

PROCEEDINGS RESUME ON 2 APRIL 2002:

CHAIRPERSON: Good morning, ladies and gentlemen. We start this session on Tuesday, 2 April. The witness today commencing proceedings is Mr Kevin Wakeford.

KEVIN PETER EDWIN WAKEFORD d.s.s.

- 5 EXAMINATION BY MR BROOKS: I note that there is an echo when Mr Wakeford gives evidence, I wonder whether we could have that attended to because it is very disturbing. Thank you.

I have placed before you a bundle of documents which I have called the Wakeford statements. In that you will find first of all the confidential report which was made to the
10 President, that runs up to page 5 and page 6 and further that is Mr Wakeford's statement and we will be dealing with the report and the statement. Mr Wakeford, could I please in that bundle which I have placed before you refer you first of all to page 1. Would you confirm that that is the statement which you made to the President? --- Yes, this is a reflection of a discussion I had with my source which I handed over to the President.

15 This is a document which you prepared and you then handed that document, of which this is a photocopy, to the President? --- That is correct.

And if you then turn to page 6 up to and including page 14, that is a statement which you have prepared at the request of the commission for today's purposes? --- That is quite correct.

20 Mr Wakeford, could we just ask you for a little background about yourself. First of all, what position to you hold? --- I am currently the chief executive officer of the South African Chamber of Business.

And could you please tell the commission, the South African Chamber of Business, I think we refer to that as SACOB, is that correct? --- That is quite correct.

25 What is its business very briefly? --- Well the Chamber movement goes back to close to 400 years, it started in France, there are over 10 000 chambers worldwide today, most of whom are affiliated to the International Chamber of Commerce. South Africa has four different chamber movements, one of which is South African Chamber of Business. Its core focus essentially stand on two legs, one to represent and advocate economic interests of the broad membership through the Chambers of Commerce at local level together with the
30 sector representation and of course the corporate membership for direct members of SACOB at a national level. Ultimately to sum up the representative side, it is certain protect economic interests of the general membership of the chamber movement. The second leg is obviously to facilitate trade and investment through local chambers and through the national
35 chamber.

And when did you become the CEO of SACOB? --- On 1 June 1999.

And you still hold that position today? --- I still hold that position today.

And could I ask you, the report which you filed which we find on page 1, did you do that in your capacity as CEO of SACOB or is that filed in your personal capacity? --- No, this
40 report is filed in my personal capacity as a concerned citizen of this country.

And could I then before we go further ask you just to confirm the content of your report and your statement as we find it in the Wakeford bundle, do you confirm that? --- I confirm that.

45 Thank you. Mr Wakeford, if you can then deal with first of all your report. I am going to ask you to read the report into the record. If you wish to add something to that report, please feel free to do so. I will from time to time stop you and ask you just to elaborate or to explain something contained in your report. Are you with me, so please continue and read your report? --- Are you referring to page 6 .. (intervenes)

50 Page 1. Page is the report and page 6 is your statement. So if I refer to the statement that will be page 6 and further. The report at page 1 up to page 5. --- Mr Chairman, as reflected in my second report or my statement as of page 6, I do qualify the nature and conditions surrounding the scripting of this report. It was done in great haste and in a great rush and certainly if I had time over again I would have been far more circumspect in reflecting what my source had indicated to me. However, the horse has bolted, it is on the
55 record and I will now read it. The report reflected on 8 January 2002:

"Report on dubious financial matters that impacted the Rand. Introduction:

The weakness of the Rand is no surprise but the extent and pace of the currency depreciation has been more severe than the wildest expectations of analysts. The Rand's recent woes have been ascribed to a number implausible reasons by commentators. The
60 popular causes given by commentators are as follows: the Argentinean debt crisis, the

Zimbabwean situation and slow pace of privatisation in South Africa and the AIDS epidemic - excuse my spelling - in South Africa. These issues were priced into the markets on a gradual basis over a considerable period of time and I am muddying the waters when analysing the demise of the Rand. The core, the problem lies in the usage of dubious financial methods that
5 have undermined the value of our currency. This is not to say that there is not scope or economic policy considerations that would contribute to strengthening and stabilising our currency. There are obviously numerous structured financial instruments that are potentially undermining the value of our currency."

10 Could I just stop you there, you say there are obviously numerous structured financial instruments. When making this report and you use the word "obviously", is that just a very loose word you were using or did you at that stage already have proof of these structured financial instruments, you seem to use the word "obviously"? --- My source indicated to me that there, and as reflected in my statement, I allude to two different structured products. So there were obviously other products but for the purposes of the
15 report I gave one example, where I had information from my source which named companies involved.

And whilst you are referring to the source, are you prepared to disclose the source to the commission? --- I am not prepared to disclose my source.

Please continue. ---

20 "These instruments served the narrow interests of institutions, companies and their clients at the expense of our national economic interest. This report will highlight one of these instruments and the parties to one of the deals that utilised such a method, the Deutsche Bank/SASOL deal. The original deal was for SASOL to purchase a German chemical company Condea(?). This was an off-shore deal for which SASOL obtained Reserve Bank
25 permission a considerable time ago. This deal was fully compliant with exchange control regulations as it was 100% funded off shore. Sources began raising concerns two to three months ago and SASOL announced that it had managed to shift in a structured financial product deal which domestically funds 40% of the original value of the Condea acquisition. This move seemingly did not comply with the original Reserve Bank authorisation."

30 Could I stop you there, is that what you said in that last sentence, "this move seemingly is not compliant"? Did you have any proof of that or is this once again your source talking? --- It is my source taking.

And did you have any opportunity to check on that statement before you made it? --- No, I had no opportunity to check it.

35 So you relied solely on what your source told you? --- I relied on that and my source had also indicated as reflected further in the documentation that in fact this matter had been reported to the Reserve Bank.

Did your source tell you who at the Reserve Bank it was reported to? --- No.

Did your source tell you when it was reported? --- During the course of last year.

40 Thank you, please continue. --- When examining this, that should read rather than we, they came across a dubious and peculiar share transaction.

So you say where the word "we" is, that should be changed to "they"? --- That is correct.

Could you stop there, were you a party to this examination? --- No, I was not.

45 So for the purpose of this sentence you rely solely on what your source said? --- That is correct.

No first-hand knowledge yourself? --- No, first-hand knowledge.

Thank you. --- "The transaction unfolded in the following manner.. " (intervenes)

50 -- That is correct. Sorry, I think you forgot the sentence, "Deutsche Bank structured this transaction"? -

Carry on. ---

"The transaction unfolded in the following manner. SASOL bought back a portion of their shares from the market."

So could you stop there, is that what the source told you again? --- That is correct.

55 Did you check up on that information? --- No, I did not.

Please continue? ---

"SASOL then obtained Reserve Bank approval to issue new shares and sell them off shore to Deutsche Bank UK."

Could you stop there. That information, source information?

60 --- Source information.

Did you check up whether SASOL issued new shares? --- No, I did not.

CHAIRPERSON: Mr Brooks, can we not keep this short. Mr Wakeford, this is all based on what somebody told you? --- That is correct.

You do not need to do it sentence by sentence. None of this is from your personal knowledge, am I right? --- That is correct.

MR BROOKS: Carry on. ---

"This deal was plus-minus R6 billion (it has been difficult to verify the actual figure). This foreign capital obtained from the issue of the new shares issued assisted SASOL in funding the Condea acquisition potentially under false pretences. The Deutsche Bank over-exposed to the Rand by Rand denominated shares, SASOL shares. This induced the sale of Rand by Deutsche Bank into our domestic market. These actions obviously contributed to the Rand's depreciation. There is therefore a strong likelihood that Sasol and Deutsche Bank were colluding to cause a drop in the value of the Rand in order to strengthen their economic position in relation to falling oil prices, i.e. a weaker Rand boosts resource stocks and commodity prices of companies in the local market."

Could I just stop you there, you referred to the word "colluding". What do you mean when you say "colluding"? --- When two parties work together for a specific outcome.

Carry on. ---

"Deutsche Bank could also speculate against the falling Rand during this process and hence enrich themselves. This could have induced market manipulation and inside inflation. On 4 December 2001 Deutsche Bank issued a market commentary via their bulletin titled "Capitalization of our Rand view finally". Interestingly during the same period the Sunday Times carried a headline article concerning the big bang approach to exchange controls and the consequent fall of the Rand. It is possible that these two articles were mutually reinforcing. This was taken very seriously by the markets because Deutsche Bank's credibilities were enforced by its core management members which were very strong links and relationships to the Department of Finance and Reserve Bank. Market jitters at that stage set in and the rapid downward spiral of the Rand began reaching an all time low, in fact it should be R13,87 to the US Dollar during December 2001. Simultaneously this was further compounded as mentioned earlier by Deutsche Bank's dumping of Rand in the local market due to the over exposure to the Rand, to Rand denominated SASOL shares."

Could you tell us, when did that dumping occur? --- I was told that it took place during the course of last year.

You are not sure of exactly when? --- No.

I am talking February, July, December? --- No.

Thank you. ---

"In addition, the South African currency market was technically vulnerable with fairly thin trade due to Reserve Bank public warning in October that more vigilance would be applied when inspecting transactions. Strangely this statement effectively locked out speculators who would have bought an under valued Rand and thereby could have strengthened our rapidly ailing currency. Deutsche Bank was potentially left with a monopoly situation to manipulate the currency due to the absence of significant challenges from the usual speculation. Further to this Deutsche Bank UK could now start selling their strengthening SASOL shares hedged in the domestic market which they have purchased and paid for off shore. This will cause further capital outflows if these shares are sold in the domestic market. In market jargon this is known as a double whammy(?) referring to outflows of capital. It is of great concern that Deutsche Bank's core management have historically privileged positions and relationships with the Department and Finance and Reserve Bank and had therefore created the impression in the market that they specifically could offer these financial products to other companies."

Could you just stop, what do you mean by it is of great concern that Deutsche Bank's core management have historically privileged positions and relationships with the Department of Finance? What do you mean by that? --- I was told that they have great standing, they are revered in those circles. That they do also have given their political history strong connections and the market is fully aware of those and hence the ability to execute certain transactions.

Carry on? ---

"It is rumoured that NAMPAK, Amstel and Billiton are in the process of following similar strategies. We note with interest that Deutsche Bank currently own 7% of Billiton. Conclusion:

It is obvious that there could be many more permutations of such dubious financial methods and a repeat of the method highlighted above should we ignore the weaknesses in our foreign

exchange regime. Actions of this nature are bound to continue to the peril of our country. Failure to substantively intervene will perpetuate the dramatic downward spiral of our currency's value."

Is there anything which you wish to add to this report, Mr Wakeford? --- I would
5 prefer to go onto my next statement.

Now could I just ask you this, in preparing the statement, we now know that you rely exclusively on information passed on to you for purposes of the report. --- Yes.

Now when we get to the statement, is that merely, I do not want to use the words "re-hash" but a report which is more thought over and presented in a statement form or did
10 you do further homework to enable you to prepare this statement? --- The statement, Mr Chairman, does not change substantively what was communicated to the President.

I see. So did you do further investigation to back up the statement or is this a re-hash then of the report? --- I would say it is more carefully thought through and of course particularly if one, I will get to that portion where I did check out one or two issues with my
15 source and re-configured those sentences.

Very well. Please read your statement? --- A submission by myself to the Rand Enquiry.

"Background:

1.1 The events of 2001, particularly the latter part of 2001, relating to the rapid and dramatic
20 depreciation of the Rand had significant adverse effects on confidence in South African markets as evidenced in the decline of most confidence indices. Financial and economic commentators at the time said that they were unable to explain the causes of the rapid depreciation of the Rand but pointed to the following factors which could have had an adverse impact. Firstly, the Zimbabwean and Argentinean crises."

25 Now Chair, I think we are all aware that the land invasions in Zimbabwe started in April 2000 and they were certainly on the radar screen of most analysts.

"Secondly, the slow pace of privatisation which obviously in many markets based on foreign experiences, those countries that have privatised have experienced significant capital inflows.

South African labour market rigidity [and that is often given as a cause], the high marginal tax
30 rates for individuals and companies relative to other developing economies and even emerging markets. One example of that would be Ireland which currently has a corporate tax rate of 12,5% and the high levels of domestic crime and the lack of a coherent national strategy to deal with HIV Aids. Now although all those reasons are plausible reasons and have no doubt been factored and priced in to most market instruments, if not all, I do not think
35 anyone could say that those for the millions of reasons as indicated by I think it was Rudolph ... (indistinct), an economist in this country, I do not think any of them could have caused such a dramatic decline in our currency. Most of these factors have existed for some time and certainly existed during 2001. The rapid depreciation of the Rand against other currencies during the latter part of 2001 seemed extraordinary and inexplicable on rational grounds.
40 Dennis Dykes of Nedcor commented during 2001, on radio .. "

You have got the word December? ---

"During December 2001 that something sinister appear to be happening in the market place.

He was looking for an explanation. South Africans watched helplessly as the price tag of our economy plummeted. The Rand lost 37% of its value during 2001 of which 25% was lost
45 during the last quarter of 2001 alone. This resulted in the destruction of more than US 28 billion in wealth in our economy. After receiving numerous enquiries from SACOB members regarding the rapid depreciation of the Rand, I detected a degree of panic in the market place.

I was at a loss for an explanation for the Rand decline and contacted Mervyn King, the immediate past president of SACOC and Christo Kopke, the current president of SACOC to
50 canvass their views on the situation during December 2001. Both of them appeared to share my concerns about the situation but were unable to provide any new insights into the causes underlying the Rand's rapid depreciation in the last quarter of 2001. I asked SACOB's economist, Richard Downing, to investigate but he was unable to shed any new light on the matter. It was at about this time that I formed the view that a formal enquiry was desirable to
55 investigate the causes underlying the Rand's decline. This was after all a matter of national importance that it adversely affected many SACOB members and citizens I might say. I accordingly called publicly for the establishment of a Commission of Enquiry on - it reads the 31st but that was the date it was recorded in the Business Day, it was actually 30 December 2001 - in my capacity as chief executor officer of SACOB and as a concerned South African
60 citizen. I had a general mandate to do so in terms of SACOB's mission, that is to serve and

protect economic interests of our members.

On 2 January 2002 I was orally informed by a credible source who I regard as highly revered that certain transactions and the use of certain mechanisms could have contributed to the rapid depreciation of the Rand. My source gave me certain examples in this regard and stated
5 that these transactions and mechanisms had been reported to the Reserve Bank but that the Reserve Bank had for whatever reason taken no action. My source also indicated that rumours of such transactions was circulating in the market place at that time. Given the nature of the information furnished to me and the credibility of my source, I was of the view that the matter required further and urgent investigation. Indeed, receipt of this information fortified my
10 initial view that a formal enquiry should be established to investigate the reasons for the rapid depreciation of the Rand."

Mr Wakeford, could you stop there, the information supplied to you by the source, was that all verbal or were there documents that were also provided? --- It was verbal.

All verbal? --- Yes.

15 Thank you. --- I would just like to place on record at this stage that even without the input of this information I certainly would have called for a Commission of Enquiry for the rapid demise of the Rand. It was an issue of national importance. I was faced with a number of questions, namely do I act on the information received. What will the consequences be should I fail to do so. Would a formal investigation settle the panic in the market and restore
20 confidence. Ultimately I had to make a judgment call. I believed that the matter required urgent investigation and that a Commission of Enquiry was the most appropriate way of achieving this. Accordingly, on Friday, 4 January 2002, I again publicly called for the establishment of a Commission of Enquiry. I then forwarded an official request for the establishment of a Commission of Enquiry to the Presidency on Monday, 7 January 2002.
25 On Tuesday, 8 January 2002, I met a senior official of the Presidency who requested me to include the information that I had received in a written report for the President as a matter of urgency. I accordingly typed a report for the President within the hour and handed it to the official concerned on a confidential basis.

That is the report? --- That is correct.

30 Thank you. --- I attached no conditions to the report requested other than that it be treated as confidential. The President's spokesman indicated to the press on the same day that the Presidency had received information from a number of other sources relating to the Rand's rapid depreciation. The information that I made available to the President could therefore only have been a contributing factor to the President's final decision to establish a
35 Commission of Enquiry.

Can you stop there, the President's spokesman, who is that person? --- Bheki Khumalo. Chair, then I go on to discuss the Rand itself and I first speak about the currency being a vital instrument of trade and investment.

"The only realistic means of facilitating trade in the modern world is via a country's currency
40 which is used to purchase foreign currency such as the Dollar or the Euro in order to import commodities that are not produced domestically and for many many others purposes as well. A country's currency is therefore the ultimate pricing mechanism both for trade and investment and is an external reflection of the value of the country's economy. The net asset value of an economy is also valued in both local and foreign currency terms.

45 The rapid depreciation of the Rand:

To many economic and financial commentators the factors outlined in 1.1.1 through to 1.1.6 do not satisfactorily explain the magnitude of the depreciation of the Rand during 2001 by 37%. Indeed, I share this view particularly in the light of the fact that many senior and experienced business dealers with whom I have discussed this also appeared unable to
50 provide a satisfactory explanation for the Rand's rapid depreciation. It is important to note that the depreciation of the Rand during 2001 exceeded the depreciation experienced by almost all other emerging markets and currencies. In fact, the bulk of the emerging market currencies experience less than a 10% depreciation against the Dollar, that is so. Brazil, for instance, which has significant economic and financial exposure to Argentina which at that time was
55 defaulting on a major, I think it was R160 billion loan, only experienced a 15,6% depreciation in its currency during 2001."

Indeed, Brazil has its down debt problems and is certainly not on a sounder footing as South Africa in terms of economic fundamentals. We often speak about our fundamentals, most investment conferences, we all brag about our fundamentals. We are all very proud of them.
60 Our national debt situation which has been reduced, our budget deficit which has been

reduced and fairly prudent expenditure by the public sector. And our credit ratings and investment rating have improved considerably and, as Dennis Dykes put it, is in fact exemplary. I think the only economy, Mr Chair, was the economy of Turkey which experienced a greater decline and of course Turkey, not to mention its economic problems
5 but also to add that it had to go through its own earthquake, physical earthquake, to experience such a depreciation.

"In my view the financial and currency markets had already discounted the factors outlined in 1.1.1 through to 1.1.6. Whilst such factors have contributed to the depreciation of the Rand over time, they did not explain the magnitude of the depreciation experienced in the latter part
10 of 2001.

