

TRUTH AND RECONCILIATION COMMISSION**SPECIAL HEARING****IN CAMERA****HELDERBERG FLIGHT**

DATE: 1 JUNE 1998

HELD AT: CAPE TOWN

DAY 1

CHAIRPERSON: Ladies and gentlemen, this is a section 29 inquiry, it is a investigative inquiry held in camera in terms of section 29 of the Promotion of National Unity and Reconciliation Act.

It's an information gathering exercise, and for that reason only people who have been invited to come and give evidence and/or their legal representatives and members of the staff of the Commission, which includes translators and engineers, need and are permitted to be in attendance.

All evidence that has been given in an inquiry of this nature is confidential until the commission, subject to notice to affected parties, decides to release the evidence into the public domain, but for the moment such evidence remains confidential.

Now, Ms Terreblanche, I do not know how you propose to deal with the presenting of evidence. I would assume that you are going to call Dr Klatzow in his capacity as a forensics expert and consultant, and you will guide him. I only want us to be

certain as to whether we are going to run the two inquiries as if it was one inquiry, or whether we propose to separate the Helderberg inquiry, take all the evidence relevant thereto, then going to the Machel inquiry?

MS TERREBLANCHE: Unfortunately that was not possible due to logistics constraints. Unfortunately today we will have to have our expert opinion from Dr Klatzow and from Deborah Patta in terms of the Machel inquiry. Tomorrow we'll deal only with the Helderberg and on Thursday we will first deal with the Helderberg and then go into the Machel, which we will then conclude on Thursday.

CHAIRPERSON: Now in terms of the record, how is the record going to show?

MS TERREBLANCHE: Can we separate it in any possible way?

CHAIRPERSON: Well, maybe the people who are dealing with the translation. I think we should have separate records, because it's separate incidents, but we can take evidence in any sort of form. Maybe that is something that we'll have to canvass with the engineers. It should be clear, it should be possible that when we deal with one inquiry, we deal with it, and then if we have to take a witness who will deal with an inquiry other than the one for which evidence has been taken, then the records will have to show that we are dealing with somebody else other than which we have.

MS TERREBLANCHE: Yes, I assume it will be all right if we just state in the beginning of a new witness which inquiry this relates to. The only problem would be the lawyer Van Rensburg, who would be here on Wednesday, who will be testifying in both cases.

CHAIRPERSON: Ja, well by then, when he testifies, we can deal with one matter and then the other.

MS TERREBLANCHE: Right.

CHAIRPERSON: In that event, we will be guided by you as to who is testifying on what. For the moment I believe you will be calling Dr Klatzow, and Dr Klatzow, welcome, and I am familiar with the circumstances of your being here and we are very indebted to you for having taken the time to be with us.

These are matters in relation to which we have had enormous inquiries, especially from the friends of the victims of Helderberg, and it has been a persistent plea from them that the TRC must do something in relation to these matters.

It has not been an easy decision to have to take evidence even in this limited form, because of time and capacity constraints that have been placed on the TRC, but we are extremely grateful to you for having afforded the opportunity to come.

Now, as is customary, we usually take evidence under oath, because that is the obligation, and I will therefore ask Commissioner Glenda Wildschut, who is sitting to my left, to swear you in. Commissioner Wildschut?

DAVID JOSEPH KLATZOW: (sworn states)

CHAIRPERSON: Thank you very much Commissioner Wildschut.

Just for the record, the panel consists of myself, I'm Dumisa Ntsebeza, head of the investigative unit, and a commissioner in the Human Rights Violations Committee. To my left, as I've indicated is Commissioner Glenda Wildschut, a commissioner and a member of the Rehabilitation and Reparations Committee. To my right is Mr Wilson Magadla, who is in the Operational Directorate of the Investigative Unit, he's head of Special Investigations. And on our extreme right, and it has nothing to do with her politics, is Christelle Terreblanche, and the name also should not associate her with her being on the right, far right, who is an investigator and has been collecting evidence in this matter. Thank you. Christelle?

MS TERREBLANCHE: Dr Klatzow, thank you for coming.

You have both been asked to be a consultant on this matter, due to your expertise. We've also invited you to start off the proceedings by giving evidence and answering questions relative to the investigation in terms of to provide the commission with an expert analysis of the Margo Inquiry and the preceding Directorate of Civil Aviation Investigation into the 1987 Helderberg disaster. Also to explain your opinion on the nature of the substance on board the plane, how it came to be there and how it ignited, as well as to make recommendations on the most suitable way to find the true cause of the crash.

I don't know how you want to proceed, whether you want to make your representation and then afterwards we will ask you questions of clarification. Would that be in order?

DR KLATZOW: Yes. I would firstly like to say thank you very much for this opportunity to address you, Mr Commissioner, and I would like to suggest that I make the submission as a broad, overall picture, to give you an insight into the evidence, such as it was and such as it was led at the Press Council Hearing and at the Margo Inquiry. I would then like to indicate to you why it is that I have grave misgivings about the Margo Inquiry, and I would like to point out to you areas which were either totally ignored or deliberately glossed over, or in some instances where the wrong conclusions entirely were drawn by the commission of the time.

The way in which I would like, with your permission, to present the evidence, is to do so by means of a flip chart, which is in front of me, and Mr Commissioner, with your permission, I would like to stand in front of the desk and address yourselves.

CHAIRPERSON: Very well, Mr Klatzow.

DR KLATZOW: The story starts in November 1988, when an aircraft, the Helderberg, belonging to the South African Airways, took off from Chan Kai Shek airport in Taipei, ostensibly bound for Mauritius, with a cargo of passengers and goods.

The aircraft was a 747 manufactured by Boeing, and it was in a configuration known as the kombi design. What this means

is that somewhere on the main deck of the aircraft, the deck normally inhabited by passengers, a partition was placed and cargo was carried on that main deck, as opposed to being carried in the hold. The consequences of carrying the cargo on the main deck were unfortunate and have led, both prior to the accident and subsequent to the accident, in a revision of the policy of carrying cargo and passengers on the main deck, for reasons that will become apparent as my narrative unfolds.

The aircraft took off an hour or more late from Taipei, for reasons that have never been fully satisfactorily canvassed or understood.

The take-off was uneventful, we are led to believe, and, as is normal with aircraft flights, the aircraft would have entered into a climbing phase of its journey and there-after it would have levelled out in normal cruise and it would have passed through various flight information zones on its way to the next touchdown, which would have been Plaisance Airport in Mauritius.

Now I would like to divert from the main course to explain to you how the air communications aboard South African aircraft work. There are the normal radio communications between aircraft and between stations which are within easy radio distance, a few hundred to a few thousand kilometres, but carried aboard every aircraft in the South African overseas fleet is a means of communicating between the pilot and the cockpit crew

HELDERBERG HEARING TRC/WESTERN CAPE

and a station at Johannesburg International Airport as it was then known, Jan Smuts Airport, called ZUR, now if you could write down the initial ZUR, it is the call sign of that radio station at Johannesburg Airport. That radio station is manned 24 hours a day with a number of shifts and was equipped with a tape recorder which was of unique design.

Each tape recording occupied approximately 24 to 26 hours, and as the tape recording neared the end of its session, the next tape would automatically come into play and there would be a period, a short period, of overlap between the two tapes, so that nothing was lost. The coming into play of the second tape would be heralded by a warning signal and the staff would be able to change the previous tape over so that it was always in readiness should there be something untoward that happened.

As each tape was completed, and these are not cassette tapes, these are large tapes which cannot be played on just any old tape recorder, but they are large tapes which come in a box and on the box is an information card detailing the nature of the material on that tape. As each tape is finished and recorded, it is taken and stored in a locked cabinet and there are somewhere between 30 and 33 or 34 of these tapes, so that at any one time there is 30 days of taped conversations with the air crew of the South African Airways overseas fleet on record.

CHAIRPERSON: So does this relate only to overseas trips?

DR KLATZOW: I thin it relates only to overseas tapes, because there are other means of communication internally where you would not have to use ZUR, but there is no reason why an aircraft fitted with the necessary radio equipment on an internal flight could not use the ZUR tape, but it is primarily to keep track of the overseas fleet.

Now let me examine, also as part of the diversion, the functions of ZUR. There is no doubt that to run an operation such as this is expensive, both in terms of money and in terms of personnel, and there is no doubt that the degree of security and the extent to which the tapes are carefully guarded, renders it an important operation, and particularly so should anything untoward happen aboard any aircraft.

There are set operating principles and guidelines which are contained in the operators manual and which every operator is expected to familiarise himself with prior to working at ZUR, and those standing instructions involve inter alia the frequencies at which calls are expected to be made and the procedure should calls not be made on time to be followed by the staff at ZUR.

I will deal in detail later on in my presentation with the attitude of South African Airways and of various pilots and other staff members to the radio station at ZUR, but suffice it to say this is an important station. The care in its setting up and the time and financial trouble to maintain it bespeak of an important function, and that function is not difficult to find.

If it were so that an aircraft should experience trouble or should experience some life-threatening emergency, it is important that the home base should know about these emergencies. It's of little use to the passengers and crew aboard an aircraft which has had some accident to know that the first steps towards the resolution of the accident will be taken only once the plane becomes late, either at its next way-point or late in arriving at its home town.

There is no doubt that ZUR's function is considerably more than that which has been alluded to and suggested and told to me by the radio staff and by the staff of SAA, who have consistently, in the period of time that I've investigated this case, tried to suggest to me that Radio ZUR fulfilled no other function than for the pilot to notify the home base to have a wheelchair ready or at there was no water aboard the aircraft or that they'd run out of face towels or the like.

I will revert to the Radio ZUR tape in due course, but let us get back to the main thrust of my presentation to you.

MS TERREBLANCHE: Just a quick question, you mention frequency, are you talking about radio frequency... (intervention).

DR KLATZOW: No.

MS TERREBLANCHE: ...or the number of times... (intervention).

DR KLATZOW: I'm talking about the number of times. The frequencies which ZUR operated were well-known and were

operated on by these people and they were frequencies which were assigned to the radio station and to the aircraft concerned.

Incidentally, there was also a facility aboard the aircraft called sel-call, which is short for selective call, which is rather like a radio paging system whereby the parties at Johannesburg Airport could, by dialling in a code, contact a particular aircraft and draw its attention to the fact that they wished to make a communication with it. Sel-call, at the Johannesburg Airport at the time, was not functioning, but there were ways of by-passing this, either by means of making use of another airline's selective call apparatus, or by making other efforts to raise the aircraft, all of which procedures were enshrined in the operators manual.

MS TERREBLANCHE: Dr Klatzow, just one clarification, I have been told by some people I've interviewed that there is no international law obligation for SAA to have had such a radio tower. Can you (inaudible)?

