamini at Luthuli House the day before his announcement of the charges that is on 10 October 2016.

Mr Abrahams explained the meeting as being held to discuss student protests with the ANC leaders but it is speculated that it is unusual that the Ministers of High Education, Finance and Police were not present if the subject matter of the discussion was in fact the Higher Education issues. 133 ...[intervenes]

ADV PAUL PRETORIUS SC: Documentation in relation to the issues you have just raised, the levelling of the charges and the meeting that took place on the day before the announcement of the charges appear in the bundles at page 658 to 690 and page 692 just for the record. Then the market reaction to the announcement...[intervenes]

MINISTER PRAVIN GORDHAN: It is recorded in paragraph 133. Markets reacted to the announcement of Mr Abrahams as follows. The Rand weakened by 3.9 percent against the US Dollar. Government bonds rose to the highest levels since 2 September 2016.

The cost of insuring against non payment of debt which are called credit default swaps rose to the highest rose to the highest level since July 2016 and bank stocks fell wiping off almost R34 billion in value on both the London Stock Exchange and the South African or the JSE or the [indistinct] JSE Africa Banks Index.

ADV PAUL PRETORIUS SC: Minister at the time these charges were announced and

presented to the public what were you busy doing?

MINISTER PRAVIN GORDHAN: Preparing for the Medium Term Budget Policy Statement so yet another interesting coincidence.

ADV PAUL PRETORIUS SC: And then what happened on 31 October 2016?

MINISTER PRAVIN GORDHAN: We heard an announcement that as is recorded in 135 that Mr Abrahams had withdrawn the charges stating that he was satisfied that the three accused did not have the intention to act unlawfully. I believe you call that *mens rea*.

This was a few days before my first scheduled court appearance. I think it was 2 November 2016 and various civil society and other organisations have mobilised a protest against the charges and in support of the accused.

ADV PAUL PRETORIUS SC: You say in paragraph 136 Minister that there were allegations in the public domain that political motives were at play in the decision to question and charge you and your fellow accused and then you follow that with the following.

You say in what appeared to be another attempt to force me to resign to create uncertainty and instability and ultimately to enable the capture of the Treasury. Those latter words do those constitute your view?

MINISTER PRAVIN GORDHAN: Yes.

ADV PAUL PRETORIUS SC: As opposed to merely allegations in the public domain?

MINISTER PRAVIN GORDHAN: So I repeat the point, Chair that I made earlier on which is that the lessons of the dismissal of Mr Nene *i.e.* the turbulence, the depreciation of the Rand, the impact on the bonds and so on and the losses on the stock exchange were not forgotten during the course of 2016.

Of course they seem to have forgotten in early 2017 but that is a different matter and that the only way to "get rid of some of us" was now to continue with this campaign of

harassment, charges and accompanied by a well orchestrated media/digital campaign as well and that was against a very well held resolution or resoluteness amongst ourselves that we were not going to resign and that we would do the job that we need to do as is evident from the delivery of both the MTBPS speech in October and the budget speech early in February 2017.

ADV PAUL PRETORIUS SC: Chair, it is now 16:00. You did raise with the legal team the possibility of continuing until 17:00. At the request of the witness however may we adjourn until tomorrow and I have been given an estimate of one and a half hours to allow us in addition to deal with the Treasury witnesses who are going to be called tomorrow.

CHAIRPERSON: Okay. No, no that is fine. I also had – I had in mind as I mentioned to you that maybe if need be we could go up to 17:00 but that was subject to the convenience of everybody particularly the witness who has been on the witness stand since yesterday.

So we will stop here but before we stop for the day. Minister, how much time was left before you were to deliver the Medium Term Budget Policy Statement in 2016, October 2016 when the charges were announced?

MINISTER PRAVIN GORDHAN: So charges were announced...[intervenes]

CHAIRPERSON: More or less.

MINISTER PRAVIN GORDHAN: Charges were announced on the 11th. The MTBPS is normally in the third week on a Wednesday of October so it will be the 20 something.

CHAIRPERSON: So about a week or a week and a half or at most two weeks?

MINISTER PRAVIN GORDHAN: Maximum two weeks.

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: But slightly less than two weeks.

CHAIRPERSON: Yes and do you remember how much time there was left before you

were to deliver the budget when the 27 questions were asked, were delivered to you?

MINISTER PRAVIN GORDHAN: Oh, four days or five days.

CHAIRPERSON: Yes.

MINISTER PRAVIN GORDHAN: In fact in terms of working days probably three.

CHAIRPERSON: Yes. Yes. Thank you. We will adjourn for the day. Mr Pretorius in terms of tomorrow with Mr Fuzile and any other witness that may come after him how long do you expect us to take? Should we start earlier than normal to finish Mr Gordhan's evidence or should we start at normal time?

ADV PAUL PRETORIUS SC: I understand from Advocate Maleka who is leading the three witnesses or at least one or two of the three witnesses that it will not disrupt proceedings if we take one and a half hours of the day because there are two days reserved for the three Treasury witnesses.

CHAIRPERSON: Okay. Okay.

ADV PAUL PRETORIUS SC: Thank you, Chair.

CHAIRPERSON: All right we will adjourn for the day and then we will resume at 10:00 tomorrow morning.

ADV PAUL PRETORIUS SC: Thank you, Chair.

MINISTER PRAVIN GORDHAN: Thank you, Chair.

CHAIRPERSON: Thank you.

HEARING ADJOURNS