Looming financial crisis:

It became apparent that large amounts of capital were leaving South Africa during 2001 and I think previous submissions to this commission has confirmed that, either permanently or for extended periods, thereby increasing demand for a limited domestic supply of foreign
15 currency. This also contributed to the rapid depreciation of the Rand. As knowledge of such developments and rumours in relation thereto spread, the Rand continued to depreciate alarmingly encouraging people to resort to a variety of hedging mechanisms such as the forward purchasing of foreign currency by importers and the retention of foreign earnings off shore by exporters. As the depreciation of the Rand continued, South Africa appeared to be
20 on the verge of a financial crisis."

And Chairman, I in fact had a meeting with Dr Ebrahim of the Reserve Bank in early January and he was of that view as well, together with my economist, Richard Downing. Dr Ebrahim of the IMF indicated to me that he was very concerned that we were on the edge of a financial crisis in South Africa. Just to elucidate, give you some examples of prices between
25 February 2001 and February 2002. Maize during that period, this is the producer price, rose by 127%. In fact, the last time I looked on the South African future's exchange maize was at around R2 200,00 per ton whereas the previous year maize was in fact between R700,00 and R800,00 a ton. Wheat had risen by 30%, sunflower by 62%, beef by 25%. In fact a Citi Golf from February to February increased by 12% and a C Class Benz by 10%. And based
30 on a very short model produced for me by Richard Downing, our economist, assuming the Rand at R11,30 to the Dollar, food prices for the poor and the poor consumed, the weighting is 57%, that is the use of disposable income for food, then one is looking at a 30% increase on average. I think the Sunday Times recently mentioned a 69% on average. These are conservative models but a 30% increase on a very low income that absorbs your disposable
35 income, is something very frightening. If the Rand went to 13,80 you are looking at an escalation here of 45%. At R20,00 to the Dollar and there was much speculation as to where would the Rand stop, where would the falling of our currency be halted. We forget those debates that took place during that period. Some people were speaking about R16,00 - R17,00 to the Dollar, others were speaking about R20,00 to the Dollar. Let us assume that it
40 went R20,00 to the Dollar, then for the low income group food would go up 62%. And let us assume it went R25,00 to the Dollar, then food for the poor would cost 117% more. And it is not just about the poor, it is about the economy as well and it is about our members who feel the impact of a weakening currency. I think one statement by one national leader in the press during December spoke about it will only affect the overseas holidays of the rich. Well
45 I contest that. I would say that inflation affects the poor before anybody else.

"At all times it appeared to me along with many other economic and financial commentators that the rapid and dramatic depreciation of the Rand was unfathomable in the light of South Africa's relatively healthy economic fundamentals, investment gradings and political stability.

The effects of the Rand's depreciation [What effect does it have besides those I have
50 mentioned].

Although it can be argued that a weakening currency is good for exports, there are also obvious disadvantages to this. Firstly, certain exports have a fairly high imported content. Secondly, an increase in exports of domestically produced products may result in a corresponding decrease in the local availability of such products, [some people talk about
55 supply side inefficiencies] causing domestic prices in relation to such products to rise."

So it is not just about imported inflation, it is also potentially about the Dollar denomination of local prices.

"In fact a trade union movement raised this issue as a source of concern in Nedlac during February 2002. The production of foodstuffs also relies on imported inputs. One also has the
60 emerging market phenomenon of the Dollar denomination of local prices as local products

become more lucrative to foreign traders. For instance, local steel, gold, platinum, fuel and maize are all prices in Dollar terms. The maize price, for instance, has more than doubled on a tonnage basis in the last four months. A weakening currency also contributes to imported inflation [that is why we say a lot of pre-empt purchasing during that period, even by consumers]. Local companies embarking on capital expenditure programmes for replacement technology and equipment. For those who think you do not have to replace, you are living in child kukuland. One has to consistently, in order to remain at the competitive cutting edge, replace one's technology. Local companies embarking on capex(?) or replacement technology and equipment will face dramatically high costs to the extent that such technology or equipment is imported. Foreign direct investors are also likely to remain cautious [as they have, Mr Chairman] about investing in South Africa due to the volatility of the Rand which has the effect of potentially eroding the value of the South African investments in foreign currency terms."

And based on one of the most recent UN reports, you will see that even Angola had more FDI than South Africa last year. And, of course, FDI has been held up as the panacea to all our ills.

"The abovementioned factors contribute to an increase in the cost of living for ordinary South Africans as prices and interest rates rise on the back of a weakening currency."

And Chair, even with inflation targeted in 2000 we warned that exogenous factors could impact on our achieving those targets.

"In addition, the effect of increasing costs and higher interest rates of small businesses contribute to liquidations and job losses. This in turn produces social frustration and so increases the potential for domestic conflicts and instability."

Now Chair, although our situation is very different to Argentina's and Argentina's financial crisis happened for very different reasons, theirs was a debt problem, and I see their currency has now depreciated by 75%, Argentina has experienced food riots. Argentina, I think, has experienced up to five presidents in two weeks. Chairman, we cannot ever assume that should the Rand have continued its downward spiral that we perhaps might have experienced the same phenomenon.

Item 6, "The establishment of a Commission of Enquiry". I must point out that in my confidential written report to the President I simply passed on information relating to the depreciation of the Rand that I had received in my capacity as chief executive officer of SACOB. Although I was unable to verify the information I received, I was of the view that given the credibility of my source and the fact that it related to a matter of such national importance, it was important that it be properly and urgently investigated. I reiterated that I had been informed by my source that the information had been communicated to the Reserve Bank but that the Reserve Bank had not acted on it. Even before I received the information from my source, I had publicly stated that I thought the rapid depreciation of the Rand required investigation and that the establishment of a Commission of Enquiry was an appropriate way of going about this. The receipt of the information from my source merely reinforced my view in this regard. By the way, Chair, this was not only my view, in fact during the month of December, at an earlier stage, our sister organisation and our partners, the National African Federated Chambers of Commerce had also discussed this with the Deputy Minister of Finance and communicated that that would also be appropriate to hold a Commission of Enquiry and in fact also issued a press statement to that effect and have spoken to the press on that.

"The decision to establish a Commission of Enquiry was obviously taken by the President on the basis of certain information received by him of which my confidential written report only formed a part. It is interesting to note that the Rand has stabilised since the establishment of the Commission of Enquiry, even with the upheaval in Zimbabwe .."

and I think Zimbabwe has gone through far more troubled times than last year or the previous year. We have seen the national election. We have seen accusations and allegations around Morgan Tsvangirai in relation to assassination plans. We have seen the expulsion of the EU monitoring, the chairman of the commission to monitor the elections and subsequent exodus of the entire commission. We have seen much discussion around AIDS in the press, yet somehow our currency has remained within a fairly tight margin and fairly stable and I would advocate that the Commission has brought about a sense of certainty. It has certainly removed the panic and the rumour mongering and if there is or if there are dubious activities in the markets, I am sure that they are more circumspect before executing those activities.

"Methods of which I was informed:

There are obviously numerous mechanisms, the use of which has a potential to undermine the value of our currency. My source informed me of two such examples which I set out below. I must emphasise that I have no personal knowledge of what is stated below. I merely, 5 to the best of my recollection, repeat what my source orally related to me.

7.1 The export of capital - Deutsche Bank/SASOL transaction.

SASOL purchased a German chemical company, Condea. This was an off shore transaction entirely funded off shore for which SASOL obtained Reserve Bank approval. SASOL some time later announced that it had the assistance of Deutsche Bank, introduced a structured product that had the effect of domestically funding approximately 40% of the original Condea acquisition. My source believe that the mechanism utilised by Deutsche Bank was implemented in the following manner: SASOL bought back a portion of its shares from the local market. Deutsche Bank, on behalf of SASOL, then obtained Reserve Bank approval to issue new shares, approximately 6 billion in value and sold them off shore to Deutsche Bank in the United Kingdom, Deutsche Bank UK. The proceeds from the new issue of SASOL shares assisted SASOL in funding the Condea acquisition by redeeming part of the foreign debt originally incurred in relation to the funding of the Condea acquisition. The SASOL shares held by Deutsche Bank UK were then sold back into the South African market to cause an outflow of capital which negatively impacted on the Rand. Before the sale of the SASOL shares back into the South African market, Deutsche Bank UK was left over exposed to the Rand because of its holdings of Rand denominated SASOL shares. This may have induced the sale of Rands by Deutsche Bank UK but also contributed to the Rand depreciation and so increased the value of South African resource based shares.

7.2 Around tripping:

Although the previous example may have elements of round tripping, the primary intention appears to have been to domestically fund part of an off shore acquisition. Round tripping exploits a weak currency while at the same time contributes to its weakness. It is essentially motivated by a desire to benefit from an increase in the value of shares in certain South African companies due to the depreciation of the Rand. This usually occurs in respect of those South African companies that have an export or foreign currency component to their revenue streams. South African based companies with strong balance sheets are able domestically to raise capital to purchase local Rand hedged shares, for example resource base shares and then sell them back to an off shore party. The off shore party sells these shares back into the South African market. An immediate outflow of foreign currency takes place which, if the transaction is sufficiently large, brings pressure to bear on the Rand because of the limited domestic supply of foreign currency and so results in a further depreciation of the Rand. The proceeds from the initial sale to the off shore party are warehoused off shore for a period of time before being transferred back to South Africa. As a result a South African based recipient of such proceeds benefits handsomely from the intervening depreciation of the Rand. Between June and December 1001 a South African based company utilising such a method stood to benefit by as much as 30% as a consequence of the depreciation of the Rand. My source informed me that it was rumoured that the shares of a number of large companies such as Nampak, Amstel and Billiton, had been used in similar such transactions. In this regard my source informed me that the shares of these companies may have been used in such transactions without the company concerned appreciating the full purpose thereof or knowing thereof. My source stated that none of the abovementioned transactions or mechanisms were necessarily illegal but my source did express concern at the devastating effect that they have had on the Rand and considered them to be dubious and unethical."

Chairman, with your permission I would just like to quote from Joseph Yam(?), the Chief Executive of the Hong Kong Monetary Authority and should you require a copy of this paper I will give it to you for the record but I think it is very instructive and for those who are saying that we are searching for a needle in a haystack, perhaps even receive a Nobel 50 Peace Prize, I think it is appropriate to say that this is not new to the world, it is not new to the globe and it has happened elsewhere. And should it have happened in South Africa, then I think this could be instructive for the people of the country and for the Commission itself. Joseph Yam wrote a paper and delivered it at the Credit Swiss First Boston Asian Investment Conference on 26 March 1999 and it was as we all know just after the Asian crisis, some call 55 it the Asian contingent and you will remember that in 1998 we also experienced a whip of this virus in relation to our currency. Without boring you, Chair, this is a fairly long paper and I will only read short portions thereof. It becomes very evident to me that Joseph Yam knows what he is talking about. He speaks about a viciousness in the market place. He speaks about a variety of things. Firstly, he is a free marketeer, he is not a control freak. He speaks 60 about the virtue of capital flows, that they are important for the market place. He speaks

about high volumes, that over the years volumes have increased dramatically. He speaks about variety, the type of instruments that are used in the market. He speaks about velocity, the speed at which transactions take place. He speaks about volatility which I am sure we are well aware as South Africans and he speaks about viciousness. And I would just like to

5 read you a few scripts from the viciousness clause:

"Widespread volatility resulting from financial panic and hurt behaviour is one of the more worrying aspects of international capital flows because small fires can spark off major conflagrations. This volatility becomes vicious when market participants with extensive control or influence over capital flows line themselves up, manipulate the prevailing negative and

10 disturbed public mood and exploit the discrepancies and vulnerabilities that inevitably arise in a global financial system that is held together by local jurisdiction. The most vulnerable of these jurisdictions are often those which are held up as models of free market economics. The small or medium open markets with few or no controls on capital movements and with transparent financial systems that operate according to simple and precise principles. In Hong

15 Kong last summer we found ourselves in exactly the situation. We were a choice target because our options were limited. We are prohibited by law from imposing exchange controls and even if we were not, it would be an act of lunacy for Hong Kong which is a highly externally orientated economy even to consider them. The corner stone of our financial system is the linked exchange rate between the Hong Kong dollar and the US dollar. This link

20 is maintained by a classic currency board system so transparent and predictable in its responses to market conditions that it was at least at that turbulent time vulnerable in one of its central features. Under the Currency Board's auto pilot mechanism any expansion in the monetary base causes interest rates to fall while a contraction causes them to rise. Good market economics. The crucial part of the monetary base influencing this rise and fall is the

25 aggregate balance that banks maintain in their clearing accounts held with the Currency Board. It is extremely small and at the time made the monetary system susceptible to speculative attack. In the attempts to destabilise the Hong Kong dollar, in late 1997 and early 1998 speculators found that although breaking the link was impossible, driving up interest rates by putting pressure on the Hong Kong dollar was not so difficult a matter. Late in the

30 summer of 1998 they developed their strategy in a preconcerted heavily leveraged cross market assault which sought to play off the Currency Board's system against the stock and futures markets. According to this strategy extreme conditions created by a large scale dumping of Hong Kong dollars would cause the stock market to plummet to a level that would allow them to make large profits from the futures contracts they had taken out."

35 And he goes on to say that they prevented this from happening. They had significant reserves and those reserves were used to intervene in the market, in the .. (indistinct) index and in the futures market. And then finally, Chair, to end off with his concluding remarks:

"At the height of these attacks during the summer of 1998 there was clear evidence that the free market in Hong Kong was in danger of failing to fulfil its functions."

40 Now this is by a free marketeer, Chair. So he is based in the free market system but he acknowledges market failure.

"Specifically the currency, securities and futures market were being distorted to the point where efficient resource allocation had given way to manipulative speculation where prices in the markets were no longer being undermined by changes in underlying supply and demand

45 and where interest rates, instead of reflecting the supply and demand of liquidity, were being hijacked for the purpose of engineering dramatic changes in the markets. Strong evidence suggests that at the time a very small group of players were responsible for a preponderant proportion of the short futures contracts open at that time. We also estimate that currency borrowing to the tune of 30 billion Hong Kong dollars arranged in advance to avoid the

50 expected interest rate volatility they were hoping to generate in Hong Kong, had been made by a similarly small group of players to be quickly done at a time when the markets were most vulnerable. In short, we were far from the model of atomistic competition amongst small individual actors envisaged by a thinker such as Adam Smith. The invisible hand of the market had been replaced by a very visible club being wielded by a concentrated group of

55 speculators. In many other jurisdictions this cornering of the markets would have been subject to investigation under anti trust legislation. The Salaman Bros scandal in the US in the early 1990's which many of you will recall, is a parallel that springs to mind. In Hong Kong we have no such laws. It is probably time that we thought out the cases for and against having them. We should also look at safeguards against market concentration. As things stood in August

60 last year, we were watching in a loosely worked metaphor that might appeal to those of you

who will be attending the Rugby 7's this weekend, a playing field that had become so badly slanted that ordinary players could barely stand up and a game that was about to be cornered by a highly oversized and unsportsmanlike team of steroid enhanced muscles playing by its own rules. As a referee with limited powers but with responsibility for preserving the basic integrity of the game and intervening, using the quickest, most efficient and fairest methods that we have at our disposal. Stability on the playing field was restored and Hong Kong remains an open market and we believe like the rugby 7's attractive to participants from all over the world who are keen to play a fair game."

Chair, in conclusion, it is my belief that the rapid and dramatic depreciation of the Rand last year cannot be explained solely in terms of the factors highlighted in 1.1.1 to 1.1.6. It is for this reason that I agree with the decision of the President to establish this Commission of Enquiry. South Africa experienced a national financial crisis during 2001 and it is important that we endeavour to establish the causes. I thank you.

Thank you, Mr Wakefield, no further questions.

CHAIRPERSON: Mr Wakefield, can you make that book by Joseph Yam available to the Commission so that we can include it in our records? --- I certainly will do so, Mr Chairman.

CROSS-EXAMINATION BY MR GAUNTLETT: Mr Chairman, just three aspects which are directly pertinent to the interest of National Treasury for whom Ms Kathree and I appear. Mr Wakeford, you described in your oral evidence and also paragraph 1.11 at page 8 of the bundle we have, that is in your second, your new statement, the difficulties under which you laboured in producing the original report which went to the President and you indicated when you started your evidence today that you were obliged you thought in the circumstances to act in great haste and in a great rush. One of the things I wanted to ask you arising from that is this, that as you know in the original report there was a suggestion by your source of some collusion, some kind of unhealthy close relationship between Deutsche Bank and National Treasury. That of course is not in the second one, is that one of the aspects you thought that actually responsibly you could not include? --- That is correct.

You in fact, Mr Wakeford, no doubt through your position of CEO of SACOB have a working relationship with the Minister of Finance and the DG, do you not? --- We have contact at various levels the Department of Finance.

Yes, you know the Minister and the Director-General, Mr Wakeford, do you not? --- I know the Minister and the DG, yes, I do.

And I take it you would not intend for a moment to reflect either on their integrity and capacity to investigate this matter themselves? --- No, the investigating body, as I understand it, sir, is not the Treasury, the investigating or the statutory authority that investigates anything relating to the currency or any, let us call it illegal or unethical behaviour should be the Reserve Bank.

The point is this that you were raising macro economic issues and I am correct, aren't I, in saying that you did not approach either the Minister of the Director General before these allegations were made public, did you? --- I did not.

They in fact tried to reach you, did they not? --- That is after I had already established contact with the Presidency.

But you avoided contact with them, did you not? --- I did, yes.

In fact, your PA cancelled one particular meeting which had been set up by the DG with you to try and understand what you had so that at the highest level these aspects could be examined, is that right? --- That is correct.

Is there a reason for this? --- Well my understanding at the time, Mr Gauntlett, was that firstly, according to my source, this had been reported to the Reserve Bank. There was no action on this and as far as I understand the Ministry of Finance is responsible for policy frame working and not for the execution of anything in relation to the currency and I saw it fit to make contact with the Presidency and to hand over the information to the President.

But did you ask your source when precisely and who was contacted in the Reserve Bank or Treasury in relation to these very serious matters? --- No, I did not ask my source.

Did you not think it was obviously important? --- I think it is important to understand that when you are dealing with a source where a person is frightened and scared and under normal conditions who would not have come forward and provided this information, that the moment you mention a name in the Reserve Bank your source is exposed as well.

So you did not verify the resource but then did you then attempt to verify through the sources open to you given your position in SACOB which is to ask the Reserve Bank or

Treasury has this matter been raised with you during the last year? --- No, I did not verify it with the Reserve Bank or Treasury.

I see. And your report then was compiled during one hour, I think you have indicated, is that right? --- That is an expression of speech, it was a very short period of
5 time.

Alright, let us say about an hour, less, more, it does not matter. When you done this did you read it back to the source, did you verify that the source's source was right. --- I did not read it back to the source, no.