DR KLATZOW: Yes, there is no radio, there is no obligation, but the fact is that SAA had such a radio, and it was clearly important in function, important enough, to have it manned 24 hours a day with a 24 hour tape recording, which is not the sort of thing that you would use for purely administrative functions aboard the aircraft, such as having a wheelchair ready for disabled passengers on landing.

Now, the Helderberg took off, we know, from Taipei, and we know that it proceeded, according to the Margo Inquiry, on

HELDERBERG HEARING TRC/WESTERN CAPE

its merry way until shortly before the top of descent into Mauritius... (intervention).

CHAIRPERSON: How long ordinarily would that journey have taken?

DR KLATZOW: That journey to Mauritius would have taken about eight or nine hours. The aircraft took off from Taipei, as I said, about an hour and some minutes late, and it took off at 14:23, if my memory serves me correctly, from Chan Kai Shek Airport in Taipei, and you must bear in mind all along that there is a six hour difference approximately between the time which we are dealing with here and the time on the ground in Taipei, so whatever the time in Taipei was, it was six hours later here.

Now, just after two o'clock in Taipei would make it just after seven o'clock in South Africa, which was just about the time that the shift changed at ZUR and just about the time that the tapes were changed, that the new tape came into operation and the old tape was put in the filing cabinet.

Now what is very interesting is that there is another tape recording which is of crucial importance, and that tape recording is the cockpit voice recorder, which I shall refer to as the CVR. The cockpit voice recorder is a wire recorder, instead of using the plastic magnetic tapes today, these recorders in aircraft are usually wire recorders, and this one was located in the rear of the aircraft and recorded continuously the last half hour of conversation in the cockpit.

That cockpit voice recorder was recovered from the depths of the ocean and was transcribed at great expense, and an official version of the CVR, which is almost 30 minutes long, exists and was available to the Margo Inquiry at the time. It records a conversation in the cockpit along the normal lines of what men will normally talk about during period of long inactivity and often substantial boredom, and it comes as no surprise to learn that the first 20 odd minutes of the tape were involved in discussing inter alia women. Nothing surprising and nothing at all particularly upsetting to anybody, even close family members, who might have chosen to listen to that tape. There was no embarrassing component, there was no obscene component, there was idle chit-chat about an attractive woman, and what is more important, there was the discussion on the cockpit voice recorder which is in the official version of a dinner being served in the cockpit.

Now, the cockpit voice recorder takes its input from the cockpit and that input runs along the crown of the aircraft, in the roof, to the back of the aircraft, along the power supply, and that power supply enables the tape recorder to function. We know that the tape recorder stopped functioning because a fire burnt through the cable supplying it and cut off both the input from the cockpit... (intervention).

CHAIRPERSON: If I can interrupt you just a little?

TAPE GOES DEAD FOR A PERIOD

CHAIRPERSON: Thank you, Dr Klatzow.

DR KLATZOW: Right. As I was saying, the cockpit voice recorder records the last half hour of conversation and included in that half hour of conversation was discussion of a dinner, I'll allude further to that after I've told you this, the cockpit voice recorder stopped functioning because of the effects of a fire.

Now it comes as no surprise to know that the normal way in which a flight operates is as follows: after take-off and after the cruising altitude has been attained, it is invariable on overseas flights that a bar service, followed by a hot meal, is then served to the passengers. That bar service, on a 747, could take anything between half to three-quarters of an hour, and the subsequent serving of dinner could take about the same amount of time. Depending on the amount of administrative work in the cockpit, the crew, once they had settled down to the flight, would be served a meal from the first class lounge and would enjoy that meal. There are several aspects which lead me to believe, and incidentally not alone, that a meal was being served.

The first is that Captain Uys refers to something and says, "I should rather not try that, because I'm going to have troubles afterwards". This probably refers to a seafood meal and probably refers to the fact that Captain Uys, who was the captain of the Helderberg, was allergic to seafood and it caused him to have intense problems with his skin as a result of a medical condition.

The second comment made in the cockpit, shortly before the fire bell goes off, is the normal disparaging comments that people make about an official meal. Somebody says they're hungry and they wish they were about to get dinner. Somebody else looks at what has been served out and refers to it as the same old junk food, and comments of that nature.

Now the importance of that is that, if the tape recorder stopped functioning, and if the tape recorder stopped functioning as a result of a fire, that fire must have been within a half an hour, or the meal must have occurred within the half hour of the tape recorded conversation.

I have never been on a flight, nor do I know of any flight where a meal is served immediately prior to descent into the port of call, so it would be extremely unlikely that the meal being referred to on the cockpit voice recorder was being served at the top of descent into Mauritius, and so inadvertently at that point, because we are led to believe that the fire occurred just outside Mauritius and therefore inadvertently the meal occurred just before the fire bell sounded outside Mauritius, in my view that is extremely unlikely.

The unlikeliness of this being the case is given further impetus and support by the attitude of both South African Airways and the staff with whom I have spoken, as well as the attitude evinced by Mr Justice Margo at the original inquiry.

If I could read to you the exact transcript of Margo at the original inquiry, you will see what it is that I am referring to, so if you will bear with me - do you have a copy of the original inquiry?

MS TERREBLANCHE: I have a copy. We can make it available.

DR KLATZOW: If you turn to page 55 of the original Margo report, the following interchange between the chairman, a pilot by the name of Tony Viljoen and the prosecutor leading the evidence, one Mr Southwood who is now a judge of the supreme court, takes place:-

"Mr Chairman..."

says Mr Southwood:-

"...I have been informed that Captain Van Heerden (sic) of the South African Pilots Association is present. He omitted to announce his presence and would like the opportunity to do so.

CAPTAIN VILJOEN: Thank you, Mr Chairman, I am Tony Viljoen and I represent the International Federation of Airline Pilots Association, known as IFAPA.

CHAIRMAN: We are about to hear an excerpt from the CVR tape, not from the tape itself, but from a transcript. Have you any submissions to make about that tape?

CAPTAIN VILJOEN: Sir, the reading of the tape into the record we do not object to.

CHAIRMAN: The whole of the tape?

CAPTAIN VILJOEN: As far as pertinent conversation between the pilot and the air traffic control, as far as it applies to the full accident investigation, we have no objection at this stage.

CHAIRMAN: Well what are you objecting to?

CAPTAIN VILJOEN: Nothing at all, not at this point.

CHAIRMAN: Well, can the whole of the cockpit voice recorder be played in open court, because you're objecting to nothing?

CAPTAIN VILJOEN: Sir, I would agree to that.

MARGO: I do not want to encourage you into an objection which you do not want to make, but we will notice that you will take the point that confidential portions of the conversation should not be played in public."

Now, with the greatest of respect, that is bizarre. There is nothing on the first part of the tape to give offence to anybody, there is no objection from IFAPA, and yet Margo goes out of his way to make certain that the first 28 minutes of the tape are not played to the commission, and I would respectfully submit to you that the reason is quite clear, on that first 28 minutes is the HELDERBERG HEARING

discussion of dinner. Once you accept that the discussion of dinner is on the tape, you must ask yourself the following questions: it becomes trite logic that that tape recording was made shortly after take-off and not before the descent into Mauritius. Now why is that important? Airline pilots who reach the standard of flying 747's around the world do so because they have been trained to an extraordinarily high level. I use the word "trained" advisedly. You train an animal, a human, to behave in a certain way without thinking, you train troops to obey without question, and the airline pilots are not experimental people, they don't try out new things in the air, they follow tried and tested means of dealing with everything. So that if there was a fire or an emergency or a blocked toilet, there is a way of dealing with it, which has been dealt with before, and that way is to take open or to find out what the cockpit operating manual says and to follow those instructions implicitly, and the cockpit instructions for a fire are quite - if there is a fire on board, you are expected as a pilot to make every effort to put it out. Having put out the fire, you are expected to land immediately at the nearest suitable airfield. And the reasons are not hard to fathom. A fire may have done considerable damage structurally to the aircraft, and that aircraft may not be fit to fly on, and therefore your primary duty to the aircraft, to its carriers and to the passengers, is to get to a point of safety as fast as possible after a fire.

If the fire occurred outside Taipei, as was strongly suggested by the cockpit voice recorder, then we must ask why it is that Captain Dawie Uys did not land that aircraft as quickly as he could after he'd got the fire out, presuming of course that he got the fire out?

It is likely that they dealt with the fire, because it is extremely unlikely that an aircraft flew for seven hours with an active fire aboard, only to be destroyed outside Mauritius.

It is also extremely likely that, having dealt with the fire, Uys would have notified the parties who knew about these things at ZUR. It is very likely that he would have told them that he had a fire. It is very likely that he would have explained to them that he was taking the aircraft down to see that there was no structural damage, or damage to the controls of the aircraft. And yet he didn't do that, he flew on.

Now, why is it that a pilot of Captain Uys' experience would have flown on after a fire? And I have now accepted that a fire did occur within two to two and a half hours of Taipei. The answer to my question lies in South African Airways' position in the world in 1988, and in South African Airways' position at the time. It is not difficult to remember back that in 1988 we were deep into the reign of P W Botha and that South Africa had never made it past the Rubicon and that we were still the pariahs of the world. South African Airways had limited rights to fly the inter-national airways and we as a nation were justifiably despised

HELDERBERG HEARING TRC/WESTERN CAPE

throughout the civilised world. If Uys had landed his aircraft, the only suitable airfields on that leg of the flight would have belonged to nations who were politically hostile to South Africa at the time, and if Uys had landed an intact aircraft at Bombay or anyone of a number of airfields, the first thing that would have happened was that a ground engineer would have examined that aircraft and an investigation into the nature of the fire and the contents of the hold would have been top priority. If Uys didn't land, despite the regulations requesting him to land, and despite the dire need to land, there must have been overwhelmingly important considerations, and possibly even instructions when prevented this from happening. We know that that would have been typically something which would have been discussed on ZUR, and yet the tape of that day, after the take-off, the new tape, has inexplicably gone missing. The tape of the next day was there, the tape of the take-off was there, and only the tape of that crucial period in between those two tapes has gone missing.

Now, let us look what Margo did to investigate that, and the answer is a stunning nothing. He mentions that he would like to ask questions of somebody who could allow this to happen, he never does. He truncates the cross-examination of Mr Vernon Nadel, who was the man operating that tape, just as the cross-examination was starting to bear fruit, and most inexplicable of all, the very next witness, Captain Jimmy...

TAPE TURNS OVER - WORDS LOST:

...is that so important, and if you put a reference mark there, I will revert to it in due course.

Margo's finding at the end of the Margo Inquiry was that the tape had inexplicably been misplaced or it had been overtaped. With great respect, this doesn't bear even the most casual scrutiny. If the tape had been overtaped, it would have been a matter of great simplicity for an official of South African Airways to bring the overtaped physical evidence of the tape to Margo and say to him, "Judge, there is the tape, for some reason it got out of sequence and we overtaped it". That was never done. So we must presume that that is not what happened to the tape.

If the tape went missing, it was a matter commonly explored by lawyers in the adversarial system of our courts to cross-examine all the parties involved with the custody of that tape and to retrace the steps of that path of that tape towards its eventual disappearance. That was never done. And the fact that Jimmy Deale was never questioned is inexplicable in the light of a conversation that I had with him during the inquest or the press council hearing into the Star newspaper which was conducted after a complaint by Armscor into certain newspaper articles which appeared in the popular press. My role in that investigation was to investigate as much as possible about the Helderberg and during that investigation, late one evening I tracked Jimmy Deale down to his home in Durban, I phoned him

HELDERBERG HEARING TRC/WESTERN CAPE

up and I tape recorded the subsequent conversation, which went along the lines of, "Captain Deale, my name is Dr Klatzow, I'm investigating the Helderberg, I know you signed out the tape and the log book from ZUR that night, what did you do with it?", and his answer, after some prevarication, was that he had signed it out and that he had handed it to none other than Captain Mickey Mitchell, who was in the presence of the chief executive officer of the airline, one Gert van der Veer, and the legal representatives of the airline, one Advocate Malherbe. I phoned Captain Mickey Mitchell, who was in charge of ZUR that night, and again, amidst stunning prevarication, he finally agreed that he had received the tape and that he would have passed it on to somebody senior. Now why was that never explored by Judge Margo?

CHAIRPERSON: Now was this Mr Mitchell of recent origin?

DR KLATZOW: Sorry?

CHAIRPERSON: Was this engagement with Mr Mitchell, where you were coaxing him to, you know, to come out with what had happened to the tape, was this fairly recently?

DR KLATZOW: Four years ago.

CHAIRPERSON: Oh, four years ago. But even then he had eventually gone off to say the tape was there?

DR KLATZOW: Yes. Oh, there's no doubt that the tape was there that night, the tape was removed from ZUR that night by the pilots and it was given into the hands of senior SAA officials.

If one looks at the DCA, that's the Department of Civil Aviation, their duty is clear, their mandate is to impound immediately all tapes, documentation, records, anything of importance to an aircraft accident.

DCA was in charge, was under the control, at the time, of Mr Rennie van Zyl. Mr Rennie van Zyl informed me then, and again more recently, that he had spoken to a pilot by the name of Du Toit, and that Du Toit had assured him that there was nothing untoward on the missing tape. This assurance had allayed Rennie van Zyl's fears, and he sent Roy Downs, some three or four weeks later, to impound this tape, after rumours already, at that stage, had surfaced that there was more to the missing tape than met the eye. Now, Captain Du Toit should be asked how come it was that he got to listen to the tape and what his knowledge of the tape was.

Let me turn to another factor which suggests that something untoward had happened earlier on in the evening of that fateful night. The previous member manning ZUR was a man also coincidentally by the name of Du Toit, he was due to sign off at some time after six, possibly even seven o'clock, on that evening, South African time, and yet at the Margo Inquiry he confirms under oath that he signed off at eight o'clock the next morning, the Saturday morning, this was a Friday night. If nothing had happened aboard the Helderberg until just before midnight our time, Du Toit would have been long gone after his

HELDERBERG HEARING TRC/WESTERN CAPE

shift from Radio ZUR and would have been at home, and there is no evidence of him having been recalled. The fact that Du Toit is still at ZUR by eight o'clock the next morning, having worked a double shift, suggests that at the termination of his shift something already was afoot to require his further presence at ZUR. It is inexplicable and the interpretation which I have put on it is undeniably correct on a high level of probability.

The man in charge of ZUR that night was a man called Vernon Nadel, N A D E L. Vernon Nadel was a lowly radio operator working in the bottom echelons of South African Airways. Today, and for the last 9½ years, Vernon Nadel has been a manager of the SAA facility at Miami. He enjoyed a meteoric rise in fame and fortune within the airline in less than the time it takes to say Helderberg. His meteoric rise has never been satisfactorily answered, and when Nadel has, with great difficulty, been tracked down by either myself or members of the press, his answers have been evasive and strange, to say the least.

He was tracked down by an investigator who worked for the SABC at the time, and he referred to a third man, Mr X, in the studios of ZUR that night. Why play cat and mouse if there's nothing to hide? The only thing worth hiding is nothing, and Nadel clearly was at pains to be uncooperative and to be evasive.

Let me get back to the missing tape and to the CVR recording, because they come together in another group of people's endeavours to find out what happened to the Helderberg.

These people were the Flight Engineers Association, under the chairmanship of - I think they're under the chairmanship of Ray Scott, but I may be incorrect about that, but Ray Scott was certainly a member of that committee, as was a man called Judge Bedaar and another man called Jimmy Mouton. The Flight Engineers Association put together a report, in which they respectfully differed from the then current interpretation of the CVR, placing the fire close to Taipei for a number of reasons, not least of which were those that I've already outlined to you, but they expanded on these reasons by doing a detailed analysis of the events as they unfolded in the cockpit and they came to the conclusion that there simply wasn't enough time on the official record to do all the things that had been done, and therefore those things had been done earlier.

It was a report put together with honesty and with conviction and its acceptance by the Margo Commission should have been a formality. They were hindered by Margo from entering that report, having been told that it was too late for the official entry, despite the fact that it was within 48 hours of the deadline, on the right side of the deadline.

Jimmy Mouton was summoned to Margo's chambers, together with Judge Bedaar and Ray Scott, and were told, quote "to drop your line of inquiry. The country cannot afford for you to investigate this. It will cost the country 400 million rand and that for your career and safety's sake, drop it", end quote.

CHAIRPERSON: Now, was this by Margo, according to reports, or in his presence?

DR KLATZOW: The clarification of this I'm not certain of. According to Ray Scott, Margo was present, according - and there was more than one occasion on which this occurred - according to Mouton, Margo left the room in his chambers, but members of DCA and the legal representatives of SAA were present, and it is no coincidence that the reference to 400 million rand was about the price, with a little bit of small change, that a new 747 would have cost should Lloyds have declined to pay. The references to "the country cannot afford it" is capable of sinister interpretation, and it appears that a comment was also made in the same context that their investigation would be playing into the hands of the ANC, a strange comment.

Ray Scott met with me, after great difficulty, about four years ago, and my contemporaneous note of the time reads as follows:-

"He would not meet with me at my house or at his house, and after a tortuous event, reminiscent more of things that you read in the Forsythe novels, he finally met me at the Boulders Restaurant in Midrand on the 11th of the 4th, 1995."

And my note reads as follows, and I quote from the contemporaneous note:-

"Peter de Beer was the chairman of the Engineers Association. His family is in London. He flies now for Phoenix Air. He and Moutons and Judge Bedaar and Ray Scott were called in to Margo's chambers, told to drop their inquiry, could cost the country 400 million rand, they were causing tension, they were told they did not have the expertise..."

strange to say that to people who fly as a living in the cockpit:-

"...and that national security was at risk. Present were Mickey Mitchell, Margo, the airline lawyers and he thinks the DCA was there. Peter de Beer's family were threatened and Margo said to Ray Scott, quote "the safety of your future and family are at risk", end quote."

Now, if the flight engineers' interpretation was that of simple, ignorant, misguided do-gooders, the simplest thing for Margo to have done would have been allowed them to present this misguided report and allow it to be shredded on cross-examination. He chose not to do that, and chose, improperly in my view, to follow a course of threats and intimidation, and the reason, I would submit to you, is clear, that he realised that the South African Airways had been carrying contraband material in the form of military ordinance, and that that this lay at the heart of the explanation of the loss of the Helderberg.

Let me examine, as an aside, very briefly, the fortune of a gentleman called Mr Thinus Jakobs. Thinus Jakobs occupied a fairly lowly position in the freight - in South African Airways - and he was the freight manager at Taipei. He was the man who loaded the cargo aboard the Helderberg and he was the man who closed the door on Captain Dawie Uys that night, the last person on earth to see Uys alive. He too has been part of an economic miracle. He runs today, and has done since shortly after the crash, a thriving company called Crown Travel, extensively patronised by SAA, in well-appointed offices at Brummer Lake, and boasting an annual turnover of some millions of rands. It is not impossible that Mr Jakobs, by dint of hard work and extraordinary skill, could establish and prosper in the way that he has, but it is strange too that he is one of the people who has made a quantum leap in fortune, coinciding with the loss of the Helderberg.

Persistent rumours of Uys's unhappiness with the cargo on this and other occasions have been around since the aircraft was lost. I'm aware that the attorney-general has information which supports part of that statement that I've made to you.

Mrs Uys was never called to the Margo Inquiry, she was never questioned, despite the fact that these rumours had gained currency well before Margo chaired that inquiry.

CHAIRPERSON: I missed that, what were the rumours, the persistent rumours?

DR KLATZOW: That Captain Uys had expressed dissatisfaction... (intervention).

CHAIRPERSON: Oh yes.

DR KLATZOW: ...about the sort of cargo that he was asked to carry.

CHAIRPERSON: And had actually refused to want to carry it.

DR KLATZOW: Those were the rumours. And the rumours were that he had been coerced into flying this fatal flight.

We know that a close relationship existed between South African Airways and Armscor, in that they were both parastatals, they were both deeply involved in fighting the holy war against the ungodly, by virtue of the type of personnel which were involved.

We know that South African Airways was involved in sanctions busting, and that they did not stoop to involve themselves, or rather they did not hesitate to involve themselves in assisting Armscor wherever and whenever was possible.

We know of a number of incidents, and before I tell you of these incidents, let me tell you that my research into this over the last five or six years has come across a common factor: everybody involved centrally, peripherally or even on the extreme margins, has been frightened to death. There is no doubt in my mind that acts of intimidation have been applied to these people to inhibit them from coming forward, and if SAA should ever make a submission to you that it is unlikely that an organisation

as large as SAA could be so watertight for so long, I want to remind you, Mr Commissioner, that we had a bunch of institutionalised, organised, efficient and ruthless scoundrels called the South African Police Force, who raped, robbed and murdered their way around this country for 25 years without anybody breaking ranks, so I don't accept that the enormity of the crimes that I'm talking about would necessarily have reached the surface, but every single person to whom I've spoken has been a terrified individual.

Now the incidents to which I'm referring to, are several, but write down the name of Captain Flippie Looch, L O O C H. The conversation I had with him is not without its moment of wry drama and amusement, because I asked him to comment on the following: it was alleged that Captain Flippie Looch had parked his 747 on the apron at Ben Gurion Airport in Israel, and that labourers loading cargo had dropped an item of cargo and out rolled rockets. Now rockets normally shouldn't be carried on board civilian aircraft, and I asked Captain Looch to comment, having first spoken to John Hare, the deputy chief executive officer of South African Airways, and Hare was kind of non-committal and Looch was adamant in his refusal to talk to me, until I said to him, "Mr Looch, but I've spoken to SAA and they said that these were in fact not rockets, but they were drop tanks for mirages and that you didn't know the difference", and his childish ego was stung into reply, "But of course I knew the

difference, I called my co-pilot and I said, 'Look at these'', I said, "Thank you Captain Looch", and I wrote it in my report. That happened to Deon Storm, a pilot in the same position and at the same airport. If they were Mirage drop tanks, the pilots would have known, if they were not contraband and dangerous, SAA would have said, "But they were empty rocket shells, what is the harm of carrying them?" They never did.