Did you try and verify it against any bench mark, the information report? --- Well
10 obviously I had made notes and I referred it to those notes.

But that is senseless, Mr Wakeford, the notes you made came from the source, I am asking about a bench mark outside, you do understand the question. Have you done that? -
-- I have not verified it with an outside bench mark, no.

Did you because of the seriousness of the allegations raise it with the President of
15 SACOC whether or not you should go public at this stage with what you had? --- No, I did not raise it with the president or any other executive member of SACOC.

This morning you suggested, this the last aspect I want to cover with you, you suggested that you speak, I think, in your personal capacity, is that right? --- Well I was approached certainly as the head of SACOB, I cannot imagine why they would approach me
20 for any other reason but my source approached me as the chief executive officer of SACOB.

But one has to say that I did not go to my executive council, to my governing body. I deemed the information to be too sensitive and I believe that it was appropriate to hand over to the President.

The information too sensitive for Mr Kopke, the president of SACOC, are you saying
25 that under oath, Mr Wakeford? --- Too sensitive to hand over to anybody at SACOC.

But without being verified by any extraneous source it could go the President and the horse being let out of the stable, as you have indicated earlier, is that right? --- That is correct.

Now lastly, in relation to the capacity in which you speak because I am a little bit
30 confused. Your later statement indicates in two places that you received the information clearly by virtue of your position in SACOB? --- That is correct.

I see. However, you say in one place that you went to the President as CEO of SACOB and as a concerned citizen, is that right? --- That is correct.

But as I understood your evidence earlier when you were indicating that you spoke
35 in a private capacity, the information that you have passed on, do you say that you passed that on on behalf of SACOB or do you not? Which hat, Mr Wakeford, or both? --- I would say that one could actually try and figure that with two hats. In terms of my general mandate to serve and protect the general interests of my members, I handed it over as CEO of SACOB but to assume and to say that I had a broad based knowledgeable mandate
40 amongst my members I think would be false and incorrect.

Now you have said in your statement that Mr Dykes of Nedcor was a believer in something sinister having happened in the market place but when you put this view to Mr Mervyn King, the past president of SACOC and to Kopke, the present president of SACOC, both individuals with enormous standing in the business community in South Africa, they
45 were agnostic on this point, not so --- Well they did not provide further explanations, they were very concerned I might tell you but they did not have additional information.

And before you made them, what you say in paragraph 1.10 at page 8 was your ultimate judgment call, did you make a separate telephone call to them or anybody else? ---
No, I did not.

50 Thank you, Mr Chairman.

CHAIRPERSON: I see it is nearly the tea adjournment, it is just beyond the tea adjournment.
COURT ADJOURNS:

ON RESUMPTION

CHAIRPERSON: Let us continue ladies and gentlemen. Mr Cooper?

KEVIN WAKEFORD (s.u.o.)

CROSS-EXAMINATION BY MR COOPER: Mr Wakeford I have a few questions on behalf
5 of Sasol (inaudible - bad recording). The first Mr Wakeford is this, do you know whether
your source is (inaudible - interruption) here before this commission whether you justified or
to explain or to retract the allegations that were made? --- Sir my source at my work, in fact I
swore to my source that I would not divulge my source's identity or any other information that
can expose the identity of my source.

10 I am not asking for identity that is a matter for the commissioner and yourself, not for
me, but what I am asking for is whether you know whether your source intends to appear
before the commission to justify or to retract the allegations which he has made or she has
made through you. --- To my knowledge sir my source has no intention of (inaudible -
coughing).

15 Mr Wakeford you will appreciate I take it the effect I sincerely hope the unintended
effect of the process that you have followed mainly you have put Sasol in the position in
which it is accused in public by an unaccountable and secret accuser. --- Who has accused
Sasol in public sir?

20 Well perhaps (inaudible). And you must I take it Mr Wakeford have made the
conscious decision not to have approached Sasol in advance to check with Sasol whether
what your source had said concerning Sasol was correct or not, you chose not to give that
opportunity to Sasol. --- That is correct sir.

25 Is there indeed any point in discussing with you the inaccuracies in the statement
which relate to Sasol, I mean in that regard you have no knowledge which would allow you to
either agree or disagree with any such proposition I take it. --- Sir I really believe it is the duty
and function and role and purpose of this commission to determine in fact whether what is
written in my statement is to be true or not true. I think it would be prejudicial to say that that
statement is in effect not true at this stage.

30 Mr Wakeford the second statement as I understand it is the more carefully
considered one and the one which if you had had your way would have been the one to be
made public, is that right? --- That is correct sir.

35 And another of the differences between what you have said in the second statement,
the differences between the first and the second statement is that in the second statement
you do not talk of any likelihood of Sasol colluding in any way with Deutsche Bank. That I
take it is a deliberate retraction. --- That is a deliberate retraction on advice from my attorneys
to protect myself in this regard. I was warned way ahead of time that in fact I would cross-
questioned on these issues and in fact (inaudible - not speaking into microphone) myself.

40 Well Mr Wakeford you could hardly complain in having made these statements you
were asked a few questions about them, could you? --- (Inaudible).

Can we agree then that so far as the position which you deliberately wish to take
now is concerned, that you do not advance any accusations against Sasol hence your earlier
statement as to where were there any accusations against Sasol. --- Mr Cooper I have never
made allegations against Sasol I have merely conveyed and relayed information concerning
Sasol and other institutions and organisations.

45 Thank you Mr Chairman.

CHAIRPERSON: Mr Le Roux?

CROSS-EXAMINATION BY MR LE ROUX: Mr Wakeford just a few questions on behalf of
South African Reserve Bank (inaudible). Now the retraction that you made in your second
statement concerning Sasol and the treasury, can I take it that you will retract also the
50 allegations of impropriety by the South African Reserve Bank and its officials? --- I have
never made allegations of impropriety, I have (inaudible) that is for the commission to decide
and to investigate and to reveal what actually took place. I do not have (inaudible) quantify
or qualify what I (inaudible).

55 So you do not suggest then that the South African Reserve Bank has (inaudible)
anybody in regard to the subject matter of this commission or anything else for that matter?
--- I could never suggest that sir hence the need for a commission to verify and establish the
facts.

60 And nor do you intend to be critical of the Reserve Bank concerning the statement
made by the governor on 14 October last year, you will recall that statement? The statement
which the governor issued publicly? Are you critical of that statement? --- I think one must

be frank on this issue and say that markets were fairly thin after that statement and I think it is common economic knowledge for any market analyst any economist that speculators are not necessarily bad for the market. Speculators challenge positions in the market.

5 Apart from the thinness of the market you are not suggesting anything of untoward
by the Reserve Bank in regard to 14 October statement? --- (Inaudible) that the Reserve
Bank Governor made that statement in an attempt of driving speculators up the market in
order for certain concentrated groups to take up positions in the market and challenge
(inaudible).

10 Yes, thank you. Now in regard to the information that you were given by this
unnamed source whose identity you are protecting you said that you were unable, this is in
paragraph 6.1 of your statement, that you were unable to verify the information and to use
your words "you wanted it properly and urgently investigated", is that a correct synopsis of
what you said? --- That is correct sir.

15 And I think in evidence you said that the proper investigating authority is the South
African Reserve Bank in that regard, is that correct? --- That is correct.

Now you were told then by your source as I understand it that the information had
been reported to the South African Reserve Bank but (inaudible). --- That is correct.

20 You also said that you did not know when it was reported and (inaudible) 2001 I
think you said. --- That is correct.

You did not know to whom it was reported in the South African Reserve Bank. --- My
source did not reveal that to me sir.

And nor do you know what steps the South African Reserve Bank took then
subsequently to deal with it? --- No I did not know.

25 Now am I correct that on 4 January last year you received a telephone call from Mr
Charles Van Staden who is the deputy general manager of the exchange control department
of the South African Reserve Bank? --- That is correct sir.

(Inaudible) asked you during the course of that telephone conversation? --- I recall
him asking for a meeting sir.

30 Did he say why? --- In order to discuss the press release of that day.

In the press release of that day you mentioned, I think I have it in front of me things
like currency manipulation, likelihood of market manipulation and collusion between parties
and matters of that nature, am I roughly correct in summarising what you had said? --- I think
with one addition sir that I did emphatically say in the press release it is based on a reliable
source.

35 And it was that which Mr Van Staden invited you to discuss with the South African
Reserve Bank. --- That is correct.

And what was your response to it? --- My response was that I would get back to him.

And did you? --- I did not get back to him sir.

40 Did you receive two subsequent messages from him on the Monday after the
Friday? --- I received messages from him after I had been contacted by (inaudible) and a
meeting was set up.

And what did you do about those messages that you received from him? --- I did not
respond to them sir.

45 Well that is strange don't you think? You wanted your information investigated, the
Reserve Bank was the proper authority to investigate the information, they made you an offer
which you refused to accept. I put it to you that that is not only strange but irresponsible.
What is your comment? --- My comment to that sir is very simple, if you read my statement it
is very clear that my source had informed me that this information had been reported to the
Reserve Bank and in fact subsequent to that I received additional information as well that had
50 been reported to the Reserve Bank and I received a flurry of correspondence and
communicates from my members, all of which the commission has in its jurisdiction at the
moment.

55 Well perhaps let me put you out of your misery in regard to what the Reserve Bank
did or did not do. There will be evidence by the Reserve Bank on Friday and perhaps if you
are here to listen to it you might review your position on your views. The Reserve Bank will
indicate to this commission on Friday that it has been investigating the matters about which
you speak since October last year and is still in the course of doing so, was that reported to
you? --- No sir it was not.

60 Do you accept that as being the truth? --- I must accept that whatever you say here
sir is under oath.

Well perhaps you will be here on Friday to listen to that evidence and then decide whether you wish on Friday to make further statements to this commission about what you have conveyed to them concerning the Reserve Bank's lack of action, would you do that? --- I think sir that is really the jurisdiction of this commission and I do not believe that this
5 commission stands or falls on the basis of Kevin Wakeford. I think it stands and falls on the basis of a responsible response by the President of this country.

Now the statement which I have from Mr Van Staden is in general terms similar to what you have said in response to my questions, with just one important difference. What Mr Van Staden says is that your initial response to him when he called you is that you were
10 not prepared to speak to him or "an individual institution such as the South African Reserve Bank and that you would only be prepared to divulge your information to a commission of enquiry". Does that jog your memory? --- I remember talking about a commission, I certainly do not remember saying that I will only divulge it to a commission of enquiry because in fact the truth is that I divulged it unconditionally to the presidency.

15 But you did say you were not prepared to talk to the South African Reserve Bank. --- I did say that I would consider getting back to Mr Van Staden which I did not do.

I suggest that amounts to the same thing. Now just one or two additional questions. You talked about a Dr Ebrahim of the South African Reserve Bank, I think you then corrected yourself to say that he was from the International Monetary Fund did I understand
20 you correctly? --- That is correct, the IMF and he is the local representative of southern Africa.

Yes thank you Mr Chairman.

CHAIRPERSON: Mr Wasserman?

CROSS-EXAMINATION BY MR WASSERMAN: Mr Wakeford I would like to place what you
25 said on 7 January in an interview ... (intervenes).

CHAIRPERSON: Mr Wasserman I think you must just place on record that you represent Deutsche Bank.

MR WASSERMAN: Thank you Mr Chairman I represent Deutsche Bank. Mr Wakeford you in answer to a question by (inaudible) and said now what do you have at present in terms of
30 information and your response was this "We have rock solid information".

What were you referring to? --- I was referring to the information that I communicated to the president.

35 That you regard as rock solid? --- Well I did not use the word evidence did I sir? Rock solid information. --- That is not evidence.

Mr Wakeford I take it that the concessions that you have made or the retractions that you are willing to make this morning also applies to Deutsche Bank? You are in no position to accuse Deutsche Bank of any wrongdoing are you? --- I am not in a position to accuse
40 them, I never have.

40 You have never done so in the past? --- No.

You have said in your statement to the president that this induced the sale of rands by Deutsche Bank into the domestic market, on page (inaudible) of your statement, on page
4 you said

"The Deutsche Bank's dumping of rands in the local market due to their over (inaudible)
45 dominated Sasol's shares."

Obviously you have no personal knowledge of that. --- No personal knowledge.

You toned that down on page 12 of your later statement, the one prepared on (inaudible) you said in 7.5

"This may have induced the sale of rands."

50 Why the toning down? --- I was advised by my legal counsel that in fact the report I wrote was a report as a reflection of what I had heard and that it was not as a consequence of personal knowledge and therefore in order to protect my rights, as I too have rights, as you do, I should write it in that phrase and connotation.

Mr Wakeford you in your exposition of the Deutsche Bank Sasol transaction refers to
55 the sale of shares back into the South African market which caused an outflow. Now I put it to you you personally have no knowledge of any such leg of that transaction, is that correct? --- I have no personal knowledge of any of the information I received.

60 You obviously cannot deny that that particular description of one leg of the transaction is totally unfounded? --- Totally unfounded? Well then you can say that every single sentence is unfounded.

Yes, such as the issuing of shares to the value of R6 billion totally unfounded. --- That is correct.

You could have checked that up. You yourself could have appointed yourself in that regard, correct? --- Possibly.

5 Why didn't you? --- I did not based on the credibility of my source and certainly the nature of the situation at the time.

I am surprised by the alacrity with which you were happy to accept all these bold allegations without testing them Mr Wakeford, what is it, which party in this list of institutions and corporates did you really distrust? --- I do not distrust any specific party, I think it is up for
10 the commission to decide who is trustworthy and who is not.

And today as you are sitting there, you insist you have no reason to distrust any of these corporates or institutions? --- I have no personal reason to distrust them at all.

You see there is still the problem of your source, you are maintaining you have obtained this information, received this information from a reliable source. --- I believe the
15 source to be reliable.

And we have to accept your version in that regard. --- That is correct.

But yet your source fed you with false information, totally unfounded information. --- Are you under oath now saying it is false? I put to you Mr Wakeford there was no speculation in the rand by Deutsche Bank. There was no dumping of the rand by Deutsche
20 Bank. Now if those two propositions put to you are correct then the information supplied to you was false. --- Well sir I think that is for the commission to decide, not me.

Now which one do we believe, your version that you have a reliable source or that your source themselves or herself may be unreliable? --- I do not believe my source is
25 unreliable sir.

But what are you saying Mr Wakeford you believe these allegations? --- At the end of the day sir ... (intervenes).

Mr Wakeford do you believe these allegations? --- I received the information ... (intervenes).

Do you believe these allegations? --- That is for the commission to determine not
30 me.

I see, thank you Mr Chairman.

CHAIRPERSON: Any further questions Mr Brooks?

MR BROOKS: No further questions thank you Mr Chairman.

CHAIRPERSON: By the commissioners?

35 MS QUNTA: Mr (inaudible) I think the point has been made by (inaudible) and the attorneys acting for the (inaudible), you have no firsthand information and your statement is based purely on the information given to you by your source? --- (No audible answer).

Are you aware that the commission has appointed forensic auditors to conduct a (inaudible) your allegations, are you aware of that? --- Yes I am aware of that madam, I was
40 interviewed by the investigators and I have no doubt they have included the information received to pursue those investigations.

My question is did you give them the same information that you have given to this commission now (inaudible) is there anything in the statement that you made to the forensic auditors (inaudible) that is different from what you have given this commission? --- I do not
45 believe that the substance and the principles involved have changed at all.

But you are not able to (inaudible). --- I am not unfortunately.

Mr Wakeford you represent (inaudible) I have a problem (inaudible) we have the (inaudible) statement which is by the witness (inaudible) clearly here and the evidentiary value of that statement you will agree with me is initially not in a position and I do not want to
50 prejudge (inaudible) but it is a problem for me that what we have (inaudible) before your clients are coming to the commission is basically hearsay. I do not think it is in the interest of your client, I feel extremely uncomfortable (inaudible) that your client comes before us where there is no statement. The second problem I have is that as we sit here now I have not as a commissioner had sight of your client's papers. I have not been able to read them yet, I do
55 not know how we as a commission can interrogate the information, interrogate in terms of asking your client questions because we have (inaudible), I have not (inaudible), I do not know about my colleagues. And the first problem is that we have a forensic audit that has been done by an independent auditor company which has its (inaudible) which partly because of the delay in getting (inaudible) have not been placed before the commission and
60 has not been placed on record. This is my first problem. So I am going to consult with my

fellow commissioners now. I am going to ask the chairman to adjourn (inaudible) because I do not feel comfortable. I am beginning to feel very awkward about the situation because I do not know what your client is coming (inaudible). There is on the evidence that is before us here, there is no other (inaudible) to substantiate it. The forensic audit has been done, (inaudible) touch with your client, (inaudible) show your client's statement, it has made certain draft findings. We have not seen them but it may have a (inaudible) your client and I you know I do not know if you have a comment for us but I feel uncomfortable (inaudible) to hear the evidence (inaudible) and your client in this current situation. I want to ask for an adjournment to discuss with my fellow colleagues, because I believe (inaudible) forensic auditors come and place on record what the finding is. (Inaudible) and the process, and I would certainly want to (inaudible) in my capacity (inaudible).

MR COOPER: Mr Commissioner can I just say this (inaudible) the allegations that were made and which could have a negative impact on Sasol and its ordinary activities, but we are here, we are ready and willing to answer and we have made new arrangements to appear before you and the commission today and from our point of view we would be very eager to be able to put our side of events as quickly as we can (inaudible) lest in any way these accusations or statements are left unanswered. We do feel that we need that opportunity (inaudible).

CHAIRPERSON: (Inaudible) the suggestion that the leader of the team should be called to come and give his findings before the commission before you client testifies?

MR COOPER: We would prefer from our point of view to make the statement that we are prepared to make and which covers our position. It may indeed be useful to the investigator to hear that statement. We would of course hold ourselves in readiness to return if that should be necessary, but we leave this all (inaudible).

CHAIRPERSON: (Inaudible) I see Mr Gauntlett you are about to say something.

MS QUNTA: I just want to ask (inaudible) and I am asking this now, I am speaking both in my capacity as an attorney and as a commissioner, what allegations are you coming to answer to in the commission because you see at the moment we have made an unsubstantiated allegation on the one hand, on the other hand we have a forensic audit that has gone into details (inaudible) they have done independent investigations. They have consulted with your clients, your client is aware of what the initial findings or draft or (inaudible) if you come to make a statement first of all what are you answering to. Does it mean that when you come and make a statement we then have to call you back when the forensic auditors (inaudible) you will appreciate that (inaudible). What you do is the allegations is (inaudible) allegations, those allegations are made, you are then able to cross-examine (inaudible) and then you make your statement, because you may be able to (inaudible) the commission of certain views that held by the auditors and I am talking about process. I am (inaudible) but I am not sure because (inaudible). We are (inaudible) going to be able to (inaudible) and also the problem is you come here, you made a statement, your client (inaudible) and your client has to pay extra costs and I think it is very important for me to say this, but I think if allegations like these are made in the public domain it is crucial for your client (inaudible) put your side of the story. That has not yet been done, but I at the moment would like to (inaudible) I would like to consult with my fellow commissioners.

MR COOPER: May I just make (inaudible) the question what would we say if we are invited to proceed this morning. What we would say is we would give you Sasol's account of its participation in every detail of the (inaudible) transaction. Sasol would explain to you what authorities it sought, what authorities it had and Sasol would explain to you precisely what it did in respect of this transaction. If Sasol believes that it is in a position to make a statement which surely ought to be beyond doubt (inaudible) of its conduct and it is eager to make that statement. Whether it faces (inaudible) allegations against it or as (inaudible) does not (inaudible).

MR GAUNTLETT: Mr Chair we just want to say very briefly that we would support (inaudible) our attitude matters in the determination, we would support what our learned friend for Sasol has indicated namely Sasol proceeding to do that, it is ready to do at this stage. We are concerned about the implications of the commission's own investigator pre-emptedly in advance of our own evidence (inaudible) that for the Reserve Bank and to come later this week, come and put on the table (inaudible) which are being (inaudible) as I understand them (inaudible) upon our evidence being given in those terms, our evidence is subject to completion and finality and modification from time the witnesses go in (inaudible) I would have thought on the basis of first principle would reflect very badly on the commission

(inaudible). As you know we have co-operated fully with the investigators and (inaudible) particular (inaudible) are able to do and no doubt his evidence will be of considerable use to the commission when it is put in its right place, namely to assess and to weigh up and have sat here and listened to what everybody has said to then offer analysis and it would be that
5 what is often a consequence of proceedings of any kind that we or our learned friends have to come back briefly then so be it. We doubt it but we would think that for those reasons we would support (inaudible) by Sasol.

MS QUNTA: If you say briefly Mr Gauntlett does it mean that you are saying that you know the outcome of the forensic audit?

10 MR GAUNTLETT: Not at all, we make not assumptions, I think anybody who does should not.

MR LE ROUX: Mr Commissioner if I may, excuse me Mr Chairman just briefly outline (inaudible). We think and have said so on a previous occasion that it could be and is likely to be damaging to persons and institutions to change the procedure from the one laid down up
15 to now to the one proposed by madam commissioner and we would wish to avoid that in the interest not only of the commission but generally speaking. Secondly from the Reserve Bank's point of view madam commissioner what we will do on Friday or perhaps next Monday after the evidence of the corporates has been given is we will tell the commission what Reserve Bank applications were made by the corporates, what approvals were given
20 by the corporates and how we have been told by the corporates and their advisers how the transactions were implemented. So we will make it clear to the commission by Friday if there are any differences they will be mentioned, and the commission will the ultimately be able to draw its own conclusions from what we are going to say, and therefore I think to anticipate that by as I understand it putting the forensic auditor in first I think is putting the cart before
25 the horse and we would suggest that patience be used in this instance and the matter be allowed to unfold in a more natural way than by this quick fast forward approach which we do not think is necessarily in anyone's interest.

MS QUNTA: Can I establish from you and also from Mr Gauntlett in order for me to (inaudible). Are you objecting to us stating the result of (inaudible).

30 MR GAUNTLETT: No madam commissioner.

MS QUNTA: This is a fact finding commission it is not a general enquiry where everyone comes and makes statements. We were (inaudible) we are still (inaudible) and we are here to establish facts. MR LE ROUX: The answer is no to the question.

MS QUNTA: Is it your submission that you do not object to us calling forensic evidence?

35 MR LE ROUX: Not at all madam commissioner I would be surprised if you did not. It is a question of sequence that is all.

MS QUNTA: And what you are saying is that you are (inaudible) therefore that when a report has been done by, (inaudible) it must be placed on record so that your clients are able to interrogate (inaudible) and establish the veracity of what they say, you agree with me on
40 that?

MR LE ROUX: Yes and we will (inaudible) necessary to do so when he testifies.

MS QUNTA: And in your view when should that take place, if you say it should not take place before you give evidence, when should that take place?

MR LE ROUX: I would have thought that he should wrap up at the end after all the evidence
45 has been given because you will remember madam commissioner that these statements that have been given have been given on the understanding that they are open to change right until the time the words are spoken and additional information as you saw from Mr Wakeford today is given during the course of oral testimony so the picture may well change. I do not know how the picture is going to emerge. If it changes from what the investigative team is going to say to something different then the time and effort involved in leading the evidence
50 cart before the horse will be (inaudible).

MS QUNTA: (Inaudible) I will have to consider that, as I say (inaudible) I will also keep in mind (inaudible).

MR BROOKS: May I just for the benefit of madam commissioner. Madam commissioner I
55 think there is a misunderstanding. Speaking on behalf of the investigating team the forensic report is incomplete. It will only be completed when all the evidence has been heard, so it would be premature to at this stage expect a forensic report which just does not exist. It is no more than a few pages in a very rough draft form and it will only be completed when we have heard the evidence of all the corporates, Deutsche Bank, Reserve Bank, and treasury for that
60 matter. Thank you.

MS QUNTA: My understanding of a forensic report is that it can follow that procedure but it need not always. So if (inaudible) investigation has been done (inaudible) the reason as I understand, because I asked the forensic auditor this morning why don't they have the report, how do we examine the evidence of the corporates who are after all coming here to speak to
5 allegations that have been made by Mr Wakeford which have been investigated by the forensic auditor. So I do not believe that it is essential that we wait for the evidence (inaudible) because the corporates have made (inaudible) and as they correctly say they can change their statements and they can update them, that they are entitled to. What I also have a problem with is that we have absolutely, I am not (inaudible) commissioner,
10 (inaudible) this morning I am very uncomfortable proceeding when I do not understand what (inaudible). But that we will leave, (inaudible) I can ask for an adjournment.

MR BROOKS: Madam can I just deal with one issue, I think you hit the nail on the head when you said that statements are available but they can elaborate on these statements. The forensic team can only give you a final report when they have considered these
15 statements and anything which may be added in evidence. So the forensic report cannot be finalised until they have heard all the evidence. Madam there may be further documents which arise from the evidence, further information which will have to then be incorporated in this report.

CHAIRPERSON: Mr Papadakis I see you are nodding, do you agree with that, what Mr
20 Brooks has put?

MR PAPADAKIS: Yes I think in general terms I do agree, it is at the moment a report in draft form actually.

CHAIRPERSON: And you agree that it would be premature for you to give evidence now?

MR PAPADAKIS: I presume it would be preferable to give evidence at a later stage and I
25 understand the legal team that is attached to the team did discuss that on that basis. If they had to put evidence now it would be of a draft nature.

CHAIRPERSON: Mr Wasserman I know that Deutsche Bank have an interest in this.

MR WASSERMAN: Yes thank you Mr Chairman we have made our submissions in writing, they record the views expressed by my learned friend for the treasury and for SARB. We
30 would certainly Mr Chairman should the commissioner elect to change the sequence we would like the opportunity to consider our position because we believe Mr Chairman that would be entirely inappropriate and our rights may be affected and we would consider taking the necessary steps in order to secure our rights.

CHAIRPERSON: I have a request for the commission to adjourn, we will adjourn, if you
35 could wait outside and we will reconvene as soon as we have had our discussion.

COMMISSION ADJOURNS

ON RESUMPTION

KEVIN WAKEFORD (s.u.o.)

CHAIRPERSON: (Inaudible) the commission is that Mr Papadakis will give evidence at the
40 end of all the evidence in relation to this aspect of the enquiry. You can then proceed with the questioning.

MR GANTSHO: No further questions.

CHAIRPERSON: No further questions, thank you Mr Wakeford. --- Thank you sir.

NO FURTHER QUESTIONS.

CHAIRPERSON: Mr Brooks the next witness?

MR BROOKS: Mr Commissioner the next witness will be the Billiton corporate, Mr Potgieter
45 will be leading the evidence.

OCKERT PIETER BRUGMAN (d.s.s.)

EXAMINATION BY MR POTGIETER: Mr Brugman you have prepared a statement for the
50 benefit of the commission is that correct? --- That is correct.

The statement will be in the Wakeford bundle, page (inaudible) and further. Do you
have a copy of the statement in front of you? --- Yes I do.

You confirm that this is a statement by you? --- That is correct.

Would you then proceed to read the statement into the record, it deals briefly with
your (inaudible) and the further content of (inaudible). --- Okay.

55 "Curriculum vitae. I am the treasurer of BHB Billiton South Africa. I am responsible for Billiton's treasury activities, this entails *inter alia* funding, foreign exchange dealings and Billiton's relationship with SARB and commercial banks. My experience at Billiton is as follows. Treasury three years, internal audit four years. Wakeford report. On 13 February 2002 I attended a meeting with
60 representatives of the commission of enquiry into the rapid depreciation of

the exchange rate of the rand and related matters, the Myburgh Commission. Billiton was represented"

... (intervenes).

MR: Sorry sir we cannot hear, (inaudible).

5 MR: Would you use this microphone. --- The other one?

The other one, just put it in front of you and if you do not mind Mr Brugman just speak up. --- Okay.

"The Wakeford report. On 13 February 2002 I attended a meeting with representatives of the commission of enquiry into the rapid depreciation of the exchange rate of the rand and related matters, the Myburgh Commission. Billiton was represented by myself, Piet Bierman regional council and Billy Murray vice president, treasury and corporate finance of the BHB Billiton group."

10 MR POTGIETER: Where is Mr Billy Murray at present? --- At present he is in St Petersburg in Russia.

15 In Russia and where is he stationed normally? --- He is normally stationed in the Hague in the Netherlands.

You may continue. ---

"Murray was not present at the meeting was participated by means of telephone conference facilities. The Myburgh Commission was represented by Marius Potgieter, George Papadakis, (inaudible) and Christina Croza. During the meeting a copy of the Myburgh Commission's terms of reference was handed to and explained to us. The Myburgh's commission's representatives informed us that Mr Kevin Wakeford chief executive officer of SACOB submitted a report dated 8 January 2002 to the State President Thabo Mbeki which report led to or contributed to the appointment of the Myburgh Commission, the Wakeford report. The Myburgh Commission's representatives informed us that in his report Wakeford referred to a structured finance deal allegedly concluded by a large South African corporate through Deutsche Bank which deal allegedly gave rise or contributed to the rapid depreciation of the rand during 2001. Wakeford stated it was rumoured that *inter alia* Billiton was in the process of following a similar strategy. We were also informed that Wakeford had noted in his report that Deutsche Bank currently owns 7% of Billiton. In terms of the information given to us by the Myburgh Commission's representatives Wakeford only referred to Billiton, he did not specify which specific company, subsidiary or division of the Billiton group of companies he had in mind. The reference to Billiton was made in the context of a report relating to the depreciation of the rand. For purposes of this statement I will assume that Wakeford intended to refer to Billiton the company defined in paragraph 1 above. On respectively 13 and 14 February 2002 Christina Croza of Deloitte and Touche one of the above representatives of the Myburgh Commission sent to Billiton two e-mails explaining the structured finance deal described in the Wakeford report, copies thereof are attached hereto marked A and B respectively.

Billiton Deutsche Bank. Billiton regularly receives proposals from various banks and financial institutions with regard to a wide variety of potential transactions. During November 2000 Billiton was approached by London representatives of Deutsche Bank with a loan structure proposal involving aluminium linked financing. A number of discussions between representatives of Billiton and Deutsche Bank took place during May/September and October 2001. During January 2002 a final decision was taken not to pursue this proposal due to Billiton's concerns in regard to the tax implication of the proposed structure. Billiton did not enter into any structured finance arrangements with or through Deutsche Bank during the period 1 January to 31 December 2001 or thereafter. Billiton has not received a proposal similar to the one envisaged in the Wakeford report and explained to us by the Myburgh Commission's representatives or as set out in annexure A and B above from Deutsche Bank or any other bank, nor has it entered into any such arrangement. Deutsche asset management shareholding in BHB Billiton TLC as at 31 December 2001 was 1.65%. BHB Billiton TLC is the ultimate holding company of Billiton.

Myburgh Commission's terms of reference. I considered the Myburgh Commission's terms of reference. To the best of my knowledge and belief Billiton did not enter or cause any transaction during the period 1 January to 31 December 2001 which could have contributed, caused or given rise to the rapid depreciation of the rand during 2001. I am not aware of any illegal or unethical transaction that had been concluded by a BHB Billiton group company as envisaged in the terms of reference of the Myburgh Commission. I arranged for a summary to be made of all foreign exchange transactions entered into between Billiton and Deutsche Bank in respect of the period 1 January to 31 December 2001. I attach the summary hereto marked C. The transactions set out in annexure C have been entered into on the basis of an actual firm ascertainable foreign exchange commitment a required by the exchange control regulations. In terms of annexure C Billiton during the course of 2001 and through Deutsche Bank bought US\$156 million in exchange for rands and sold US\$453 million in exchange for rands."

That is the end of my statement.

Mr Brugman you were present when Mr Wakeford testified this morning? --- That is correct.

Now the way I understand Mr Wakeford's statement, the second document in his bundle on page 6 and further he no longer mentions Billiton, he no longer says that Billiton followed a similar strategy as in the case of the alleged (inaudible) Deutsche Bank deal, have you heard that? --- Yes.

But he did refer to Billiton in the context of round tripping(?) on page 13 paragraph 7.2.4. To your knowledge has Billiton been involved in any round tripping as described by Mr Wakeford? --- No we have not.

And are you aware of the shares of the company being utilised for this purpose? --- I am not aware of that at all.

That is all thank you Mr Commissioner.

MR GANTSHO: Paragraph 20 you make reference to the period from January 1, to December 31 of 2001 and you say you are not aware of any foreign exchange transactions entered into between Billiton and Deutsche Bank. Are you aware of any other transactions that have been entered into with other institutions other than Deutsche Bank that took place in that period? --- There are numerous foreign exchange transactions but that is in the normal course of business. There were no transactions that involved any structured deals off-shore.

Is it your evidence that none of those other transactions contributed to the depreciation, the rapid depreciation of the rand during this period under review? --- Yes that is correct.

Are you aware of any other transactions that took place before this period or after this period that may have contributed to the depreciation of the rand? --- No I am not aware of any.

Legally or unethically or illegally? --- No.

Thank you no further questions.

CHAIRPERSON: Any further questions?

RE-EXAMINATION BY MR POTGIETER: The transactions in annexure A on page 23 and 24 of your statement what are the nature of these transactions? --- As I understand, I mean this was just a simplistic - sorry annexure C?

Yes. --- Page 23, that would basically be when we sell dollars, proceeds dollars, export proceeds that we will sell then for rands to pay for our rand expensions(?).

Are these export transactions? --- That is primarily predominantly export transactions yes.

Thank you Mr Chairman.

CHAIRPERSON: Thank you Mr Brugman you may be excused. --- Thank you.

Shall we adjourn until 14:00?

MR POTGIETER: Yes thank you Mr Chairman.

CHAIRPERSON: (Inaudible).

MR POTGIETER: (Inaudible).

COMMISSION ADJOURNS

COMMISSION RESUMESANDRE COETZEE: d.s.s.

5 MR BROOKS: Mr Chairman if I may just point out to you that in the statement prepared by Sasol, there is a reference on pages 34 and 35, the bottom of page 34, the top of page 35, to a client name of a certain bank. Now the bank has asked that we delete those two names as that information is confidential, if I could please ask the Commissioners just to do that and for people waiting for the Sasol statements, if I could just place on record that we will furnish them with statements immediately those two names are deleted.

CHAIRPERSON: Are there not four names?

10 MR BROOKS: There are four names yes, two on each page.

CHAIRPERSON: Two on each page.MS QUNTA: On which pages?

15 MR BROOKS: 34 and 35. Then Mr Chairman on page 135 which forms part of the annexures, you will see the same names appearing there. Could you please also delete those names.

20 MS QUNTA: Can I just understand you sir, is it asked that the Commission delete those names or is it, completely or is it their request that this information not be made public? Take for instance (indistinct) perhaps the legal counsel (indistinct) with that, if for instance and I don't know the (indistinct), I have not (indistinct), if in any situation like the name comes up, does that mean if something arises from that, that the Commission might want to query further or question further, is it argued that the Commission should not follow that up because it is confidential.

MR BROOKS: No I don't think so.MS QUNTA: Okay.

25 MR BROOKS: Madam as I understand the names have been made available to us as the investigating team.

MS QUNTA: Yes.

30 MR BROOKS: It is a name of, well four names rather, of clients of a certain bank. That bank has just asked please we do not want our clients' names distributed.

30 MS QUNTA: To make public.

35 MR BROOKS: To be made public and they have asked us to please delete those four names because it is confidential information. So it is only for that reason that we are deleting it from the eyes around here. But to the extent that we, the investigating team and Deutsche Bank is present, they can just confirm this, if something should arise and it should be necessary for us to further investigate in regard to those names, that will obviously be allowed through Deutsche Bank. I don't know whether that answers your question.

MS QUNTA: Okay.CHAIRPERSON: You are asking for information to be kept confidential.

40 MR BROOKS: Yes. This is at the request of a bank that this information be kept confidential.

CHAIRPERSON: Yes.

45 MR BROOKS: Mr Chairman sorry, it has just been pointed out to me and they didn't pick this up earlier, it is also on page 31 of the statement.

CHAIRPERSON: So wherever those four client names appear.. (intervenes)

45 MR BROOKS: In paragraph (e) on page 31.

CHAIRPERSON: Those four client names will not be made public, that is the (indistinct)

50 MR BROOKS: Yes, and we are deleting it from the statements which are being made available to the public.

CHAIRPERSON: Yes.

50 MR BROOKS: If I could then continue with Mr Coetzee's evidence.

CHAIRPERSON: Yes.

55 EXAMINATION BY MR BROOKS: Mr Coetzee you have seen the format in which these statements are presented to the Commission. The statement before you, is that the statement we have got prepared for purposes of your evidence today? --- That is correct.

And you played a role in the preparation of that statement? --- Yes I did.

And you can confirm the content of that statement? --- That is correct.

60 Right. Mr Coetzee then could you please take us through your statement, read the statement into the record. Should you wish to elaborate or add on, please feel free to do so and if there are any issues arising from your statement, I will ask you to deal specifically with such issues. --- Mr Chairman, Commissioners, this is a memorandum containing

submissions to the Myburgh Commission of Inquiry by Sasol Limited.