We also know, and I name another name you should bear in mind, is the name of Bingo Kruger. Bingo Kruger has a shady past. He worked inter alia for Armscor in the development of South Africa's much vaunted nuclear project. Bingo Kruger has confirmed to me that SAA would not hesitate to transport goods if they deemed it in the national interest, despite the fact that it would not comply with IATA regulations.

Now, let's get back to the Margo report. My involvement in the Margo report started shortly after the loss of the aircraft, in that I was appointed by the attorneys acting for the Boeing Aircraft Company to investigate an aspect which I didn't fully understand the reasons for at the time. That aspect was the levels of carbon monoxide in the recovered bodies. And having done the work, I then started to follow the inquiry a little more closely, and the one thing that was certain is that there were three or four parties who participated in that inquiry, each of whom had their own agenda.

There was Boeing. Boeing's agenda was simply this, they were there to forestall and ward off any criticism of their aircraft.

They weren't interested in anything else, all they wanted was to make certain that no criticism of the 747 came unchallenged in the way of Boeing.

There was the Airline Pilots Association who were represented there. They had one aim in mind, and that was to forestall any criticism of their members, and I'm going to come back to that, because it's important.

There was SAA, who was there to forestall any possible criticism of SAA, and nobody in particular was actually trying to find out what happened.

If you read the full transcript of the Margo report, you will see that a vast amount of time and trouble was spent on utterly irrelevant things. It was irrelevant to that inquiry as to whether the aircraft broke up in mid-air or on impact. The fact is that the loss of that aircraft was causally and directly linked to a fire on board, and that fire, we know, worldwide experience has shown that that is invariably, a fire on board an aircraft like that, in the position in which it occurred, relates to some material which should not have been aboard that aircraft, because the things which you are normally allowed to carry on an aircraft don't catch fire, and I'll get back to the cargo manifest and discuss that a little later, but the real issue is that an inordinate amount of time was spent debating whether the engines were

HELDERBERG HEARING TRC/WESTERN CAPE

turning. Experts from the Pratt and Whitney(?) plant were called and cross-examined and testified as to whether those fans were under power when they hit the water. With respect, Mr Commissioner, it's irrelevant. What is relevant is what was aboard that aircraft and how did it come to be there, to catch fire?

Now let's look at that point. Fire investigators in the world today are, if they came under the attention of the Wild Life Association, we would be considered as a group to be a threatened species, because there are very few. You can number the number of fire investigators in Great Britain on the fingers of a mutilated hand. I'm talking about the good ones. In the world today there exist very few firms of reputable fire investigators, but pre-eminent amongst those is a firm called Dr J H Burgoyne and Partners.

Now Dr Burgoyne was an academic in the United Kingdom about 35 years ago and he realised that there was a need for fire investigation and he formed a firm of fire investigators, which persists to this day, who, in my opinion, are the best in the world.

They are conservative, they are competent, they are intelligent and they're informed, and they're extremely good.

The man in that firm who specialised in aircraft accidents and aircraft fires was a man by the name of Mr Souheard, S O U T H E A R D. Mr Souheard was called to testify. He was properly sworn in before Margo and he was properly cross-
HELDERBERG HEARING TRC/WESTERN CAPE

examined and his evidence stood the test of that, it was not dented or diminished in any way, and he came to the conclusion that the fire aboard the Helderberg was not an ordinary diffusion flame fire.

Now I'm sure that the commission, or I would think that the commission is not quite up to speed on the difference between an accelerated fire and a diffusion flame fire, and if you indicate to me, I would explain the difference to you.

CHAIRPERSON: Please do.

DR KLATZOW: Does anybody have a cigarette lighter here?

CHAIRPERSON: Christelle would obviously have.

DR KLATZOW: We have a smoking member of the commission.

I'm going to suggest that I approach the commission, show you, and repeat it onto the tape when I get back.

When I light a flame, the gas inside there has to come out, oxygen from there has to diffuse in and you have a flame. The heat output of that flame is limited by the speed at which oxygen can diffuse from the air into the active part of the flame. Now that's called diffusion. If you have a fire involving packaging material, wood, (indistinct - moved away from mike), plastic, you get a diffusion flame, and it is rare that the temperature gets higher than just under 1 000°C. The temperatures on board the Helderberg exceeded that by far, and the reason is that it wasn't a diffusion flame, and that is the crucial conclusion that was drawn by Southead. The small geometry and the high heat output told

HELDERBERG HEARING TRC/WESTERN CAPE

him it was not a diffusion flame, and it had to be a promoted fire, and the thing is, they carry their own oxygen, they don't need oxygen (indistinct).

Now, the person called by Margo to deal with fires, and he was the only proper fire expert who was sworn in and cross-examined by the commission, was Mr Southeard. His conclusion was that the fire aboard the Helderberg was not a diffusion type fire and it was caused by a contraband substance or an illicit cargo, which was a promoted fire, that is to say it carried its own oxygen with it and did not require the presence of atmospheric oxygen to enable it to burn. He was undented in cross-examination and his evidence was unblemished.

In answer to this, Margo elicited a few comments from a Mr Hill, who was never sworn in and never properly cross-examined and never gave his testimony under oath, and Margo ignored the crucial element in Southeard's finding that it was a promoted fire, inexplicably, in my view.

We know that the fire occurred in the foremost right-hand pallet on the passenger deck. We know, from the cargo manifest, which has inexplicably become available, and which appeared to be shredded shortly after the accident, in Taipei, inexplicably shredded, I might add, we know that the kind of things that were officially listed in that pallet, PR would not burn, they would not do what happened aboard the Helderberg that night. Spare parts for bicycles and shoes, and things of that nature, simply do not

HELDERBERG HEARING
TRC/WESTERN CAPE

burn with that ferocity, and do not spontaneously ignite. Why did Margo ignore this? The answer is a mystery to me, unless Margo himself was involved in deflecting that inquiry away from its true purpose.

Sorry, do you want to break? I see that... (intervention).

CHAIRPERSON: In fact it's a very convenient time for us to take a 15 minute break, if it is convenient for you. We'll break for 15 minutes, we'll resume at quarter past eleven.

COMMITTEE ADJOURNS

ON RESUMPTION:

DR KLATZOW: (still under oath)

Thank you, Mr Commissioner. Now, I had reached the portion by saying to you that everything that we have dealt with to date points to an untoward incident having occurred aboard the Helderberg. It points to an untoward incident having occurred at an early stage of the Helderberg's flight, and more importantly it points inexorably in the direction of a major cover-up on the part of the commission or at best stunning incompetency on their behalf.

Let us look at the possible causes of this crash, and let me put to you a scenario which will fit, in my view, with respect, the facts as I've outlined them to you. In the late period of 1988 and '87, it will be remembered that the closing stages of the so-called war in Angola were being fought. South African troops were deep into Angola, despite official denials, and the South African

HELDERBERG HEARING TRC/WESTERN CAPE

military and air force were engaged in hotly contending that country's existence with East Bloc operatives who were working with the Angolans at the time.

If you remember, it was a time when South African Airforce had lost, and had been forced to reluctantly concede that they had lost a number of mirage fighters to the new Mig aircraft which were making their appearance in growing numbers. It seems to be that there was a problem at the time with either the air to air or the surface to air missiles and that South Africa was having some difficulty in dealing with these problems.

You must also remember that Armscor, far from being the innovative giant that it claimed to have been, were on the level of petty criminals when it came to stealing intellectual property. If you look at the Armscor weaponry, much vaunted as it is, much of the sophistication and innovation is purloined from anybody who could be parted from it. Even the modern rifle which supplies the South African Defence Force, the R4, has its origins in the humble AK47, albeit with the Israeli intervention in between of the Galil(?) weapon. We know that Armscor would not scruple to beg, borrow, steal if necessary, any technology which it deemed necessary to the continuation of their holy war.

We believe that there was a necessity to develop better rocket propellants at the time. Now a rocket propellant is not just something that you can walk down to the local 7-11 and buy.

The basic ingredients are well-known, but the added ingredients,

the subtle ingredients which give it its extra performance, need to be either developed at great time and cost, or they need to be obtained another way. Those subtle ingredients which are added to the rocket fuel, the major component of which is ammonium perchlorate, are very important, and once one has a rocket fuel which works, it is a matter of chemical simplicity, relatively speaking, to analyse that rocket fuel and determine the constituents which give it its added zip.

We believe, those who have investigated this crash, who are not involved with the government of the day, believe that South Africa was importing, and had been importing for some time, military ordnance of this nature aboard passenger aircraft. We believe that it is the ammonium perchlorate that was being brought in, either to be used, but more likely to be copied, that spontaneously ignited that night and created the problem. It fits the bill inasmuch as it contains its own oxygen, it is supremely unstable and it is quite unfit to be transported aboard an aircraft, let alone a civilian aircraft carrying innocent passengers.

TAPE CHANGED - POSSIBLE WORDS LOST:

...believe that Southead pointed to this fact and that Margo ignored it.

We believe that the reason that Uys did not land was because he was told not to land by senior officials of either the government or the airline.

We believe that he had thought that he had extinguished that fire, only to be reconfronted with it outside Mauritius, by which time his ability to fight it was impaired and the structural integrity of the aircraft was impaired to such an extent that the aircraft disappeared into the ocean.

We believe that that conversation asking for permission to land and being refused permission to land was recorded at ZUR and that that is why the tape went missing, not that it was inexplicably overtaped, which it wasn't, for reasons that I've outlined to you, or mislaid, for the same reasons that I've outlined to you.

We believe that the clue to this lies in the conversation about dinner, which Margo was at pains to exclude from his inquiry.

We believe that the airline knew all along what it was transporting, and were complicit in a cover-up of major proportions.

We believe that Armscor knows about this, and I believe that it is no coincidence that Mr John Hare, a senior man at Armscor, is now the deputy chief executive officer of South African Airways.

We believe that these versions that I've put to you are not far-fetched, we believe they're founded in fact, and part of the fact is the failure to adequately explore these versions of the Margo Commission. The failure of Margo to call Moutons and

his engineers, and the intimidation by Margo and his investigators of this group of people is grotesque. His unwillingness to include a proper investigation into the nature of the material aboard is strange, to say the least.

The pieces of information relating to the missing ZUR tape all point to the fact that it was deliberately removed from ZUR that night and disappeared from a locked safe, after being placed in the hands of senior SAA officials.

The performance of the Department of Civil Aviation in this inquiry, and you will hear in the Machel inquiry as well, was, at the very best for them, dismal, and probably they were involved in the complicity.