Introduction. This memorandum has been prepared at the instance of Sasol Limited in response to a request by the Myburgh Commission that Sasol should make a written submission to the Commission. A meeting was held with representatives of Sasol and representatives of the Commission in early February 2002. At that meeting Sasol representatives answered specific questions posed by the Commission's representatives. Sasol's representatives handed to the Commission's representatives, copies of certain documents. Sasol was request by the Commission to prepare and hand in to the Commission a written memorandum together with supporting documentation and in such memorandum to deal with certain additional information requested by the Commission.

It is in compliance with the request made by the Commission as referred to in this paragraph 1.2.3 that this memorandum has been prepared. Although this memorandum deals primarily with the so-called Condea (?) transaction, it also deals in section 5 with certain other transactions not related to the Condea transaction.

Sasol is a South African corporation which is proud of the contribution it has made in the economic and infrastructural development, both of South Africa and the Southern African region. They would never knowingly or opportunistically harm the South African currency or the South African economy. It has therefore been most concerned that negative perceptions may have been in the media concerning the Condea transaction, it welcomes this opportunity to put the record straight.

Sorry Mr Coetzee could you just stop there. I omitted to ask you, what is your position at Sasol? --- My position is group financing manager. I am responsible for the financing arrangements of the Sasol group, its ventures offshore, its projects offshore and the Sasol financial operation which is an in-house bank and (indistinct) operation.

So you would have personal knowledge of the Condea transaction and the other transactions referred to in this statement? --- Yes I do have.

Did you deal personally with those transactions. --- Yes I do deal personally with those transactions.

Thank you very much. --- The structure of this memorandum which is in line with its objective is to establish that Sasol is a patriotic corporate citizen which has played and continues to play a fundamental role in the development of the South African economy and in job creates.

With the sole exclusion of the government, Sasol is the largest single investor in South Africa.

Sasol's offshore investment policy has been designed to advance in South Africa's best interest and is not at the expense of or a substitute for domestic investment.

Sasol has complied with all exchange control laws to which it is subject. In so far as concerns the Condea transaction, all relevant material information is furnished so as to establish that in the context of that transaction, Sasol sought to advance and has in fact advanced, the best interests of South Africa and additional steps taken by Sasol in accordance with specific authorizations from the South African Reserve Bank.

In so far as concerns other foreign exchange transactions undertaken by Sasol, there has been compliance with exchange control requirements and in addition such transactions have been overwhelmingly been for the benefit of South Africa.

Sasol's role in philosophy as a major South African corporate.

Sasol believes that any objective assessment of its conduct and activities over the years will show that quite apart from promoting the interests of its shareholders and other stakeholders, it has contributed significantly to the development of South Africa and the Southern African region in particular.

Sasol has invested huge amounts in fixed capital and plant in South Africa and Southern Africa. In this regard it may be stated that Sasol is the single biggest investor, excluding the state, in fixed capital in South Africa and it has been over a sustained period.

Sasol has over the past five years invested more than R14 billion and is committed to a further 23 billion fixed investment over the next number of years. Sasol directly employs 30 800 people. It is estimated by the South African Agents, Water and Economic Forecasting associates that a further 216 000 full-time jobs are supported elsewhere in the economy by Sasol. Therefore in total 246 000 people are employed directly or indirectly as a result of the economic activity of Sasol.

If each worker supports on average five dependents, then almost 1,22 million people are supported by Sasol's domestic activities. Sasol pursues a proud policy of uncompromising endurance to and compliance with the regulatory requirements to which it is subject. Its policy has been emphatic (indistinct) opportunistic, aggressive and unacceptable methods of achieving its business objectives. Sasol is committed to social upliftment, training and black economic empowerment. Some examples illustrate this commitment.

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Current annual procurement from V E Enterprises amount to over 600 million and is ever increasing. 640 burses at universities in South Africa are assisted at a cost of R18 million. Numerous technologists have been and continue to be trained in the normal course of business.

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Over 1 000 artisans were trained over the past five years. Sasol has spent upwards of 25 million establishing 135 taxi ranks to uplift the standard of this important sector of the transport industry. Sasol sponsors the national under 22 soccer team and a Sasol coaching programme to develop coaches and soccer talents.

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It also makes a significant contribution towards the upliftment of previously disadvantaged communities in the sports arena. Sasol recently outsourced its information technology requirements to PQ Africa. PQ Africa was selected inter alia for its strong stance on BE and affirmative action. The value of the services outsourced to PQ Africa will amount to R1,2 billion over ten years.

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Sasol was instrumental in the establishment of a black controlled oil company Excel Petroleum. Excel has made rapid progress in the marketing of petroleum products and has in 3 years already attained a 3.8% market share.

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Sasol committed 10.1 million for the development of two new primary schools in the local communities of Sasolburg and Secunda. (Indistinct) joint venture between Sasol and Total active in the bitumen and road surfacing industry, has facilitated promising joint ventures with extensive BE participation. Sasol gas is currently establishing new partnerships with BE groups for the future marketing and distribution of pipeline gas in kwaZulu-Natal and Mpumalanga. Chem City, a joint venture between Sasol, Gensec and Real Africa Holdings has been repositioned as a BE initiative.

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Sasol has become a preferred partner of leading international companies such as Chevron and (Indistinct) Petroleum in ventures to monetise gas (indistinct) because of its leadership in (indistinct) and gas to liquids technology.

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Future benefits to the South African economy will flow from planned off-shore ventures in the GTL field in the form of increased foreign exchange earnings. According to a study conducted by (Indistinct), Sasol contributed directly and indirectly about R62 billion or 7% of the gross domestic product of South Africa.

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The contribution to the GDP of Mpumalanga and Free State amounts to 25% and 9% respectively. Sasol directly created 1,4 billion of wealth in 2000 and 2001. About 27% of this was distributed to employees in the form of salaries and wages. The 18,4 billion constituted 2,2% of the South African GDP and it equals more than 70% of the contribution by the agriculture forestry and fishing sectors over the same period.

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Sasol's exports and foreign sales increased by 138% to R15,5 billion during the previous financial year.

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Having regard to Sasol's exports of R6,9 billion together with import replacement by Sasol Sin Fields SSF, of about R11,5 billion, the value added by domestic refining activities of about 1,5 billion and other import replacement activities, Sasol directly earned and contributed more than R26 billion in 2000, 2001 to foreign exchange savings.

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Without this contribution, the Rand could have depreciated by further 8.2% from R7,62 to R8,25 to the US Dollar with a potential increase of 15 cents per litre on the petrol price. Sasol has also invested outside of South Africa and today enjoys the status of a well respect multi national. In determining its foreign investment strategy, the following observations are pertinent.

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The natural growth of Sasol could not be limited to the territory of South Africa or even the SADAC region. In the modern global economy, Sasol has to developed an international presence or else to stultify. The South African economy likewise benefits specifically by the trading activities of local companies with international reach. Furthermore, global investment presents opportunities to leverage South African developed technologies such as GTL where Sasol is considered the world

leader.

Sasol's off-shore investments. Sasol off-shore investments have not been at the expense of investment in the South African economy and has been pointed out above, Sasol remains the biggest single investor, excluding the government, in the South African economy.

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Investments have been undertaken to advance the best interest of South Africa and Sasol stakeholders and have been carefully considered so as to be the most appropriate investments and on the most appropriate terms and conditions. Sasol has from time to time offered the opportunity to make off-shore investments. It is most discriminate in evaluating these opportunities and only makes these investments which are or those investments rather which are beneficial to South Africa and Sasol stakeholders. Investments are undertaken in strict compliance with applicable regulatory requirements.

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Taking cognisance of all relevant criteria, Sasol respectfully submits that it is truly a national champion of South Africa in the sense in which that term is understood in competition law and other contexts. By way of amplification of the foregoing, it is pointed out that since its listing on the JSE securities exchange South Africa of JSE 22 years ago on 27 September 1979 at a price of R2,00 per share. Sasol has grown into a global company the market capitalization of which has increased to more than R80 billion presently.

15

20

Sasol has also had a level 2 America (indistinct) listing on the New York Nasdaq stock market since 1982. Each ADR is equivalent to one Sasol ordinary share. The Sasol group of companies comprises coal mining activities, diversified fuel, chemical and related manufacturing and market operations, supplemented by interest in technology development, oil and gas exploration and production.

25

The principal (indistinct) stocks are obtained from coal which the company converts into value added hydrocarbons through the (indistinct) technology but also using other hydrocarbon feed stocks in Sasol's global petro-chemical plants. The Sasol group comprises eight main subsidiaries. Sasol mining is responsible for coal mining in the Sasolburg and Secunda regions of South Africa which includes a majority interest in the finding of crude oil at the Natrip refinery in Sasolburg.

30

SFF produces synthetic fuels, pipeline gas and a wide variety of petro-chemical feed stocks. Sasol Chemical Industrial Limited SCI produces a wide variety of commodity and high value petro-chemicals as well as fertilisers, mining explosives and pipeline gas.

35

Sasol Oil (Pty) Limited produces the markets liquid fuels as well as a variety of industrial and automotive lubricants. Sasol Technology supports the business units of Sasol in the areas of research and development, technology and innovation, new business development and the design and construction of new plant and project for Sasol.

40

In this regard the technology development undertaken by the Sasol group over the years, particularly in the GTL field is attractive worldwide. Sasol substantial investment in research and development in years for the benefit of the company.

45

Sasol Petroleum International SPI is formed to develop the group's interest in the exploration and production of oil and natural gas. Sasol Sinfield's International SSI develops implements and manages Sasol's interests in international ventures, based on Sasol's Fissure (indistinct) technology. Sasol financing is responsible for management of group cash and liquidity, external funding, foreign exchange, treasure risk and other general treasure matters.

50

For the sake of convenience, attached hereto marked annexure AC1 is an abridged organogram of the Sasol group of companies.

55

And Mr Coetzee, that organogram you will find at page 39, AC1. Would you please just take us through AC1 at page 39 and could you, for the purposes of this particular inquiry, just indicate to the Commissioners which companies on that organogram we will be dealing with, just to show them where they fit into the bigger Sasol picture. --- Sasol Limited at the top has a 100% interest in Sasol International Holdings.

60

Well Sasol Limited, that is the holding company, correct? --- That is the holding company.

So we will be dealing with Sasol Limited? --- That is correct, essentially with Sasol Limited but also with Sasol Chemical Holdings International which holds the interest in Sasol Chemi or Condea as it was previously known.

60

And that, is that the top green block? --- That is correct.

More or less in the middle of the page, is that the company there? --- On the left-hand side of the page.. (intervenes)

In the middle. --- Sasol Chemical Holdings International.

Yes and in brackets CHI. --- That is correct.

5 Right, so we will be dealing with that company, yes.

CHAIRPERSON: Can we just cut to the chase, what this means is that, as I understand this is that Sasol Limited through various companies, is ultimately the 100% owner of Sasol Chemi. --- That is correct.

Formally Condea. --- That is correct.

10 Is that right? --- That is right.

MR BROOKS: Mr Chairman we will also be dealing with a company Sasol Financing. --- That is correct, Sasol.. (intervenes)

Which you find just under Sasol Limited, third block from the right. --- That is correct. It is also a 100% subsidiary of Sasol Limited.

15 We will also be dealing with Sasol International Holdings (Pty) Limited. --- Which is the company on the far right.

CHAIRPERSON: On the far right. Are there any other companies here that you will be dealing with? --- Not specifically.

20 So those are the main players for purposes of your evidence today. --- That is correct. Those are the main companies in the Sasol Chemi or Condea transactions.

Right, thank you.

MR BROOKS: Please continue. --- Sasol invests substantial amounts each year in South Africa in developing new business opportunities or enhancing existing technologies and processes. Some of the most notable recent investments include R700 million to convert the existing Sin Gas from coal facilities to accommodate natural gas.

25 CHAIRPERSON: I don't think you are coming over that mike. Could you possibly just move it closer to you? Thank you. --- The (Indistinct) crude oil refinery at Sasolburg has commenced work on the 790 million 2000 expansion project to extend capacity and improve efficiencies and enhance environmental performance and is scheduled to commission in May 2002.

30 R1,1 million to be replace SSF's 16 old generation CFB Sinfield reactors with eight new generation Sasol advanced Sinfield reactors. A nine SAS reactor worth R220 million was commissioned in July of 2001.

35 The commitment of a total of 11.3 billion to major SCI capital projects of new and expanded plants for the 1999 to 2003 financial years. Other large projects include a R1 billion plant at Sasolburg for the production of normal butanol, 1.6 billion for acrylic acid and acrolates. The 295 million third (indistinct) for Sasol Olifan's and Serfactants and the R270 million ethyl acetate plant for Sasol solvents.

40 Sasol Olifan's and Serfactants is investing R998 million to build a plant at Secunda for the annual production of 120 000 tons of detergent alcohols.

In so far as Sasol's off-shore activities are concerned, it is pointed out that Sasol also has interests in crude oil exploration and development and chemicals production and marketing around the world through a number of direct investments, global partners or joint ventures worldwide. Including Sasol has signed agreements with the government of Mozambique for the development of natural gas fields and the construction of a central processing facility in that country, including the construction of a 865 kilometre pipeline for the South African gas market.

45 It is expected that the first gas will be available in South Africa by 2004. Natural gas is currently the energy source of choice in the world. The total value of this project is approximately US\$1,2 billion.

50 Sasol solvents in a technology partnership with Mitsubishi Chemical Corporation Limited after Japan has commenced designs for a world scale acrylic acid and acrolates complex at Sasolburg. Sasol will be the only player in the global acrylic acid and acrolates industry to produce all of the required feed materials including propylene acrylic acid, butanol and ethanol at the same site. The total value of this project is approximately US\$250 million.

55 Sasol Chevron Holdings is a 50-50 global joint venture founded on GTL technology. One of the 21st century's most promising prospects for clean fields development. The Nigeria (indistinct) GTL project will be the first such project supported by the global joint venture. The total value of this project is approximately US\$950 million.

60

SSI and G'Tar Petroleum have commenced the initial engineering and design for a GTL plant at the port town of Raslafan in Katar for production of GTL fuel suitable for use in diesel engines. The total value of the first phase of this project will amount to approximately US\$1 billion.

5 Sasol has invested R1,2 billion as a partner in two new world (indistinct) plants in Malaysia, one to produce low density poly-ethylene and the other for gas cracker.

Sasol's vision is to be a respected global enterprise, harnessing its talents in apply unique, innovative and competitive technologies to Excel and selected markets in the energy fields chemicals and related sectors in Southern Africa and worldwide. Sasol
10 foothold as a global competitor is growing stronger as its competitive advantages in the field of fissure (indistinct) technology increases in light of the world's diminishing reserves of crude oil and the need to use increasing amounts of natural gas.

Through the proprietary Sasol Advanced Sinfield process, Sasol can convert coal to synthetic crude oil while the Sasol slurry phase distiller reactor can convert natural gas into
15 high quality, low emissions diesel, thereby appeasing the amounting environmental concern for premium liquid fuels. A copy of Sasol's annual report for the year ended June 2001 will be handed to the Commission at the inquiry.

MR BROOKS: Commissioners I do not know whether you require a copy of the annual report but if necessary I take it, it is available and can be made available to the
20 Commissioners.

CHAIRPERSON: Yes I think you must just have it in your possession in case we need it.

MR BROOKS: Yes. Please continue Mr Coetzee. --- The Condea transaction?
Please. --- Yes.

The background. Condea was the chemical business of RWE Deo, subsidiary of RWE, the
25 largest utility company in Germany. Condea's business was concentrated in the (indistinct) value chain and in oxy-generated solvents. Condea with its headquarters in Hamburg Germany had production facilities in Germany, Italy, The Netherlands, the United States of America, China, Dubai and Slovakia.

For the year ended 30 June 2000 Condea's net income before interest and tax amounted to
30 Euro 114 million or R724 million on a turnover of Euro 2379 million or R15,1 billion and its earnings attributable to shareholders amounted to Euro 37 million or some R236 million.

At 30 June 2000 Condea had a nett worth of Euro 5-33 million or R3489 million. After
35 competitive bid process for the acquisition of Condea, Sasol was declared the successful bidder and entered into an agreement with RWE Deo for the acquisition of Condea.

Could you just tell the Commissioners more or less when was that bid? --- The bidding process was towards the latter part of 2000.

The acquisition enabled Sasol to achieve several of its strategic goals namely expansion of
40 the SCI chemicals portfolio, the Sasol Alpha Olifan Sasol Solvents and Sasol (Indistinct) business had previously been identified as key global growth areas. A significant portion of Condea's turnover was directly related to the (Indistinct) value chain.

This value chain was identified as a growth avenue for Sasol Alpha Olifan with the recent
45 approval of its detergent alcohol project. Condea's (Indistinct) business was an excellent fit for Sasol Alpha Olifan's future detergent alcohol business and resulted in a strong market position in detergent alcohols, linear alcohol benzene and paraffins.

The Condea's solvents portfolio consisting of ethanol, osso-propanol, MEK and glycol ethers
50 fitted well with the portfolio of Sasol Solvents. Condea's Solvents markets are mainly in Europe which is resulting in the realisation of marketing and logistical synergies with Sasol Solvent solvent's business whilst at the same time, diversifying its production base.

Synergies. The acquisition is delivering substantial synergies as a result of the excellent fit
55 outlined above. These include synergies which will result from the access to technology, improved marketing access for SCI's detergent alcohols, solvents and other products, optimising or optimisation of logistics, procurement, marketing and distribution channels and corporate services which resulted in a significant cost reduction achieved through efficiency improvements at Condea.

Product diversification. The expansion of SCI's chemical portfolio provided for a hedge
60 against the oil price movement. The growth in foreign divide turnover. The

acquisition substantially increased the Sasol group's foreign divide turnover from 10% to more than 35% providing geographic diversification of (indistinct).

In accordance with the listing requirements of the JSE, Sasol issued a circular to its shareholders with all relevant information relating to the acquisition of Condea. The circular is attached hereto as annexure AC2.

5 Stop there please. Commissioners that you will find at pages 40 to 63 and the document is dated 22 December 2000 and Mr Coetzee if I could just take you to one or two pages there please. Page 40, just deal with the document very briefly. That is the front page of the circular to creditors. We are not going to deal with the whole document, it will take us a long, long time, page 44, under the introduction paragraph, it gives a very brief introduction relating to the acquisition of Condea, correct? --- That is correct.

10 We then turn to page 45, the bottom of that page, paragraph 5.1 you will see it says the effective date is 1 July 2000, do you see that? Then if you will go to page 46, top of that page, 5.2, it tells you what the purchase consideration was and how it was funded at that stage, correct? --- That is correct.

15 If you go to page 48, top of page 48, paragraph 8 substantial shareholdings and about the fifth or the sixth name there is Sasol International Holdings (Pty) Limited. (Indistinct) at that stage held nearly 42 million shares in Sasol. --- That is correct.

20 Correct. I have just highlighted those issues because we are going to deal with this in a lot more detail when we continue with your statement and if there is anything else in this circular that you would like to highlight, please feel free to do so. Please continue. --- The effective date of the acquisition was 1 March 2001. Condea was renamed Sasol Chemi and for the first four months of Sasol ownership, Sasol Chemi sales amounted to Euro 864 million annualized Euro 2592 million. The earnings before interest tax depreciation and amortisation amounted to Euro 73 million. The earnings before interest and tax amounted to Euro 30 million.

The nett effect on Sasol's earnings for this period, amounted to an increase of 26 cents per share. These results were achieved through the sustained marketing effort some relief from lower oil prices which affected most of the raw material input costs.

30 It is highly noteworthy in investments of this nature that Sasol achieved a positive return in the first year of the investment. The acquisition steered Sasol's potential to a world leading status, providing strong global market and manufacturing positions and opening up various synergistic opportunities.

35 Approaches to treasury and the South African Reserve Bank. When it appeared that Sasol had a good prospect of being the successful bidder for Condea was naturally a prerequisite that the approval of the South African Exchange Control authorities or EXCON be obtained.

40 In this regard it was necessary to obtain approval to the site of the acquisition as well as to the method of financing. In the first instance high level discussions were held with the treasury to discuss Sasol's global involvement and a possible listing for Sasol off-shore.

45 General approval was expressed about Sasol's global involvement. Thereafter discussions were held at high level with EXCON regarding the proposed acquisition by Sasol of Condea and the method of financing. In principle approval was obtained with regard to both of these aspects.

50 The financial of Condea. Sasol Financing is a wholly owned subsidiary company of Sasol. Sasol Financing operated in in-house banking centralised treasury for the Sasol group. Sasol Financial was responsible for group cash and liquidity management in-house banking, domestic and international financing arrangements, foreign exchange management, treasury risk management and other general treasury matters. So the financing is funded by owner reserves, loans from Sasol and internal and external borrowings.

Sasol Financing played a role, an integral role in financing the acquisition of Condea which acquisition increased the Sasol group's funding requirements significantly.

55 External debt increase from 1,5 billion on 25 June 2000 to 8,45 billion on 25 June 2001 which resulted in Sasol's gearing ratio increasing from 5% to 27,4% in accordance with Sasol's strategy. It is important to note that the foreign debt arising from the Condea acquisition is serviced from off-shore earnings. Sasol Financing became integral in the arranging of the combination of local market funding, off-shore revolving credit facilities, the local commercial paper issue, normal bank credit facilities and asset

60

based financing to fund the Sasol group's requirements, including the acquisition of Condea.

Fixed price and sources of funds. After the conclusion of an asset sale and purchase agreement with RWE Deo and after the fulfilment of certain conditions precedent to the transactions, including approval of the transaction by SARB, the acquisition of Condea was closed on 28 February 2001, the date on which the purchase consideration was paid in cash to RWE Deo.

The purchase consideration, the sources of funds required for the purchase consideration are set out in the table below. The purchase price was 1290 million Euro. Working capital requirements 112 million Euro and it is therefore in total, the bid's price was 1323 million Euro.

The sources of funds, asset based facility of 542,8 million Euro, foreign investment allowance 193 million Euro, an asset swop of 340,6 million Euro and revolving credit facility of 246,4 million Euro. Therefore the total source of funds 1322,8 million Euro.

Sorry, could you just stop there. Would you please just go back one page, the second last paragraph, the last sentence, are you with me? The second last paragraph, last sentence:

It is important to note that the foreign debt arising from the Condea acquisition is serviced from off-shore earnings.

Are those Condea earnings or other earnings as well? --- Those would mainly be Condea earnings.

Mainly Condea earnings. And what other earnings would there be, that would be utilised to service that debt? --- I do not think at this stage that there would be significant other earnings to service that debt. But the off-shore debt was (indistinct) to Condea so it would be Condea's earnings to service those debts.

Then just back to page 16 please, under the source of funds, asset based facility of 542.8 million Euro, that was provided by a consortium of 28 banks, is that correct? --- That is correct.

And then SARB foreign investment allowance, well that is the standard allowance that you are entitled to. Then asset swop Deutsche Bank, that was one of the issues that we are going to be dealing with today and then also the revolving credit facility, that is what we will be dealing with. We will be going into that in more depth, is that correct? --- That is correct.

Thank you. --- Breakdown of items.

(a) The purchase price. The purchase price was made up as follows. Base amount of Euro 1295 million less financial debt owing to third parties plus cash, less unfunded pension liabilities plus the amount by which the deemed equity of Condea on the closing date after adjusting for items set out in 2 to 4 above, exceeded Euro 1115,3 million or less the amount by which the deemed equity of Condea on the closing date after adjusting for items set out in 2 and 4 above, fell short of Euro 1095,3 million.

Working capital requirement. The amount required for working capital purposes, purchase price adjustments and to replace the then existing RWE data bank guarantees which had been provided by RWE Deo to the Condea subsidiaries.

Asset based facility. The loan was provided by a consortium of 28 international banks and the assets of Condea surplus security for the loan. Arranged by (Indistinct) and the Industrial Bank of Japan. This transaction was ring-fenced with the foreign assets without recourse to South Africa. Foreign investment allowance. The normal allowance of 500 million plus 10% of the purchase price above 500 million which equated to Euro 137 million plus Euro 56 million. The asset swop with Deutsche Bank, asset swop of Euro 340,55 million nett after cost against payment of 2436 million to Deutsche Bank in South Africa. Arranged by Deutsche securities, a wholly owned subsidiary of Deutsche Bank.

An explanation of the asset swop mechanism as devised by Deutsche Securities, appears in annexure AC3.

Mr Chairman you will find that at page 64. While we are there if you could possibly turn to page 64 and just deal with that briefly. --- Asset swop and securities loan agreement. Activities.

1. In terms of a SARB approval, Sasol paid into the account of Deutsche Securities (Pty) Limited Standard Bank Johannesburg branch an amount of approximately

2500 million on 26 February 2001.

That is 2.5 billion. --- That is correct.

Rand. --- Simultaneously Deutsche Bank AG London branch provided Sasol (indistinct) previously Condea, with an amount of approximately Euro 341 million in Hamburg for the payment of the acquisition of Condea. On 19 February 2001 a securities loan agreement was signed between Sasol International Holdings SIH and Deutsche Securities. On 26 February 2001 Deutsche Securities borrows 38 million 432 400 Sasol Limited shares from SIH. An amount of approximately 2,5 billion was placed with Deutsche Bank Johannesburg branch in a collateral deposit account for SIH and the script was delivered to Deutsche Bank South Africa custodian bank.

What really happens in the greater Deutsche organisation is largely their proprietary product.

However simplistically we believe that Deutsche Securities sold an amount of 39 million 735 600 share to Deutsche Bank in London. Deutsche Bank in London then execute buy orders from long term institutional investors against payment off-shore.

Theoretically as and when orders for Sasol shares are executed, Deutsche could return Sasol shares to SIH which were borrowed in terms of the SOA against release of collateral by SIH. Deutsche Securities returned the Sasol shares to SIH as follows.

On 28 March 2001 18 million 432 400 shares and on 12 June 2001 the balance of 20 million shares.

Could I just ask you, the initial 38,4 million Sasol shares, was that a new share issue or was that existing shares? --- Those were existing shares that was held by SIH as treasury stock.

And that is what I showed you earlier on, I think it was page 46. --- That is correct.

That SIH already held those shares at that stage. --- That is correct.

So it is part of that parcel of shares. --- Correct.

Because as you heard this morning, there was a suggestion that there was a new share issue. --- There was no issue of new shares.

No new issue, pre-existing shares held by SIH. --- That is correct.

Right, thank you. Please return to page 18.

CHAIRPERSON: Just before you do that, while we are on that document, is the suggestion in paragraph 2 that the market value of those 38 million Sasol Limited shares, was approximately R2,5 billion? --- That is correct.

Yes continue.

MR BROOKS: Thank you. --- Revolving credit facility. This is a general corporate facility for an amount used by this 400 million, arranged by (Indistinct) Bank of which Euro 246,4 million was drawn down for the purposes of the Condea position.

Now you are going to deal with the Deutsche relationship in more depth Mr Coetzee. --- Yes that now follows.

Right. --- Relationship between Sasol, Deutsche Securities and Deutsche Bank. During November and December 2000 while Sasol was engaged in finalising the transaction for the acquisition of Condea and receiving the necessary approvals therefore, to seek proposals from Deutsche Securities regarding the asset swap facility which is one of the sources of funding of the Condea acquisition as already explained.

The nature and.. (intervenes)

Sorry would you just stop there. You are now in your statement make a quantum leap from December 2000 to February 2001. What I would like you to do is to fill in that gap and for that purpose, would you turn to page 20 please and start with paragraph 3-5-1? And you will see from there on we fill in the gap created by your statement. So could I ask you then to read further on page 20? --- Mechanisms used in financing. South African Reserve Bank applications and approvals. On 16 January 2001 Sasol applied to SARB through the offices of Gensec, Sasol's appointed authorised dealer for this purpose, for final approval for the acquisition of Condea. Prior to the submission of this application, a meeting was held at the offices of SARB on 8 December 2000 in which initial approvals were sought pertaining to the initial funding structure deposited by Sasol. In this application the South African Reserve Bank was requested to approve:

(a)The acquisition by Sasol of Condea for a base amount of Euro 1295 million plus any adjustments made on the closing date for changes and loans, unfunded

pension provisions, cash and nett equity.

The proposed acquisition structure. The acquisition of Condea including an amount of Euro 100 million for the funding of (indistinct) capital requirements as well as an amount of up to Euro 100 million to be placed in an off-shore EXCON account initially finances as follows. By the transfer of the maximum amount permissible by SARB being 50 million plus 10% of the remaining investment as equity from South Africa, amount to 939 million.. (intervenes)

That was as at January which of course increased substantially in February. ---

Correct.

To 1.3 billion. --- Yes.

Due to the announcement made in the budget speech. --- That is correct.

Yes. --- By the advance of an amount of US\$400 million and approximately Euro 453 million by Sasol Financing on similar terms and conditions, as its existing US\$ 400 million revolving loan facility. By the raising of a five to seven year Euro 700 million loan against the assets of Condea security and with no recourse to South Africa.

If this loan was not finalised at the closing date 28 February 2001, a short term bridge loan of up to three months be allowed by SARB against an unconditional Sasol guarantee and by the raising of a 364 day breach loan facility against and unconditional guarantee from Sasol for an amount not exceeding Euro 150 million.

SARb was also requested to approve that the initial funding structure set out above, be placed as soon as practically possible as follows:

By replacing the loan described above by means of a combination of off-shore debt, bonds, equity and or convertible instruments or by using the asset swop or similar method amounting to Euro 453 million against the Sasol guarantee if necessary.

By refinancing the 364 day breach loan facility amounting to Euro 150 million by way of the asset swop method through a share placement facilitated by Gensec (indistinct).

By placing Euro 100 million in an off-shore EXCON account for the sole purposes of funding any shortfalls arising from the surfacing of off-shore debt which would be guaranteed by Sasol and by replacing the bank guarantees at that stage provided by RWE Deo to the subsidiaries of Condea, by means of a Euro 100 million working capital facility which formed part of the Euro 700 million asset based loan described above.

Would you just stop there please. In paragraph sub (a) you say by replacing the loan described above. Could you just identify which particular loan you are talking about?

--- I am essentially talking about eh 364 day breach loan because that was only a less than one year breach loan facility as well as a portion of the US\$ 400 million revolving credit facility.

Only a portion thereof? --- Yes, to the extent that it was possible to do so.

Okay, continue. --- A copy of the application referred to above is attached hereto marked annexure AC7.

Commissioners that you will find at pages 74 to 78. Commissioners I will not be taking you through that document because the witness has dealt fully with the document so it would be repetitive. Please continue on the next page 22. --- On 19 January 2001 Sasol received a letter from Gensec in which approval was granted by EXCON pursuant to the application dated 16 January 2001 and referred to in paragraph 3-5-1-1 above. The relevant part of the approval was quoted from SARB's reply and set down (indistinct) and provided as follows.

Would you just stop there. This is now our first reference to Gensec. Where does Gensec fit into this funding picture? --- Gensec was the authorised dealer on the application with respect to the acquisition of Condea in its entirety.

So that is the role which Gensec played there? --- That is correct.

Right, please continue. --- Thank you for the information furnished and advised that we should have no objection to the applicants acquiring 100% interest in Condea for this specific purpose stated nor to the transfer of up to an amount of 935 million to fund a portion of the purchase consideration as outlined in your application.

We note the balance of the funding requirement will be financed off-shore and in this regard it should be noted that the facilities obtained must be for a minimum period of two years. We also noted that the 364 day facility in the amount of Euro 150 million will be repaid and in this regard I would refer you to your reply to an application number 13 of 2001 01 16 submitted in the name of the applicants.

It is also noted that the Euro 700 million loan will be a five to seven year loan with no recourse to South Africa. There would from an exchange control point of view, be no objection to the United States \$400 million facility being guaranteed from South Africa provided the facility is for a minimum period of two years.

5 Interest and capital repayments must be serviced out of off-shore funds. In the event of default within the first two years, from drawn down date of the facility, the first recourse must be to the overseas assets after any shortfall will on application be allowed to be transferred from South Africa. Full details of the circumstances giving rise to the implementation of the guarantee must however be forwarded to us when
10 submitting an application to transfer funds abroad.

Furthermore in the event of funds being executed from South Africa, we reserve ourselves the right to call upon the South African party to refinance abroad any amount transferred in order to ensure reserves (indistinct).

15 Having regard to that portion of the request whereby permission is sought to replace the funding structure in due course, I advise that a fresh, fully motivated request must be submitted to us at a later stage, which application would be considered in the light of the policy then prevailing.

It should be pointed out to your clients that they may not dispose of their interest in the off-shore company nor may the modus operandi thereof be amended without our specific approval. However they may expand their activities abroad without our prior approval provided such expansion is financed by foreign borrowings without recourse, or guarantee from South Africa or by the employment of profits earned by the specific subsidiary in question.

20 Subject to the expansion being in the same line of business and that the benefit to South Africa can be demonstrated. Such expansion may however not be made into SADAC or the CEMA without specific prior approval from the control.

Any expansion plans must of course be placed on record with the controller at an early stage.

No further guarantees may be issued from South Africa without our prior approval. Required to be furnished with a copy of the audited financial statements of the off-shore company together with the (indistinct) report on an annual basis. Such report must inter alia highlight full details of benefit derived by South Africa as a result of the investment.

25 The nett income after tax reflected in the financial statements of the off-shore company must of course be transferred to be refunded annually as a dividend in compliance with exchange control regulation 6.

30 Notwithstanding the authority granted above, the retention of any balance of the profits earned would have to be negotiated with the controller at the time with the normal annual report back. Your customer should be informed that the controller reserves himself the right to call upon the applicant entity to dispose of the interest in this foreign concern, should it no longer fulfil the purpose for which it was acquired.

35 For the sake of good order, I quote below the body of the application, a copy of a letter from Gensec regarding the approval referred to above is attached hereto marked annexure AC8.

Commissioners it is page 79 up to 82, AC8. Please continue. --- On 22 January 45 2001 SARB approved Sasol's application to refinance the 364 day breach loan facility by way of share placement. The share placement was to be effected by way of the following method as referred to in the application. Gensec Island Limited. Gensec Island would acquire Sasol shares in the South African secondary market. Gensec Island would in turn place these shares with long term international investors. SARB is requested to note that the shares would not be sold at a discount but would be sold to satisfy off-shore demand in Sasol shares on an ongoing basis. Gensec Island would place the shares in a responsible manner so as to ensure minimum flow-back of shares to South Africa.

Any flow-back that may have occurred, had to be reported timeously by Gensec to SARB.

50 The proceeds of the placement had to be used to repay the 364 day breach loan facility that Sasol had at its disposal. The funding mechanism would have resulted in no South African currency being converted abroad. Gensec undertook to keep SARB informed of the placing of the shares and to inform EXCON of any flow-backs that might occur.

60 SARB approved and advised Sasol through the offices of Gensec that it was agreeable to

the arrangements outlined in the application and requested that it be kept informed on the success of the share placement and be advised once the facility had been repaid. This authority was granted subject to the conditions that if any flow-backs occurred, SARB reserved the right to call on Sasol to re-finance abroad any amounts transferred from South Africa in order to ensure reserves (indistinct).

5

A copy of the approval referred to above is attached hereto marked annexure AC9. Commissioners that is page 83 and 84.

We are going to deal, now dealing with this Gensec structure and we will now start dealing with the Deutsche structure. Could I just ask you so that we can in due course distinguish between the two structures. Can you give us a very simplified version of what happens on this Gensec Island structure that you have just told us about? --- The two structures as far as Sasol is aware, is fairly similar save for the difference that (indistinct) would take (indistinct) on the Sasol share pass to the extent that it would provide us with bigger amounts of (indistinct) with Gensec. In other words Gensec would provide buyers offshore on the basis of selling Sasol shares to long term holders first and then providing Sasol with the offshore dollars against (indistinct) South Africa of rands .. (inaudible)

5
10 So those funds would come in offshore in dribs and drabs or would they come in, I am now dealing with Gensec, would money come in in dribs and drabs to Sasol as and when shares are sold or would it come in one lump sum? --- It could be in one lump sum but essentially the shares are placed in dribs and drabs.

15 So the shares are sold to Gensec Island. Correct? --- Gensec Island would buy the shares on the South African market and place with long term shareholders and as and when they execute those buy orders from their customers, they would accumulate the dollars offshore and once they have accumulated those dollars offshore, they could have been offered to Sasol against (indistinct).

20 So that is the Gensec transaction in a nutshell. We are going to deal with the Deutsche Securities transaction. Please continue on page 25, paragraph 35.14. --- On 24 January 2001 Deutsche Securities submitted a draft (indistinct) for the re-financing of (indistinct) facility approximately Euro 453 million to Sasol. The draft (indistinct) was in relation to a corporate asset swop in the amount of Euro 350 million for the purposes of Deutsche Bank obtaining approval for the asset swop from (indistinct). The draft (indistinct) requested that Sasol be allowed to raise up to Euro 350 million for approximately R2,6 billion by means of asset swops in accordance with the following.