The involvement of various key South African personnel in both the original disaster and in the subsequent inquiry was manipulated in such a way as to prevent them from ever being able to tell the truth.

The statement of Jimmy Mitten needs to be taken seriously.

His analysis is not that of an amateur, he is a professional member of the cockpit crew and has been for many, many years.

His interpretation of what went on in that cockpit must be taken seriously.

The failure of the Airline Pilots Association to make public their findings, which have been confirmed to me by numerous pilots, must be investigated.

The role played by Theunis Jakobs, who as recently as a few years ago made a comment that he had taken files from the Taipei station which could materially affect the outcome of the inquiry, this was made to a man whose name I will give you, who is a photographer and who will be prepared to say what I have just told you under oath, his name is Marais Wessels, he works for a company called Vision by Light, and he made a statement to me last week to the effect that:-

"I spoke to Jakobs because he and I were good friends. I saw him after the Helderberg. He told me that he had material, and I would say this under oath."

He also told me that he was at Singapore doing a film shoot for SAA when a senior member of the SAA staff spoke to Mike van Rensburg, who was the cargo agent in Singapore and quote, "Said that the Armscor containers appeared to be going okay. They were being shipped out under the title of hairdryers". Now it could be that Armscor have got a major problem in curling their hair, I think it unlikely. I think that the practice of shipping illegal Armscor material aboard SAA passenger airliners has continued until recently.

I think that, in my view, the Margo inquiry was such a travesty of anything that an inquiry ought to be that it needs to be re-opened, with people who seriously wish to get at the truth and who do not wish to allow the embarrassment of the government or

HELDERBERG HEARING TRC/WESTERN CAPE

the parastatals to stand in their way. These are the people who should conduct the next inquiry, and I think that Mr Maharaj needs to be urged with every fibre that you can summon to re-open the investigation and to launch a proper judicial inquiry to establish the truth of what went on that night in the Helderberg.

And I would like to close my submission to you by just drawing you a diagram which you will be able to use to understand the inter-relationship of two things, the cockpit voice recorder and the air traffic control recording made at Plaisance, together with the ZUR tape. So let me do that and if you want to, you can make a note of the drawing that I give you.

The aircraft took off at Taipei, it reached a cruising altitude and it flew on. Somewhere outside Mauritius, instead of the proper descent into Mauritius, it plunged precipitously into the ocean. Just before it went into the ocean, a conversation was had with air traffic control outside Mauritius. That conversation is available. The last 20 minutes or 30 minutes of the cockpit voice recorder should have recorded that, because the air traffic control tape starts off by saying, "This is Springbok 265, we have a smoke problem". That's the beginning, we would have believed, of the problem. Now if the cockpit voice recorder was still working, which it should have been after the smoke problem, because it went out thereafter, we should have a part of that conversation on the CVR. There is none, there is not a word of that Plaisance conversation on the CVR. What we do have is a
HELDERBERG HEARING TRC/WESTERN CAPE

cockpit voice recorder involving a conversation about dinner. Dinner would have been served somewhere along there, which means that if the cockpit voice recorder involved dinner, the cockpit voice recorder was operating here and ceased to function at that point. We believe that somewhere round about here, the new ZUR tape would have come in, and that would have involved the conversation between Uys and ZUR.

CHAIRPERSON: That is now in Jo'burg Airport?

DR KLATZOW: At Jo'burg Airport. The missing ZUR tape was never adequately dealt with by Margo, in fact he went to great effort to make certain that that ZUR tape was never properly investigated. Had that ZUR tape genuinely had nothing on it, there would have been no finer way of defusing the rumours and speculations than to say to everybody, "There's the tape, listen to it and apologise". They never did that. The tape was taken out that night, it didn't inexplicably go missing. There's no doubt that Jimmy Deale took that tape out and gave it to Mickey Mitchell. All of those men sat in the inquiry and heard the deliberations about what had happened to the tape. It was a matter of one sentence for Jimmy Deale to stand up before the commission and say, "M'Lord, I took out that tape, I gave it to Mickey Mitchell, Mickey Mitchell did something with it", and then to ask Mickey Mitchell, the tracing of the steps of that tape would have been legally simplistic. It was never done. And everything to date points to an involvement of some type of

HELDERBERG HEARING TRC/WESTERN CAPE

military ordnance aboard that aircraft and to a massive cover-up to conceal that from the relatives, the insurers and the public of South Africa.

Thank you for having listened to my presentation.

CHAIRPERSON: Thank you, Dr Klatzow. Do you have any questions to put?

MS TERREBLANCHE: Does the panel have any questions at this stage?

CHAIRPERSON: Ms Terreblanche, if you have questions to put, you can put them.

MS TERREBLANCHE: You have been also asked to look into the level of, if I have it right, mono... (intervention).

DR KLATZOW: Carbon monoxide.

MS TERREBLANCHE: ...carbon monoxide.

DR KLATZOW: Ja.

MS TERREBLANCHE: Now, do you think that the tests done on the bodies that were found after the crash were sufficient and what is your interpretation of the tests?

DR KLATZOW: Well firstly the tests have very little relevance into the cause of the crash. If the, the cause of the crash is the fire, whether the fire killed them by burning through the control cables, damaging the aircraft so it fell apart, or poisoning the crew, is a minor detail. It is a detail which might be useful in redesigning the aircraft at a future stage, but it is not germane to

the point of what was aboard the aircraft at the time and how did it get there. That's the first thing.

The second thing is that Harold Schroeder, who did the original test, did so on a mixture of blood, seawater and body fluid. The literature is eloquent in saying that this is the inappropriate fluids to use for the determination of carboxi-haemoglobin, which is the compound formed when carbon monoxide combines with haemoglobin, and Margo accepted Schroeder's work, although the literature is clear in condemning the type of fluid that he did it on.

So I would say that Schroeder's work was inaccurate, or potentially inaccurate, and that it was probably not the carbon monoxide, because we have a perfectly coherent Captain Uys discussing things with Plaisance moments before he goes into the water. Now I don't think it was carbon monoxide that killed Uys or his crew. It may very well have killed the passengers, because you must remember, and I hate to disabuse you of the reassurance that the airlines wish you to fly with, when they drop the little bag down, all it does is recirculates, with a little bit of oxygen added, the cabin atmosphere. So if there are poisonous gases in the cabin, you'll die with an enriched oxygen content. It's worse than useless. It is only useful if there is an inadvertent decompression of the cabin without toxic gases.

MS TERREBLANCHE: Just to end that, but is there any indication of what the bodies that were found died of?

DR KLATZOW: Well, that plane probably went into the ocean at 400 knots. There is no way that anybody could survive impact of that nature. The bodies were mutilated to an extraordinary extent, consistent with a high velocity impact with the ocean. So, from that point of view, I don't think there's anything sinister about that, although there's been a lot of conjecture, but there's more than enough things to have killed them without looking for anything arcane.

MS TERREBLANCHE: Are you familiar with the CSIR tests done for the investigation at the time?

DR KLATZOW: Just remind which the tests were? There were tests done by Martin Venter, the Bureau of Standards. Are those the ones you're referring to? Ja. Martin Venter put up a suggestion that there might have been fireworks aboard, only to have his own skittles knocked down, there was never any substantial evidence that was in any way substantiable that Martin Venter's investigations could sustain.

Many things were looked at, the presence of lithium batteries, which can under some circumstances cause ignition, but none of them deal with the essential finding of Greg Southeard's report that it was an accelerated fire, it was not packaging material which caused that damage.

MS TERREBLANCHE: There were also at the time limited tests done on little pieces of metal, or traces of metal found embedded in the upholstery?

DR KLATZOW: I haven't taken that any further. At the time we looked at it and I could see nothing substantial which I could use to interpret the accident one way or the other. It may well be that that needs to be relooked at.

MS TERREBLANCHE: I think you're familiar with the submission we got from a journalist, who wished to remain anonymous on the record, who have done an eight month investigation and feel that there is a good chance that the plane might have been shot down?

DR KLATZOW: Yes, I'm aware that there are at least two sets of journalists who believe that the plane might have ended up outside Mauritius as a result of military activity other than the military placing something on board, in other words that a fighter pilot shot that aircraft down to prevent it from being landed. I have never supported that notion, I don't believe there's anything to support it. I find that there is more logical basis to a second fire having destroyed the aircraft, but clearly something untoward happened outside Mauritius, which was unrelated to the event which happened outside Taipei. If somebody could find somebody to substantiate that, I have no difficulty in believing in the consummate evil of the last regime in having ordered that to be done, but there is no evidence that it was done. It is certainly within the capability and the range of the available forces at the time to have done it, but there isn't a shred of evidence to support that at this point.

MS TERREBLANCHE: You referred to APC being needed for rocket fuel. In a reply from Armscor it is said that Sonchem outside Somerset West have been manufacturing APC since 1980.

Are you then referring to the subtle ingredient when you talk about that?

DR KLATZOW: Yes. Ammonium perchloride is not difficult chemically to manufacture, the difficulty lies in stopping it from spontaneously igniting, so immense precautions have to be taking place, and almost certainly the rocket fuels in the modern sophisticated armamentarium that we have is not pure ammonium perchlorate, it is ammonium perchlorate with additives to give it specific properties and behaviours, either rapid ignition or retarded ignition or whatever. Now it is those subtle components which Armscor needed to find out more about, and which I believe they were planning to copy after chemical analysis.

MS TERREBLANCHE: And you spoke to Mr Jimmy Deale you said about four years ago?

DR KLATZOW: I spoke to Jimmy Deale four years ago.

MS TERREBLANCHE: I believe that he was unfortunately, he died very soon afterwards?

DR KLATZOW: No, he didn't die soon afterwards, he died within the last year.

MS TERREBLANCHE: That's a matter of the urban legend, that he died two weeks later, would you say... (intervention).

DR KLATZOW: No, that's not correct, I spoke to him, I can give you the exact date, but it was at the time of the Star inquiry, and his death occurred allegedly by heart attack towards the end of last year.

MS TERREBLANCHE: To go back to APC for a moment, some other people believe that it could have been either plutonium or CCM. Have you looked into the possibility of that?

DR KLATZOW: Yes, I have. Neither of them have the characteristics which would have caused a fire. There were an enormous amount of speculations and rumours about red mercury, about mercury fulminate, none of these have any scientific basis in terms of causing the fire. Red mercury may very well exist, in fact red mercury does exist, the contentious issue is whether it plays any role in the nuclear arms sphere. There is no doubt that red mercury exists, I can refer you to the original chemical articles on this particular form of mercury, and there have certainly been a number of unexplained deaths in people who've allegedly been linked to the red mercury industry, not least of which was Alan Kidger, but there is no evidence whatsoever that either plutonium or anything of that nature could have caused the Helderberg disaster.

MS TERREBLANCHE: Last question, have you yourself ever been threatened during your lengthy investigations?

DR KLATZOW: I was at my holiday home in Simon's Town during the last investigations, when I noticed that I was under

observation from the other side of the road, if you know the Glencairn housing settlement, there's a beach, the Glencairn beach, there was a group parked there in a car, and the number plate I can give you if needs be, and they were observing me closely, and when I took out my binoculars they were thrown into disarray, I took their numberplates and they disappeared hotfoot. Now that number plate was a false number plate, but that is the closest anybody's come to intimidating me, apart from strange phone calls with nobody on the other end.

MS TERREBLANCHE: I have no further questions.

MS WILDSCHUT: Dr Klatzow, I'm trying to work out whether Captain Uys had another alternative at his disposal in trying to land the plane, if he had realised that there was a fire on board. If we take it that, if we follow your theory that things were still all right about two hours after leaving Taipei, one can assume that maybe the fire happened just soon after the two hours maybe?

DR KLATZOW: Yes.

MS WILDSCHUT: On a nine hour flight... (intervention).

DR KLATZOW: Yes.

MS WILDSCHUT: ...nine hour long flight, instead of trying to land maybe in hostile territory like Bombay or somewhere else, could he have turned back and gone back to Taipei, as an alternative, if he had realised that there was something amiss?

DR KLATZOW: Well, that's possible. You must remember that Taipei at the time was under military dictatorship... (intervention).

MS WILDSCHUT: Yes.

DR KLATZOW: ...that it is not certain by any manner of means that they could avoided having the hold searched there, with all the international and political repercussions that that might have involved, but there is theoretically no reason why he couldn't have turned back, gone back to Taipei.

MS WILDSCHUT: Yes, ja, that would have been my next question, if it were possible that he could go back, what were the constraints, I mean the fact that there was... (intervention).

DR KLATZOW: Absolutely.

MS WILDSCHUT: ...of course a military dictatorship at that time?

DR KLATZOW: Absolutely. If there was military ordnance aboard that aircraft, South African Airway could never have afforded to have the hold searched.

MS WILDSCHUT: Yes.

DR KLATZOW: It would have effectively killed the airline.

MS WILDSCHUT: Yes. Which makes me wonder about checking the cargo at Taipei Airport. Do you suspect that there was any irregularities about the... (intervention).

DR KLATZOW: Yes.

MS WILDSCHUT: ...checking of the cargo at Taipei, because usually they need to have a checklist of what is on board?

MS WILDSCHUT: Correct. Well there are two statements made on that. The first statement is that - by SAA personnel such as Theuns Kruger, who said to me, "Why Taipei? It's a very difficult place to have it done by". But the second statement I think should be given more weight, because it is the very man who is in charge of it, and that is Mr Jakobs, who said that that would be the right place to do it, that it was the easier place to do it at Taipei.

MS WILDSCHUT: And then the issue of, much later on of course now with all the inquiries and so on, it seems, from the documentation I have here, that Jimmy Moutons had some documentation, that he had fed it off to London for safe-keeping.

Can you just elaborate a little bit about that?

DR KLATZOW: Well I've known about that for some time. All sorts of things - firstly Mouton was aware that material was disappearing from the Airline Pilots Association safe, he was also aware that they were falsifying the medical records of the pilots, that if there was a plane crash or an accident or some incident, they could blame it on the pilot's ill health. He was aware that he'd been threatened. Mickey Mitchell had approached him at the inquiry and said to him, you know, "Are you suggesting that we're trying to cover up the second fire?", kind of thing. Now all of those things, Mouton was a terrified man when I spoke to him

four years ago. He honestly believed and told - and this came back to me, that I was a CCB agent attempting to assassinate him.

Now that is the ravings of a frightened man. The second thing is that I know that Mouton was called in, because on Friday or Thursday last week I tracked down Yvonne Belagarde, the wife of the flight engineer, Joe Belagarde, who was lost aboard the Helderberg, and she confirmed to me that she was with Mouton, that they were close family friends, and that Mouton had been called into Margo's chambers, come back visibly upset and had told her at the time of the inquiry that he'd been threatened to drop the inquiry that he was launching, and incidentally, Ray Scott's wife confirmed that her husband had been intimidated.

So there are four people, none of whom have volunteered the information, all of whom I've had to drag the information out of, who've confirmed that Margo somehow didn't want them to give that report, and it wasn't for the reasons that he put about.

MS WILDSCHUT: I take it that the insurance company had paid out SAA?

DR KLATZOW: Yes.

MS WILDSCHUT: To your knowledge do you know whether the insurance company had launched any inquiry?

DR KLATZOW: Nothing of any consequence.

MS WILDSCHUT: And then, the families, were they compensated as well?

DR KLATZOW: In the most niggardly fashion that it is possible to imagine.

MS WILDSCHUT: Can you just elaborate on that?

DR KLATZOW: They paid the bare minimum that the flight regulations allowed them to be paid, and they were coerced into signing documents of waiver, they were treated rather shamefully, and there were a number of people who refused to sign it. Jenny Smith, who lost her husband aboard that, refused to sign that "shameless piece of paper", as she referred to it.

MS WILDSCHUT: And do you know if any differential payments were made out to passengers on board?

DR KLATZOW: I've never been able to prove that, okay?

MS WILDSCHUT: Thank you very much.

CHAIRPERSON: Is Justice Margo still a judge, or is he retired... (intervention).

DR KLATZOW: Well... (intervention).

CHAIRPERSON: ...and he is in a condition, for instance, to respond... (intervention).

DR KLATZOW: No.

CHAIRPERSON: ...to a subpoena if we were disposed to issue one?

DR KLATZOW: I think the commission should make up its own mind on that, but on Friday last week, Peter Thorneycroft, a journalist for the Independent Newspapers, phoned him and his reply to - she asked him what his response was, and he said, "I

can't give you a response, my captors won't let me", and on inquiry as to who his captors were, he replied, "The Russians".

So I think that you might get, I think that we're dealing with the ravings of a man who's now senile.

CHAIRPERSON: I see.

DR KLATZOW: Maybe it is the Russians, I don't know.

MS TERREBLANCHE: Mr Magadla?

MR MAGADLA: Thank you. During the realisation by the pilots at the airport from which they had to take off, I think it was Taipei, the fact that there was going to be, or there was this delay that was taking place, wouldn't it have been relayed to ZUR that, at that time, that "Look, we are going to delay because of this and because of that"?

DR KLATZOW: It was relayed to ZUR, but not because of anything. Once - there was no need, you must remember ZUR is an open wavelength. Now you don't, unless there is a terrible need to say something, you would not discuss it as a matter of informal chit-chat. If you were delayed in take-off and there was no other problem, other than the delay, you wouldn't say, "I'm being delayed because some lunatic wants to put rocket fuel aboard the aircraft", you'd simply say, "We are delayed".

MR MAGADLA: Now, in the course of your investigations, did you come across any information or talk that certain passengers, or would-be passengers, missed that flight?

DR KLATZOW: Yes, and certain passengers were aboard that flight inexplicably. There were certainly passengers who missed the flight, I mean every time it comes up, somebody accosts me and says, "You know, I should have been on that flight", so there were a lot of people who, for whatever reason, didn't make it onto the flight, but Mr Osler inexplicably was on that flight. I'm not sure how he got to Taipei, but he had a rather hectic itinerary before getting there, and I believe that Mr Osler may very well have been linked to a front procurement company for Armscor, and he was on that flight, and part of the rumour is that Uys would not take off without an Armscor representative being aboard that flight.

MR MAGADLA: Now this conversation at the cockpit, couldn't it have been at the inquiry, couldn't it have been a suggestion that at least the representatives of the families and the commission listen to that, without it being heard by other people?

DR KLATZOW: That was never done, Mr Commissioner, not in the Margo report, but it's present in the DCA documents. You will see it is a conversation of utter triviality, there was nothing in there that could offend the most sensitive wife. I think even my wife wouldn't have objected to it.

MR MAGADLA: Thank you.

CHAIRPERSON: Well, Dr Kladzow, it remains for me to thank you for this part of your contribution to this inquiry. We are taking your recommendations extremely seriously, especially

insofar as they are relevant to what the Ministry of Transport should be doing. I can only say it is only constraints in terms of capacity and time that are preventing us, especially now, from airing this inquiry as much as we could, and a number of unforeseen circumstances prevented us from dealing with this inquiry earlier, but to the extent that we are going to be looking at your evidence, and hopefully the evidence of others who will come, who will, with your assistance we will try and squeeze to present us something worthwhile, we will be able to put together not only a recommendation to the Ministry, but something that should go into the final report and which will keep this matter in the public domain until the truth has been established, whatever it costs the country and whatever it costs the parastatals. For now, thank you very much.

DR KLATZOW: It's been my pleasure, Mr Chairman.

MS TERREBLANCHE: Thank you, Dr Klatzow. I would just like to remind the panel that for all subsequent inquiries into, of witnesses, Dr Klatzow will be assisting me.

CHAIRPERSON: Yes, we are conscious of that, but since you will be acting as a consultant to the commission and therefore will be a member of the commission, you will need to be sworn in.

Commissioner Glenda Wildschut will administer that.

INAUDIBLE DISCUSSION

CHAIRPERSON: Are we in a situation where we do not have a witness to call before... (intervention).

MS TERREBLANCHE: Mr Commissioner, our next witness (indistinct).

CHAIRPERSON: You are not on the record.

MS TERREBLANCHE: Oh, sorry. Our next witness is Mr Gert van der Veer, the former chief executive of SAA. He has specifically asked to be here today, because he needs to travel to Montreal for the Air Safety Convention. However... (intervention).

CHAIRPERSON: How ironic.

MS TERREBLANCHE: However - and he was also told to be here at 9:30 today. We have made travel arrangements for him. Unfortunately he is not here. I don't know if you want to call him.

CHAIRPERSON: I think his name must be called three times outside there, and it's true you should also, before we resume at 2:00, you should also sit in. Perhaps the proper thing to do is, if you are in telephonic conversation, whoever, might throw some light as to his whereabouts, please do so, and then please bring us a report at two o'clock when we next resume.

MS TERREBLANCHE: It has been confirmed to Virginia Davids by himself that he will be here at 9:30 and she has been trying to call his numbers.

CHAIRPERSON: Yes, very well. Ja, I would like you to make sure yourself that this is so.

MS TERREBLANCHE: I will do so, Mr Commissioner.

DR KLATZOW: I, Dr David Joseph Klatzow, hereby declare under oath, solemnly affirm that I understand and shall honour the obligation of confidentiality imposed on me by any provision of the Promotion of National Unity and Reconciliation Act of 1995, and shall not act in contra-vention thereof.

CHAIRPERSON: Dr Klatzow has now been formally sworn in, in terms of the Act, as a member of the commission in his consultancy capacity.