25 And could you please take us through this very slowing and I think explain as you go along because this is really the nub of the matter? --- Existing Sasol shares held by wholly owned subsidiaries of Sasol would be replaced with long term foreign investors.

30 And that wholly owned subsidiary that is SIH. --- Correct.

That we saw in the pictures earlier on in your organogram. --- That is correct.

Right. --- All purchases of Sasol shares by non-resident investors in terms of the asset swop, would be at market related prices.

35 Just stop there. Who is this non-resident investor? --- Those non-resident investors would be clients of the Deutsche Group.

Does it include Deutsche Bank London? --- Deutsche Bank London would certainly qualify as an offshore investor.

So it would be Deutsche Bank London plus their clients? --- Correct.

Is that your understanding? --- that is my understanding.

40 Right. --- Proceeds from the asset swop would be placed to Sasol subsidiary SIH, the company incorporated and domiciles in South Africa for onward investment into the new acquired entity to be formed in foreign currency. Foreign investors will pay in foreign currency and there will be no conversion into or out of rands.

45 Can you just stop there. Before you get to the next paragraph, I see the name ... Mr Wasserman, your client's names are there again.

MR WASSERMAN: Yes, Mr Commissioner, there is another reference to some of the client's names and I would ask you to rule that that would also be subject to your original ruling.

50 MR BROOKS: Mr Commissioner, would it not be easier if you grant us five minutes just to sort out all these .. (intervenes)

CHAIRPERSON: It is not going to take five minutes.

MR BROOKS: Because there seemed to be .. (intervenes)

CHAIRPERSON: I think Mr Wasserman (indistinct) to make sure that everything he wants .. (intervenes)

55 MR BROOKS: Could you please ask Mr Wasserman to shout if we do not reach that (indistinct). Could I just get back to C at the bottom of page 25? Where would the payment take place? --- The payment for the asset swop would take place from the Sasol perspective in South Africa and from the Deutsche perspective directly into the second (indistinct) in Hamburg.

60 So they would pay in Euro in wherever it is as nominated by Sasol? --- That is

correct.

Was that the intention? --- That was the intention.

So you say from a Sasol perspective the payment would take place where? --- The payment would take place in South Africa.

5 Yes. --- Through Deutsche Securities and payment would take place from the Deutsche Group in Hamburg.

What you are saying is that Sasol pays to Deutsche Securities in South Africa and foreign investor overseas pays to Sasol in Hamburg or wherever as nominated by Sasol? --- That is correct.

10 That is after the shares have been placed? --- Correct.

Please continue. And the next paragraph please do not read the names. --- (indistinct) long term and non-resident institutional clients of Deutsche Securities and no South African party would participate in the placement exercise.

15 CHAIRPERSON: Can we just pause there and let me try and understand this? At this stage your proposed transaction the (indistinct) for the purchase price (indistinct) would be met by the sale of Sasol shares in Europe and there would therefore be no flow of currency from South Africa to London. Is that correct? --- That is correct.

And was that the advantage to the South African Exchange Control authorities to this deal? --- That is correct.

20 But at this stage it is very similar then to the Gensec Island deal. Is it? --- That is correct.

Yes, thank you.

25 MR BROOKS: Could you possibly at this stage just illustrate to the Commissioners what is the difference? --- The difference in the transactions is that Deutsche sold an amount of shares to a part of the Deutsche Group in London who undertook to hold the shares for a minimum period of 12 months and then during that period on (indistinct) the shares to long term institutional investors and therefore the amount was raised upfront essentially and not in dribs and drabs as Mr Brooks had called it.

30 In other words as and when Deutsche Bank London received the shares, we will deal with that detail now, they paid the 340 million Euro to Sasol in Hamburg? --- That is correct.

Is that the transaction in a nutshell? --- That is correct.

CHAIRPERSON: The advantage to Sasol that it got payment (indistinct)? --- That is the advantage to Sasol, yes.

35 Deutsche is to accelerate the payment by not waiting for the sale in dribs and drabs of the shares as Gensec Island deal with it? --- That is correct.

MR BROOKS: And for purposes then of that transaction, the long term foreign investor would be Deutsche Bank London. Is that your understanding? --- Yes.

40 Is that how the Commissioners must accept it? --- Yes, certainly for the first 12 months the undertaking was by Deutsche Bank that they would keep those shares for a minimum period of 12 months except if (indistinct) to long term foreign investors during the course of that period.

45 Mr Coetzee, we are going to hear this term long term foreign investors repeatedly over the next four days. Would you please tell us from Sasol's perspective and from your perspective what is this long term foreign investor? --- I think that is a very very difficult .. (intervenes)

50 But how did you Sasol understand this long term foreign investor? --- Long term foreign investor in our understanding and as explained to us is that someone that would hold his shares in the long term portfolio offshore. Now that is very difficult to determine whether it is held in a long term portfolio offshore.

In other words it was not bought for speculation purposes? --- That is correct.

55 MR GANTSHO: Mr Coetzee, the offshore leg of the transaction is the second leg of this entire transaction. The first leg is where Sasol buys back the local shares. Is that correct? --- The buy back of the local shares essential had no relevance on the asset swap. The buy back was a program and we deal with that in this report to .. (intervenes)

But what was Sasol then paying for to Deutsche Bank in South Africa? --- We were paying to Deutsche Bank in South Africa the equivalent of the Euro that they provided to Sasol in Hamburg.

60 They provided those (indistinct) for what? --- And therefore the so-called asset swop. So essentially Euros were swopped, Euros in Europe were swopped for rands in

South Africa.

But that was not linked to the buy back of the local shares? --- No, that was not linked to the buy back at all.

5 MR BROOKS: And we are going to get into detail, Mr Coetzee, but the intention is Sasol gives Deutsche R2,5 billion in South Africa. Deutsche takes that money and let us forget about Deutsche Securities, Deutsche Johannesburg etcetera, but Deutsche Johannesburg in South Africa takes that, buys Sasol shares from SIH and sells it to Deutsche London and when Deutsche London gets the shares, they pay for it in Hamburg or in London. Is that the transaction once again in a nutshell? --- That is the transaction in a nutshell.

10 Please continue. I think you are in the middle of page 26 where you get to the AC10. --- There is a copy of the draft application referred to above is attached hereto marked annexure AC10.

Mr Commissioner, that you will find at pages 85 to 88. --- On 25 January 2001 (indistinct) approved the application submitted by Deutsche Bank referred to in paragraph 15 35.14 above on the following terms as quoted below:

"I refer to the telephone conversation with your Mr Lansdowne and we confirm that the share placement (indistinct) involving credit facility of \$400 million for which a guaranty was authorised from ourselves under application number 14 dated 2001.01.16. We are therefore agreeable to the placement of 20 Sasol shares to the rand value of Euro 350 million on the JSE for this specific purpose.

This authority is subject to the conditions outlined under point 3 on page 2 on your application.

25 We noted that long term foreign investors will subscribe for the relative shares and that no South African party will participate in the share placement exercise.

We also noted that the relative shares would be placed at market value.

Kindly keep us posted (indistinct) which should include full details of any flow back that might occur or have occurred. In this regard it should be pointed out to your customers in the event of flow backs occurring, we reserve ourselves 30 the right to call upon them to re-finance their amounts transferred from South Africa abroad in order to include the loss in foreign currency.

Finally any liability that the applicants must settle with their local subsidiaries in respect of the shares to be placed, must be done so locally in rand. It follows that foreign subsidiaries may not take up the African shares as part 35 of a share buy back arrangement and shares obtained by them in this matter may not be included in this authority and must be reported to ourselves."

A copy of the (indistinct) approval referred to above is attached hereto marked annexure AC11.

40 Mr Commissioner, that you will find at page 88 up to 89. Mr Coetzee, before we continue, if you go to the application which was made to SARB, AC10 at page 85 up to page 87, it is a lot easier if we see the documents before you.

MR WASSERMAN: Once again, Mr Chairman, may I point out that this document also pertains confidential information and we would ask that you rule that it is subject to your 45 original ruling, page 87.

MR BROOKS: Other than Deutsche Bank, Mr Wasserman?

MR WASSERMAN: Other than the Deutsche Bank. Thank you.

MR BROOKS: Mr Coetzee, this application which we see here dated 24 January, does Sasol see this application or a draft thereof prior to it being submitted to the Reserve Bank by 50 Deutsche Bank? --- Yes, we saw a draft of this application to the extent that we were asked to check the information that has relevance on Sasol.

And we are going to see shortly that there are what we call securities loan agreements entered into between parties. Now that securities loan agreement is not referred to in this application to the Reserve Bank. Is there any particular reason for that? --- This 55 application was submitted to SARB by Deutsche Bank as an authorised dealer and therefore the related transactions to this that had to be submitted was we had no knowledge of and as far as we are concerned with the securities loan agreement, it was an agreement between the South Africa company and another South African company, SIH and Deutsche Securities and therefore as far as we are concerned it had no bearing on the .. (intervenes)

60 On the application itself. --- On the application itself.

So the securities loan agreement was already at this stage 24 January envisaged but because it was an internal arrangement you say it was not necessary or you did not regard it necessary to disclose that. Is that .. (intervenes) --- We did not make this application to SARB.

5 No, but you approved it. --- Yes.

You saw it and you approved it. --- Well, to the extent that it contained specific information regarding Sasol, yes.

Let us get back to the securities loan agreement. That we now know is not in this application and could you just tell the Commissioners again why it is not referred in this application? --- Whether that was relevant in the context of the transaction, was not clear. Whether that was relevant to the asset swop transaction. As I have mentioned it was a transaction between two South African companies as far as Sasol is concerned.

Please continue on page 27, paragraph 35.16. --- In a letter dated 15 February 2001 from Deutsche Securities addressed to Sasol, annexure AC4, details of Deutsche Securities proposed assets swop facilities were indicated to the extent that the asset swop would involve the following: the payment by Sasol of rands to Deutsche Securities and the payment of foreign currency US dollars or Euros by Deutsche Bank to Sasol. The foreign currency would be generated by Deutsche Securities purchasing Sasol shares and on selling these shares to long term foreign investors i.e. asset swop. Any shares placed with Deutsche Bank would not be sold within a period of 12 months other than to long term foreign investors. See paragraph 1 of first letter. Deutsche Securities would provide an initial facility to raise up the (indistinct) to 15 million on the basis of the (indistinct) facility.

Could you just stop there, please? AC4 you will find at pages 68 to 71.

CHAIRPERSON: Just give me that page number again?

25 MR BROOKS: 68 up to 71.

CHAIRPERSON: Thank you.

MR BROOKS: Mr Coetzee, can I just stop you. The second last paragraph on page 27, the foreign currency would be generated by Deutsche Securities purchasing Sasol shares and on selling these shares to long term foreign investors. That is how I understand that. Just straight forward buy by Deutsche Securities. Is that correct? --- Yes, that is how we understand it.

CHAIRPERSON: Deutsche Securities is a South African company? --- Deutsche Securities being a South African company.

MR BROOKS: And so there is still no where we are here on page 27, still no script lending? In other words where Sasol shares are going to be lent to Deutsche Securities as opposed to sold to Deutsche Securities? --- Yes, as far as we understand Deutsche Securities would have purchased those shares in South African market and to be on sold to Deutsche .. (intervenes)

Possibly we could go to page 68. If I can just take you there, please. There is the agreement and you will see it is signed on page ... are you with me, Mr Coetzee? --- Yes.

You will see the agreement starts on page 68 and it runs up to page 70 and on the overview paragraph you get two bullets there. The payment by Sasol to Deutsche Securities. Are you with me? --- Yes.

A payment of foreign currency by Deutsche Bank to Sasol. Then it says:

45 "The foreign currency will be generated by Deutsche Securities purchasing Sasol shares and on selling these to long term foreign investor i.e. the assets swop, any shares placed with Deutsche Bank will not be sold within a period of 12 months other than to other long term foreign investors."

So as I understand it and please help me if I am wrong, a clear understanding that Securities is going to buy, the word is placed with Deutsche Bank and then the flow takes place. Is that correct? --- Yes.

And then to read further under facility:

"Deutsche Securities would provide an initial facility to raise up to Euro 350 million.

This facility would be implemented as follows: ..."

55 Could you read the next sentence for us, please? ---

"To the extent that Sasol is able to lend script to Deutsche Securities as outlined in paragraph 5 below, Deutsche Securities would be able to implement the full amount at any time upon Sasol's instructions."

Paragraph 5 where it says you must read it with paragraph 5. You will find that on the next page. ---

"The number of shares to be lent to Deutsche Securities will initially for a period of 1 month other than (indistinct) be equally to the number of shares assets swapped and thereafter for a period of 12 months be equal to 50% of the number of shares assets swapped or Deutsche Bank's remaining exposure whichever is the lower."

5

If you can please read on because we are going to find .. (intervenes)

MR WASSERMAN: Sorry, Mr Commissioner. If my learned friend wants Mr Coetzee to read on, I would like to point out the two references on that particular page. It is also covered by confidentiality, the fee structure.

10 MR BROOKS: Perhaps we can skip that, Mr Commissioner. Paragraph 4 and also in paragraph 5. Could you just read on page 69 the two last paragraphs appearing there? ---

"Any collateral on behalf of Sasol by Deutsche Securities will be placed with Deutsche Bank Johannesburg branch. The form of this collateral cash or liquid fixed income Securities settlement of SARB regulations will be agreed upon by Sasol and Deutsche Securities.

15

In the event of the script is lent to Deutsche Securities any outstanding script buyings will be returned to Sasol by the dividend LDR so that Sasol will receive its dividend. In the event this is not done Deutsche Bank will ensure that Sasol (indistinct) that it would have been if it had received the dividend."

20

Now that is slightly more complicated than the initial picture we had. Does that mean that only to the extent that Sasol can in one lump sum lend to Securities a lump of shares will Sasol get its money overseas? --- That is really as far as we are concerned proprietary product of Deutsche what they specifically did with Sasol shares that they borrowed or why they borrowed that, is as far as we are concerned a transaction inside South Africa.

25

Is that not what this agreement says? Is my understanding incorrect? Mr Cooper, maybe Mr Coetzee understood it but not you. But let us ask Mr Coetzee.

CHAIRPERSON: Mr Coetzee, if you look at page 68 where the overview is described, that is the concept of sale, we do understand this. How then does the question of a loan of shares come into this transaction? Can you just explain the concept of a sale in paragraph 1 and the question of a loan in paragraph 2? How did you understand this? --- We understood that as far as the asset swap is concerned, the asset swap itself would involve the sale essentially of Euros for rand or the swap of Euro for rands. The extent to which the securities loan agreement was entered into as far as we understood that, was essentially by Deutsche to cover some of its exposure in terms of a short sale of shares because it had to sell shares to Deutsche Bank in London which it did not had and therefore had to borrow (indistinct). Now that it is implemented as far as we are concerned, the proprietary Deutsche Bank or Deutsche Group.

30

MR BROOKS: I think we have lost you.

CHAIRPERSON: What is the relationship between lending shares and selling shares? ---

40

As far as we were concerned it was a separate transaction because it was a transaction as I have indicated between Sasol International Holdings, the owner of those shares simply borrowing shares to the Deutsche Group because as Deutsche has indicated they could borrow those shares in the market from any other holder of Sasol shares.

45

MR BROOKS: Mr Coetzee, possibly I could try and clarify it. SIH, Sasol International Holdings as a parcel owns, let us call it 40 million Sasol shares, it is slight more, let us round it off to 40 million. Are you with me? --- (no audible)

You are nodding your head. You have got to say yes. --- Yes.

Because it will not record the nod. So 40 million shares are held by SIH. Those shares are going to be sold Securities. Correct? --- No, SIH is not a seller of the shares. It is simply made those shares available in terms of the securities loan agreement.

50

Page 68 overview:

"The following currency will be generated by Deutsche Securities purchasing Sasol shares."

So let us go back to my .. (intervenes) --- And indeed it did buy Sasol shares in the market as they have been indicated in other documentation.

55

Was it the SIH shares it was going to buy or was it going to buy other shares? --- It was going to buy shares in the market.

So not the SIH shares? --- No, the SIH shares were part of a securities loan agreement.

60

That is exactly what I am trying to distinguish. So you are saying to me they were

not going to buy the SIH shares. They were going to buy other shares. --- Yes.

Right. Sasol was going to give R2,5 billion and it was going to buy those shares with the R2,5 billion; sell the shares to London and then Sasol would get the money overseas, the equivalent of 2,5 billion. --- That is how I understand it.

5 But it is not the parcel of shares at that stage held by the South Africa .. (intervenes)
--- No.

And it is only if Securities wanted to borrow the SIH shares? --- Yes.

Are you still with me? --- Yes.

That there would be a lump sum payment overseas of 2,5 .. the equivalent of 2,5
10 billion. --- Yes.

And that is where the script lending comes in. --- Correct.

I hope that I have adequately dealt with that issue because it is not easy to understand it. That is why I went in some detail.

15 CHAIRPERSON: So it is the loan agreed to in the event of there being insufficient shares to sell. --- The loan was agreed to be able to provide the full extent of the asset swop (indistinct).

I think perhaps Mr Coetzee as you finish his evidence because I am not following it and perhaps if we can think overnight and come back tomorrow. It will give us time to think about it. This is very new to us.

20 MR BROOKS: And it is not easy, Mr Commissioner. Mr Coetzee, please continue. We are at page 27, paragraph 35.16. We have just dealt with that paragraph up to the bottom of page 27. Just to get our train of thought. Deutsche Securities would provide an initial facility to raise up to Euro 350 million on the basis of a script lending facility. That is where we have just taken you to that page 68 and 69. If you could from thereon just read further please. ---

25 "It was also stated and confirmed in paragraph 3 of this letter that (indistinct) to Sasol to implement asset swop transactions up to an amount of Euro 350 million.

Any implementation of the asset swop facility, Sasol would utilise the group's pool of funds i.e. surplus cash and external facilities available at the time such as domestic medium term (indistinct), commercial (indistinct) and
30 banking lines to make payment to Deutsche Bank in South Africa.

Payment would be affected through simultaneous electronic transfer of funds from Sasol Financing to Deutsche Bank in South Africa and the electronic transfer of funds to Deutsche Bank in London to the Sasol (indistinct) settlement account in Hamburg.

35 On 19 February 2001 Deutsche Securities and SIH entered into securities loan agreement pursuant to the letter dated 15 February 2001 in which letter the terms of the proposed asset swop facility was set out. This has already been referred to in paragraph 35.14 above. Reference is again made in paragraph 4 below to the securities loan agreement.