The proceedings will adjourn until two o'clock or such time as, well until two o'clock, and Ms Terreblanche is requested to ensure the attendance or otherwise of the next witness, and to establish the whereabouts of Mr Gert van der Veer, former chief executive of SAA, who was expected to have testified from 11:30. We will adjourn until two o'clock.

COMMITTEE ADJOURNS

ON RESUMPTION:

CHAIRPERSON: Ms Terreblanche, who are you calling next and (indistinct)?

MS TERREBLANCHE: Thank you, Commissioner Ntsebeza, I am calling Mr Gert van der Veer, the former chief executive of South African Airways. He was in that capacity at the time of the Helderberg disaster in 1987. He's been... (intervention).

CHAIRPERSON: Ja, okay, before you proceed, as is customary, I will ask Commissioner Wildschut to swear the witness in, but before we do that, Mr Van der Veer, let me welcome you to these

proceedings. For the record and for your own benefit, the panel consists of, to my left, Commissioner Glenda Wildschut, who is the commissioner and a member of the Reparations and Rehabilitations Committee.

I am a Commissioner, I am in the Human Rights Violations Committee and I'm head of the investigative unit.

To my right is Mr Magadla, who is head of special investigations in the operational side of the Investigative Unit.

To my extreme right is Christelle Terreblanche, who I believe you possibly have been talking to. She is assisting in placing all evidence before us in this matter, and with her is Dr David Klatzow, who is a forensic specialist and who has been contracted to come in on as a consultant to the TRC.

I need to indicate that this is an investigative inquiry, it is not a tribunal, it is not a hearing, it is not a court of law, it is not a trial, it's an information gathering exercise. All evidence that has been taken down in this inquiry, which is of a probing and investigative nature, will remain confidential.

If and when a finding has to be made, and there are persons who might be prejudiced by evidence that has been led in this inquiry, an opportunity will be given to them to make written representations and if needs be to have the witnesses who have made allegations detrimental to them brought before this inquiry for purposes, or brought before the commission for purposes of limited cross-examination. However, for the moment any

evidence that has been taken in here remains confidential. For that very reason, therefore, only members of the staff of the commission and those conducted by the commission, and people invited or subpoenaed to be present and/or their legal representatives need and are permitted to remain during the course of the proceedings.

The proceedings are taken seriously, evidence is taken under oath, and persons who give evidence in terms hereof are committing themselves to obey, and therefore we expect and always, in the majority of cases, have been able to get people who have given evidence to us with due regard to the seriousness with which they must convey and supply information to us.

I will, therefore, unless you have something you want to put on record, Mr Van der Veer, before we commence, I would like to ask Commissioner Glenda Wildschut to administer the oath to you.

MS WILDSCHUT: Mr Van der Veer, do you have any objection to taking the oath?

MR VAN DER VEER: No, I don't, but I have a question (inaudible). Oh, that will help.

MS WILDSCHUT: Yes.

MR VAN DER VEER: Sorry.

MS WILDSCHUT: Please will you direct the questions before we take the oath?

MR VAN DER VEER: My question is that obviously there will be a recording of the proceedings, will I have access to that after this session?

CHAIRPERSON: Ordinarily, no, but if, as a consequence of any, as I indicated earlier, if we are going to be making findings on the basis of any information that we have collected here, and it may be findings of a nature that have, on the basis of which adverse inferences may be drawn about you, for instance, then in that event, it would be necessary for you to be provided with all the information, including a transcript of these proceedings, together with whatever else has been said to your detriment, so that you have an opportunity to rebut whatever allegations are made against you, and in fact to cause such witnesses as may have given evidence about you and against you, detrimental to you, to be called so that you can subject them, either by yourself or through your legal representative, to limited cross-examination.

So it really will depend, but ordinarily, and I think the commission has the power to do so, I wouldn't find any reason for a well motivated case, that you should not be given transcripts of the proceedings.

MR VAN DER VEER: Thank you. Another question please, and that is that it says here in the document that I got that you may want, or I must submit to having things, or the evidence published. Is that correct?

CHAIRPERSON: Sorry?

MR VAN DER VEER: I say that somewhere in the document here it says that you reserve the right to make, it says that:-

"The commission may require you to take the prescribed oath or to make an affirmation that the proceedings shall be recorded and may, subject to the provisions of section 29.5, be made public by the commission"?

CHAIRPERSON: Yes, ja, that is what the law says. As I have been indicating to you, this is the process. Ordinarily, and I want to emphasise that, this process is a process where evidence taken from deponents is confidential, that is why it's restricted, it's not a public session. However, the commission is empowered by the law, sub-section 5 of section 29, to make all or some aspects of the evidence collected in terms of this process, public, but before this happens, all who would be affected by such publication are given an opportunity to make representations, and it may well be that one of the representations would be, for instance, by you to say, "I do not consider that it would be either in the public interest or in my interest that such information should be made available to the public, for these reasons", and you set them out, and a decision will not be taken until an opportunity has been provided to any person who might be adversely affected by the publication of evidence gathered in these circumstances is given. So, for instance, if you are asking the question, will you be confronted tomorrow by anything that

HELDERBERG HEARING TRC/WESTERN CAPE

you have said here, my answer is no, there would have to be a commission meeting, and the next commission meeting will be somewhere in June, and at that commission meeting a decision would have to be taken first as to whether evidence gathered during a section 29 process into the Helderberg ought to be made public. The commission would then take that decision and then a resolution formed, but then it does not mean the following day it would be in the public domain. We would then say, "Who has given evidence here? Dr David Klatzow, Mr Gert van der Veer, etcetera, etcetera". We would then now send notices to all of those people, "Look, we are about to publish the information that was gathered from you on a confidential basis. Do you have any representations to make?", and then you make your representations. So it is going to be a process.

MR VAN DER VEER: No, I'm not worried about the publication, sir. What I'm only saying is that if it is published, then it mustn't be selectively published, and all the evidence should be put.

CHAIRPERSON: Very well.

MR VAN DER VEER: I'm sorry, I haven't got a legal adviser, but I just want to satisfy myself on these points, because we talk about transparency... (intervention).

CHAIRPERSON: Yes.

MR VAN DER VEER: ...and then one would like to see that.

CHAIRPERSON: No, I haven't got a problem, Mr Van der Veer, we would really like to you to be well aware what the process is and we welcome you having made the inquiries that you did.

MR VAN DER VEER: Thank you.

GERRIT DIRK VAN DER VEER: (sworn states)

CHAIRPERSON: May I just also indicate that if you want and you are at home with Afrikaans and you would like to give your evidence in Afrikaans, feel free to do so. We have a group of translators here who do simultaneous translations and we would therefore be - they would indicate - but if you are happy to testify in English - what I'm saying is, our preference in the commission is that people should testify in the language in which they best feel they can do so.

MR VAN DER VEER: English is my third language, Mr Chairman, so if I do fall back into Afrikaans, then, that's my second language, it might just be, if one wants to put a specific thought across, or fact across, one has to be sure that one does it in the right way. Thank you.

CHAIRPERSON: You can use Xhosa as well.

MR VAN DER VEER: Unfortunately, I'm not capable of speaking that. Thank you.

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: Mr Van der Veer, welcome again. We have sent a number of questions to you, I will read it into the record. We've required your presence here today to answer

questions and give evidence on your - relevant to your role in SAA during the 1980's, with particular reference to the time of the Helderberg disaster in 1987, to clarify to the TRC the relationship between Armscor and SAA in the late 1980's, including the relationship between SAA and subsidiaries of Armscor, to answer questions relevant to SAA's policy on cargo, to explain your role in the investigation into the crash, particularly immediate steps taken to secure all the records relevant to an inquiry into an air disaster, and to answer questions pertaining to the whereabouts of the ZUR tapes of all communications between the Helderberg and the Springbok Radio station on the night of the crash.

I don't know if you have prepared something on that line and whether you would prefer for us to just ask you questions?

MR VAN DER VEER: I have not prepared anything at all, I think you should ask the questions, but you are referring, in the Afrikaans note that you sent me, Mr Chairman, that you have certain evidence, and that you would like to query me, whatever it is, on that evidence. If there is such evidence, I would very much like to be brought up to date as to what that evidence is, and whether this is in fact evidence or whether it's hearsay or rumours, because the last thing, Mr Chairman, and this is what I'm worried about, about this whole hearing, is that one starts rumours. Having lost 159 passengers' lives, with the relatives, one doesn't just treat this for the, you know, for the enter-

tainment of others. This is an extremely serious matter. Thank you.

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: Our evidence is mainly in the form of statements made to us by former and current personnel of SAA, many of them recently. This is a process in which we would try to test those statements. In addition, there are in fact rumours going around that needs to be clarified... (intervention).

MR VAN DER VEER: If we can assist... (intervention).

MS TERREBLANCHE: ...and this is part of this process. If we had it in public, of course, that would be a problem.

MR VAN DER VEER: Ja, that's my main concern, Mr Chairman, and if we can help to throw light on that, I'll certainly be the first person to be of assistance. I mean we all want to know what really happened, though we know what happened, we don't know what caused it, and if we can get to the real facts of that, I mean the Helderberg accident already has had its impact very strongly on the whole of the aviation industry in terms of safety standards which have been improved, in terms of money that has had to be spent, if we can find out anything more that could assist in that direction, you will have my full co-operation.

MS TERREBLANCHE: Thank you. I think we would like to just start off by asking you the exact nature of the relationship between SAA and Armscor during the mid - late 80's. There have been statements to us that you and other members of SAA,

as a delegation, went to see Armscor not long before the Helderberg disaster to get some assurances that they would not inadvertently put dangerous substances on board passenger planes. We are all aware that there are inter-national regulations and that airlines try to be in line with that as often as possible, but that sometimes things go wrong. Can you just clarify to us what your agreement with Armscor was?

MR VAN DER VEER: The agreement would be exactly the same with any other commercial customer of SAA, whether it be Anglo American, whether it be Sappi, whether it be Mondi, whether it be Old Mutual, no agreements, they're customers.

CHAIRPERSON: May I just find out from you, Ms Terreblanche, when you say that there are statements or there is information, do you have these statements, are they in written form? Then I would suggest that those statements must be made available to the witness, the witness must be able to see what has been written, so that he's not at sea, it's an entitlement which the law allows him to do. Can you arrange for him to have these statements? It will also facilitate examination and for him to reply. If, for instance, you are going to be questioning him on statements made, for instance, for argument's sake, by Klatzow, then you should say, "This is a statement that has been made to me by Klatzow, this is a statement made to me by Mitchell, by so and so, by so and so"?

MS TERREBLANCHE: Mr Chairman, I'll make available what I can, I just need to get some assurances from you, as we have discussed in detail this morning, there are some people who are quite scared, so what do we do about those?

CHAIRPERSON: Unfortunately, if you are going to be asking Mr Van der Veer on the basis of the statement which you have, the law is very clear, especially in the constitutional dispensation, it should be on the basis that he has a copy of that statement.