40 For the sake of convenience a copy of this agreement is attached hereto as annexure AC12."

This is pages 90 up to 102, the cross-reference. Mr Coetzee, please continue. ---

45 On 27 February 2001 Gensec on behalf of Sasol applied for SARB approval for Sasol to be allowed dispensation as outlined in the (indistinct) circular No. D319/2001 to the extent that Sasol would be allowed to transfer 500 million plus 10% of the cost in excess of the new permissible Excom limit as set out in the circular. In other words not the 50 million but the 500.

The increased one in line with the budget speech. --- That is correct.

50 That is referred to in AC13, pages 104 up to 105. I do not think it is necessary to deal with that any further. Would you please then go to the top of page 29? Now Mr Coetzee in any sequence of events, we have no dealt with 27 February 2001 and your next paragraph skips to 6 March. Now I understand that the transaction was implemented on 28 February. Could you just tell us or tell the Commissioners rather what happened on 28 February? In other words deal with the flow of funds. --- On 28 February the consumption in
55 terms of the (indistinct) position was closed and therefore all the funds flowed to Hamburg. The draw downs in terms of the asset based financing facility, the draw downs in terms of the US dollar (indistinct) facility, the payment of the equity that was approved by SARB to be taken out of South Africa and in addition the payment of the asset swop, all four those amounts formed part of the total purchase price and therefore on 26 February already made
60 payment to Deutsche in South Africa of the rand amount, that had been transferred to the

Euro settlement account in Hamburg on that say day to be utilised for payment and closure on 28 February 2001.

So that was the 2,5 billion which then flowed from Sasol to Deutsche and then from there, well something happened and then the money flowed overseas. --- And the
5 equivalent amount of Euros flowed from Deutsche Bank in London to the settlement account in Hamburg.

And the mechanism used to facilitate that payment was the corporate asset swop. --- That is correct.

Now I understand that if you go and look at the Reserve Bank Rules and
10 Regulations, it is not really a corporate asset swop. It is a share placement. You also understand it as such. --- The terminology in terms of asset swop and share placement if you use it interchangeably and we use the terminology together with our authorised dealers, interchangeably throughout as far as we were concerned, there is not a clear distinction
15 between an asset swop and a share placement but as far as we are concerned, it is essentially the same thing.

Very well. Please then continue page 29, paragraph 35.19. ---

"In a letter dated 6 March 2001 Gensec conveyed to Sasol SARB's approval of the request referred to in paragraph 35.18 above on increase of the amount to be transferred from South Africa. SARB approved that in the circumstances
20 and as a exceptional case it was agreeable to the amount previously authorised, namely R935,7 million be increased to R1,337 million for this specific purpose stated.

As also referred to the Euro 56 million referred to in paragraph 3323D above."

A copy of Gensec's letter is attached hereto marked annexure AC14.

25 Mr Commissioner, that is 106 to 108. Carry on. ---

"A copy of the SARB approval dated 27 February 2001 forwarded by Gensec to Sasol on 8 March 2001, is attached hereto as annexure AC15."

Page 109 to 110 is the reference. Please continue. ---

"In a letter dated 15 March 2001 from Gensec to Sasol Financing the terms were set
30 out for the provision of offshore funding to Sasol Financing in an amount of \$13 million or Euro 15 million for the re-financing of the 364 day (indistinct) loan facility."

A copy of the letter is attached hereto marked annexure AC16.

The cross-reference is 111 up to 112. Please continue. ---

35 "In a letter dated 19 March 2001 from Gensec to Sasol, Gensec advised that it was a firm belief that the \$13 million facility referred to in paragraph 35.10 above, may be used in terms of the SARB approval No. 01/03 of 16 January 2001 and referred to in paragraph 35.13 above."

A Copy of this letter is attached hereto and marked annexure AC17.

40 This is 113 up to 115 is the cross-reference. ---

"IN a letter dated 10 May 2001 from Gensec to Sasol Financing, Gensec confirmed the terms upon which Gensec Island would facilitate the provision of offshore funding to Sasol Financing on the basis that Gensec had created \$13,3 million by placing secondary shares in Sasol with non-South African
45 institutions which in Gensec's opinion were likely to be long term holders of such shares."

Mr Coetzee, could I just stop you there? What does it mean Gensec have created so many US dollars? --- What it essentially means is that they have placed shares to that value with long term shareholders offshore and therefore they have that amount available
50 being an (indistinct)

Right. ---

"Gensec would pay to Sasol \$13,3 million into such offshore bank account as nominated by Sasol and Sasol would pay to Gensec on the payment date the rand equivalent of the US dollars."

55 A copy of Gensec's letter is attached hereto and marked annexure AC18.

Pages 116 and 117. Please continue. --- A copy of Gensec's letter is attached.

"On approval of this transaction was confirmed in an E-mail on 10 May 2001 addressed by Mr (indistinct) with Gensec and Mr Coetzee of Sasol."

A copy of this E-mail is attached hereto as annexure AC19.

60 That is page 118. Please continue. ---

"In an E-mail addressed by Mr Lansdowne of Deutsche Securities to Mr Coetzee of Sasol, Deutsche Securities confirmed that it would be able to facilitate further asset swops up to an amount of Euro 250 million but that SARB approval would be required for any further transactions that approval previously granted had been utilised."

5

A copy of this E-mail is attached hereto and marked annexure AC20.

Page 119. Mr Coetzee, that further asset swop of Euro 250 that was never implemented? --- That was never implemented.

So we do not have to worry too much about that. --- No.

10

Is there any reason why it was not implemented? --- At that specific time we considered the rand/dollar exchange rate to be not reflected of the true value of the rand as far as we were concerned.

Would you please continue? ---

15

"On 22 June 2001 Deutsche Securities provided Sasol with the draft letter by Deutsche Bank to SARB. The purpose of the letter was to notify SARB of asset swop transactions implemented and to provide details of Sasol shares placed up to that date. This information was provided in terms of the SARB approval dated 25 June 2001 under reference No 01/008 submitted by Deutsche Bank Johannesburg branch and referred to in paragraph 35.15 above.

20

Deutsche Bank stated that, inter alia, the total of 39 735 600 Sasol shares had been placed. Proceeds of European 50,55 million (indistinct) expenses were raised through the placement. (indistinct) Euro proceeds were settled directly for the account of SIH. Shares were placed with Deutsche Bank London who had undertaken to Sasol that Deutsche Bank would not sell the shares for a period of 12 months other than to other suitable long term foreign investors. Any such sales would have been transacted through Deutsche Securities.

25

Deutsche Bank subsequently sold a total of 6 460 400 shares to foreign investors .. (intervenes)

30

Just leave out the names of the .. Sorry continue. ---

"Deutsche Securities was not aware of any subsequent sales of Sasol shares acquired other than those listed in the paragraph above."

A copy of the letter is attached hereto marked annexure AC21.

35

Mr Commissioner, that is page 120 and 121. If you could just note on page 121 to delete further references to funds. Can I ask you this: on page 31, paragraph C, why would the Euro proceeds settle directly for the account of SIH? --- SIH was making the investment essentially in Sasol.

Please continue. You are on the bottom of page 31, Mr Coetzee. ---

40

"In a letter dated 6 July 2001 to Sasol, Deutsche Securities attached a letter dated 26 June 2001 addressed by SARB to Deutsche Bank, annexure AC5."

Which is at page 72. ---

"In which SARB requested further information pertaining to the application submitted to raise up to \$200 million by means of asset swops as detailed in paragraph 35.13 above (see annexure AC22) thereto.

45

And that is page 122. ---

"In a letter dated 11 July 2001 from Sasol addressed to Deutsche Securities, Sasol provided details pursuant to the SARB's request for additional information referred to in paragraph 35.15 above."

50

A copy of this letter is attached as annexure AC23 hereto.

Mr Commissioner, that is page 123 and 124. ---

"In a letter dated 19 July 2001, annexure AC6.

Page 73. ---

55

"From SARB to Deutsche Bank, SARB approved that Deutsche Bank application for additional asset swop in the amount of \$200 million. IN this letter SARB stated SARB would have no objection to the proposed arrangement. The authority may be regarded as a valid for a period of three months. SARB requested to be kept informed on a three monthly basis as to the success of the placement including the names of long term investors or otherwise including full details of any flow backs that occur or might occur."

60

Could you please stop there. We have now determined that that asset swop was not proceeded with. --- That is correct.

So let us not waste time and let us get on to the next paragraph 35.18. ---

5 "In an E-mail addressed by Gensec by Mr (indistinct) to Sasol on 20 July 2001, Gensec advised that it held authority to conduct the share placement to the value of Euro 150 million (indistinct) in terms of the authority share placements to the value of approximately \$13 million had been affected in terms of the transaction referred to in paragraph 35.12 above."

A copy of the E-mail is attached hereto marked annexure AC24.

10 That is page 125. Just tell us that Gensec Euro 150 was that implemented? --- No, only \$13 million.

"On 15 August 2001, Deutsche Securities addressed a letter to Sasol confirming the approval from SARB (annexure AC6) for the additional asset swop transaction referred to in paragraph 35.17 above."

15 A copy of the letter is attached hereto marked AC25.

That is page 126, Mr Commission. ---

"On 10 October 2001, Sasol addressed a letter to SARB to which a copy of the agreement between Deutsche Securities and Sasol Financing dated 15 February 2001 (annexure AC4) and referred to in paragraph 34.2 and paragraph 35.17 above, was annexured."

20 A copy of the letter is attached hereto marked annexure AC26.

That is page 127 up to 130. ---

"AC4 was furnished by Sasol to SARB at the request of SARB.

25 During a meeting held between representatives of the commission and representatives of Sasol, one of the representatives of the commission requested to know whether Sasol share buy back programme had been created for purposes of facilitating the (indistinct) transaction.

30 It is to be noted that completely unrelated to and long before the (indistinct) transaction, Sasol obtained approval from its shareholders in 1999 to affect a share buy back in terms of the Companies Act 1973. Sasol did as it was legally entitled and permitted to do, utilise some of the shares so bought back in terms of the securities loan agreement between SIH and both Securities referred to in 35.17 above.

35 Salient information relating to the share buy back programme and the purpose thereof confirming that the share buy back programme was unrelated to the (indistinct) transaction, are set out in annexure AC27 attached hereto."

Page 131 to 133. Please continue. ---

"Flow backs

40 The issue of flow back of the securities that were places by Deutsche Bank was recently (indistinct). Sasol wishes to emphasise that it was never Sasol's responsibility to attend to the placing of the securities or to ensure that there would not be any flow back.

45 Sasol has been informed that in recent correspondence between SARB and Deutsche Bank and Deutsche Securities relating to the asset swop transaction, it appeared that Deutsche Bank and Deutsche Securities and SARB had without Sasol having been informed of such implementation being corresponding directly relating to the implementation of corporate asset swops.

50 In a letter dated 15 January 2001 which should be dated 2002, Deutsche Securities advised SARB that a flow back in respect of the asset swops to South Africa had occurred. Deutsche Securities estimated a figure of 6% of the original 39,6 million shares placed i.e. 2,5 million shares that flowed back.

Deutsche Securities also estimated that the flow back by institutional placee in terms of 100 000 shares over months were as follows: ..."

55 Mr Commissioner, there is a reference to AC28, pages 134 up to 135. ---

"In a reply letter dated 22 January 2002 addressed to Deutsche Bank, SARB informed Deutsche Bank that Sasol should be requested to (indistinct) finance from abroad the amounts transferred from South Africa in respect of a flow back sale in order to include the loss in foreign currency."

60 A copy of this letter is attached hereto and marked annexure AC29.

Page 136 and 137. ---

"SARB in its letter referred to in paragraph 42.3 above, also informed Deutsche Bank that the securities loan agreement between Deutsche Securities and SIH was not disclosed in the original application no. 8 dated 2001.01.25. It must be noted that it was not Sasol's obligation to furnish SARB with a copy of the agreement."

Can you just stop there please, Mr Coetzee. Mr Coetzee, we are running out of time and I would just like to give a bit more background in regard to the securities loan agreement as opposed to the purpose of the shares agreement. Now we know that securities entered into securities loan agreement, sorry that is Deutsche Securities, with SIH, in terms whereof certain script was lent to Deutsche Securities. Is that correct? --- That is correct.

I understand that as security for that loan Deutsche Securities placed R2,5 billion with SIH as collateral for that loan. Is that correct? --- That is correct.

Now Deutsche Securities sits with the shares and I think the shares that were borrowed was about 38 million because they had bought 1,3 million in the market. Now will you please tell the Commissioners what happens to the 38 million shares that had been lent to securities? --- The 38 million shares that had been lent to securities were returned to Sasol in two tranches on 18 March, about 18,4 millions were returned and on 12 June the balance of 20 million shares were returned.

And could we just understand for what purpose were these shares lent to securities? --- As far as we were concerned, it was the securities loan agreement as Deutsche borrowed securities in the market in any transaction where securities loaning is involved.

Are you saying it is unrelated to the purchase by securities of the 39 million Sasol shares?

MR COOPER: I wonder Mr Chairman if I could assist by referring you to the documents we are looking at which really do explain the situation. If I may be permitted, Mr Chairman.

CHAIRPERSON: Yes.

MR COOPER: I understand for our purposes that the practical problem that is faced is the Deutsche is obliged to go out into the market and buy the equivalent of about 40 million shares in Sasol and the ability of Deutsche to do that in a short space of time, is questionable and what Deutsche is saying in accordance with the document that my learned friend had referred the witness to was this: that (68) in the event of SIH being in a position to loan shares, then Deutsche in its turn would undertake to make the full payment of what was due at any time that Sasol required but if the SIH could not make those loans, then there would be a payment only as to use the colourful phrase in driblets and drabs so that the interconnection in terms of the very document to which my learned friend refers, is a question of the ability to trigger the payments by Deutsche into SIH in respect of those amounts that are going to be paid overseas. That is the connection. The 2,5 billion security is not placed with SIH because we understand the right to a deposit account was ceded to SIH.

MR BROOKS: Mr Coetzee, could you confirm Mr Cooper's evidence? CHAIRPERSON: I think what I would like to do is to finish with Mr Coetzee and I want to make a practical suggestion about the debate in the end.

MR BROOKS: Mr Commissioner, it is quite a few more pages. What I was trying to do is to give you is to continue, I do not have a problem with that, but I thought that you would possibly like some time, because we have sketched the whole transaction and you may want to do some reading just to get a better field for it.

CHAIRPERSON: I think the first thing we must do, we are going to adjourn soon.

MR BROOKS: Yes.

CHAIRPERSON: That you and Mr Coetzee must now identify this: What is controversial in the Sasol transaction with Deutsche Bank pertaining to the 500 million, the asset swap that (indistinct). Am I correct? Is that right?

MR BROOKS: Well, it is the mechanism.

CHAIRPERSON: Yes.

MR BROOKS: Call it that.

CHAIRPERSON: If we go back to page 60, just bear with me, so I can try and limit to what is not clear.

MR BROOKS: Page 60?

CHAIRPERSON: 16.

MR BROOKS: Oh 16.

CHAIRPERSON: Is the controversy around item E, asset swap Deutsche Bank Euro 340,6

million.

MR BROOKS: That is what we are dealing with.

CHAIRPERSON: The rest, am I right, is uncontroversial. Am I right?

5 MR BROOKS: There are still certain investigations relating to the Gensec transaction which is being investigated.

CHAIRPERSON: Just as far as Sasol is concerned.

MR BROOKS: Well, Gensec is also Sasol.

CHAIRPERSON: When I read the papers, must I not concentrate on the asset swap? That is what I am asking.

10 MR BROOKS: Mr Commissioner, you should most definitely concentrate on the asset swap.

CHAIRPERSON: Correct.

MR BROOKS: Yes.

15 CHAIRPERSON: Now what I would like you and Mr Coetzee to agree to overnight with the help of Mr Cooper, is just to simplify for us accurately what was represented to the Reserve Bank in its last application Deutsche Bank made, the very one which Deutsche Bank applied its mind to. Correct? And then to explain as Mr Cooper has, the relationship between the loan and the sale concept. I understand if it is a loan an anticipation of the sale not being able to take place because of shortage of (indistinct) shares.

20 MR BROOKS: Yes.

CHAIRPERSON: And then how it was implemented. I assume that there is some simple way out of all of this detail to explain to us in a simple way the way the transaction was meant to according to the Reserve Bank's documents in a way that ... is that possible?

MR BROOKS: The way in which it was implemented?

25 CHAIRPERSON: Yes, and concentrating on the asset swap which is what we are assuming is the controversial .. (intervenes)

MR BROOKS: Mr Chairman, I have been trying to do that but it is not that simple on a first reading. So we will ... (intervenes)

30 CHAIRPERSON: But the issue to one or two pages, whether it is simple or not, that we follow from beginning to end the controversial part of this detail .. (intervenes)

MR BROOKS: If there is a controversial part.

35 CHAIRPERSON: Yes, the asset swap that we agreed on it and then perhaps tomorrow morning when Mr Coetzee comes back at 10:00 he can just take us through that from beginning to end and then finish his statement. Is that acceptable to you, Mr Coetzee? -- That is acceptable.

Mr Cooper, you will assist in this regard?

MR COOPER: Yes, of course.

CHAIRPERSON: We will adjourn .. (intervenes)

40 MS QUANTA: Can I just before we adjourn, Mr Chairman, I think Mr Brooks I understand your efforts to make it as simple as possible for us. I think I have a general understanding of (indistinct) from the information that (indistinct) and I think what my difficulty was this morning and which has really been confirmed now is that the information that is (indistinct) which you find and I am sure if I have a chance to read it before we came, I probably would not have had any difficulty in understanding. But for me the question now is, and I think this is what
45 the chairman is trying to establish, which ones are pertinent in our investigation. I think for me this (indistinct) I certainly think we must work and simplify it. But that is not my problem. My problem right now is in the sense what do you measure that against because I think the chairman is trying to establish that if Sasol (indistinct) the Reserve Bank is going to say yes and Sasol be permitted unless of course there is an application for (indistinct) and maybe
50 what I would like to suggest when you come back tomorrow morning, I am going to go through this this evening. What I would like to suggest is that you, there may be questions arising, and I am speaking for myself, there may be questions arising from just a matter of explanation, but there may be other questions arising in relation to verification of information given by Sasol to the extent that it is not verified by (indistinct) and for that what I would like to
55 do then is to reverse perhaps on a later date when we also have evidence from the forensic people and ask Sasol further questions to the extent that we cannot clarify it now. Would that be in order?

MR BROOKS: Could we adjourn until 10:00 tomorrow.

CHAIRPERSON: Yes, we will adjourn.

60 PROCEEDINGS ADJOURN