I will grant an adjournment for you to organise such statements as you have on the basis of which you will be questioning Mr Van der Veer, and then to make those available to him and give him some sufficient time to get through them, and Mr Van der Veer of course you will understand that these statements are given to you in confidence and that such evidence as you will be giving in relation thereto will be in confidence, and due regard will be given to the nervousness with which these people gave the statements to us, but you also have got rights, and I think it would be unfair for you to go into an inquiry blindfolded, speaking as a lawyer I won't be able to live with my conscience, even though lawyers are not supposed to have consciences.

MR VAN DER VEER: Thank you, Mr Chairman.

CHAIRPERSON: We'll adjourn for a moment to afford Mr... (intervention).

MS TERREBLANCHE: Dr Klatzow says he's got some specific questions which are not based on statements, which we can go ahead with in the meantime.

CHAIRPERSON: No, I would prefer that we should adjourn, and it should not be a long adjournment, and then, so that when we do start - let's see how far we can take the matter if we re-assemble at quarter to three, so that we have one flow and if you need further time, then you can get further time. Do you think 15 minutes will be enough, or do you need more time?

MS TERREBLANCHE: It will be enough. Thanks.

CHAIRPERSON: We are adjourned until quarter to three.

COMMITTEE ADJOURNS

ON RESUMPTION

GERRIT DIRK VAN DER VEER: (still under oath)

MS TERREBLANCHE: Mr Van der Veer, I just want to clarify that I have interviewed a large number of people and taken statements from them which were with the view to be sworn, although we have had too little time, so at this stage, as it is not sworn, I regard it as notes. I would, however, tell you if I refer to anything specific and if there's anything else, I'll make it available to you.

MR VAN DER VEER: Okay.

MS TERREBLANCHE: I would like to go just back to, can you just tell us when you started your career in SAA, and as what?

MR VAN DER VEER: 1st of October 1983, as chief executive officer.

MS TERREBLANCHE: Before that, where were you, where did you come from, to SAA?

MR VAN DER VEER: I was part of the organisation all my life, not SAA, but South African Railways and Harbours, later on SA Transport Services, and then SAA and then of course that became Transnet.

MS TERREBLANCHE: Can we go back to the previous question, I would just like to find out whether it was the case that you ever sought any assurances from Armscor in terms of cargo?

MR VAN DER VEER: No.

MS TERREBLANCHE: More than... (intervention).

MR VAN DER VEER: I want to point out that we would not ask those assurances from any customer, because you're very much aware of the IATA regulations, which prescribes what cargo is to be transported. Secondly, that you have freight agents who are handling it. The customer must declare that on the weighbill, okay? That doesn't mean to say that SAA doesn't do inspections on cargo it conveys, particularly in the sanctions period.

MS TERREBLANCHE: Were you ever aware of people breaking those IATA stipulations, were you ever aware of illegal cargo on SAA flights?

MR VAN DER VEER: Not really, no, not in that sense. If it was drugs or something similar, that might be reported to me, yes, but not otherwise.

MS TERREBLANCHE: So you are not aware that there were ever any military type cargo that were not encouraged to be on passenger flights or civilian flights, ever on SAA?

MR VAN DER VEER: Mr Chairman, how does one know it's military type of equipment, in the first place, would that be declared on the weighbill, and secondly, if it was military type equipment, then there is no objection of IATA and safety regulations to transport that.

MS TERREBLANCHE: As I understand, all military type cargo had to go... (intervention).

CHAIRPERSON: But, Mr Van der Veer, I think the question is still put, and if your question querying the basis on the question is a reply, then maybe you want to give a reply. I think the question was, were you ever aware of any military type cargo being conveyed on SAA, and I think because you're under oath, we oblige you to commit yourself to a version. If your answer is no, then that's your answer, and then you can explain, of course that, you know, "I could never have been aware".

MR VAN DER VEER: Mr Chairman, then I would like the definition of military type equipment.

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: According to civil aviation, whenever a military type, any military cargo would be on a plane, they would be told about it. If it was for the military, they would refer it to Armscor or the SAAF and (indistinct).

MR VAN DER VEER: Sorry, I didn't hear the last portion?

MS TERREBLANCHE: Whenever there was going to be military cargo, according to the Chicago Convention, it would have been referred to Armscor or to the SAAF, or it would go through a different route?

MR VAN DER VEER: I'm not aware of anything in that line, but I'd like to ask, not a question, but what is the definition of military equipment? The problem is, let's assume, let's assume it's some piece of electronic equipment, okay? First of all, the name Armscor would not be on it, it might be a subsidiary or a front agency, of whom we are not aware, okay? It's gone through the freight agent and it's called a control mechanism. So the answer to that is, I accept that as a control mechanism, it could be for anything, military or otherwise. I mean that happens with every airline, or not even airlines, any freight company around the world.

MS TERREBLANCHE: I accept that. Yet you have never been aware that something was falsely declared and put on a civilian airline?

MR VAN DER VEER: No. Not something, stuff has been declared, but not in military - in terms of the military equipment you're referring to.

MS TERREBLANCHE: Are you saying that certain cargo was mis-declared, or declared as something else?

MR VAN DER VEER: At times yes, the same problem that the customs people have, because people at times like to declare things at a much lower value for custom purposes. Okay, yes, in that line one is becoming aware of things at times.

MS TERREBLANCHE: And were any of those cargoes that you were aware of, cargo that were destined for the military or Armscor, or for other sanctions-busting purposes?

MR VAN DER VEER: Not aware of it.

MS TERREBLANCHE: I think Dr Klatzow would also like to ask a couple of questions.

DR KLATZOW: Mr Van der Veer, correct me if I'm wrong, but I have very vivid memories of you being a very hands-on type of chief executive officer of South African Airways, is that correct?

MR VAN DER VEER: In certain sectors, yes.

DR KLATZOW: You were a man, for instance, who would participate in advertising, personally you would be standing on the runway with a candle and you were in some of the television ads that were screened for SAA?

MR VAN DER VEER: Quite correct.

DR KLATZOW: You were a man who put his stamp on the Airways in no uncertain terms and you were a very effective chief executive officer, if I may make so bold?

MR VAN DER VEER: That I think history has to show.

DR KLATZOW: I think you... (intervention).

MR VAN DER VEER: I only did my best.

DR KLATZOW: I think that it was a very good best.

MR VAN DER VEER: Thank you.

DR KLATZOW: You were very much involved with the day to day running of the airline, you did not leave things easily to other people and you were a man who kept your finger firmly on the tiller, as it were?

MR VAN DER VEER: Again, in certain aspects of the airline.

DR KLATZOW: In the important aspects?

MR VAN DER VEER: Let's say yes, those things that were very important at that point in time, yes.

DR KLATZOW: You were a man, for instance, who would not allow the wastage of funds on unnecessary projects, you were a man who would see to it that the monies that the airline had were well spent?

MR VAN DER VEER: If I was aware about it, definitely.

DR KLATZOW: Certainly. But at a senior level and on important capital projects, on important projects, you would not allow a waste of money to occur willingly with your knowledge?

MR VAN DER VEER: No.

DR KLATZOW: Now let me turn to the fateful evening of the crash, the 28th of November 1988. When did you first become aware that the airline was missing?

MR VAN DER VEER: I must recollect, I mean this is a long time ago... (intervention).

DR KLATZOW: Yes.

MR VAN DER VEER: I remember it... (intervention).

DR KLATZOW: To the best of your recollection?

MR VAN DER VEER: Ja. I remember it very vividly. It was probably about, I would guess, and please correct me, about four o'clock that night, when Mr Lewis, my deputy, phoned me at house, at my home.

DR KLATZOW: Viv Lewis?

MR VAN DER VEER: Viv Lewis. And he told me that control had phoned him and told me that the Helderberg, at that stage we did not say it was missing, but that we had lost contact with the Helderberg, and that it should, at that time, be landing or have arrived in Mauritius.

DR KLATZOW: At four o'clock in the morning?

MR VAN DER VEER: I think it was about four o'clock our time, I stand corrected on that, please.

DR KLATZOW: Right. I understand that your... (inter-vention).

MR VAN DER VEER: You'll get a better idea of the time later on, sorry.

DR KLATZOW: Yes. There are always fallacies of memory, but to the best of your recollection, Viv Lewis phoned you... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...and said that the Helderberg was overdue... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...and what was your next action?

MR VAN DER VEER: The first action was that I asked him whether everybody had been advised. The answer was yes. I then said to Viv, "Viv, get to the airport", okay, "I'll stay at home", and the reason for that is very simple, Mr Lewis stays much closer to the airport than I do, I'm 55 kilometres away, and I didn't want either of us to be travelling and not be available, so I said, "Viv, you go to the airport, let me know when you get there, then I will come out", and that's what I did.

DR KLATZOW: Now, you then went to the airport?

MR VAN DER VEER: I then went to the airport, and that gives you a better indication of the time, because it was that time of the year, I got to the airport just when it was, let's say about five o'clock, the sun wasn't quite out, okay, but it was on its way, it was dusk, and you can check from that what time it was. It was round about five o'clock.

DR KLATZOW: That is correct. And who accompanied - who was there with you, you were clearly the most senior South HELDERBERG HEARING

African Airways man at the airport, who was with you that morning?

MR VAN DER VEER: At that morning, Viv Lewis was already there, Captain Mickey Mitchell was already there, because he stays closer to the airport, and some of the other senior officers, I cannot give you all the names, and then of course the people that have to deal with safety and an emergency like that, and of course Mr Venter, our spokesman for the airline... (intervention).

DR KLATZOW: Let me remind you of one of the people.

MR VAN DER VEER: ...communication man. Yes please.

DR KLATZOW: Sorry, I'm sorry for interrupting. Let me remind you of one of the people who was there. Do you remember a pilot by the name of Captain Jimmy Deale being there?

MR VAN DER VEER: No.

DR KLATZOW: You were never... (intervention).

MR VAN DER VEER: He could have been.

DR KLATZOW: You were never aware that he was there?

MR VAN DER VEER: I cannot say I was not aware, you understand, I cannot recollect. If you give me the name Jimmy, then the name Jimmy Hepworth jumps up.

DR KLATZOW: Right. But Jimmy Deale was there that evening, would you, you won't deny that?

MR VAN DER VEER: I will not, well I cannot say yes or no. It's not that evening, please, it was early that morning.

DR KLATZOW: Right. Early the next morning?

MR VAN DER VEER: Early the next morning.

DR KLATZOW: It was after midnight?

MR VAN DER VEER: No, Saturday five o'clock... (intervention).

DR KLATZOW: Ja.

MR VAN DER VEER: ...in the morning, that's when I got to the flight ops building.

DR KLATZOW: Was the legal adviser for South African Airways there at the time?

MR VAN DER VEER: Mr Attie Malherbe, I don't think he was there at that point in time, no, I think he came later.

DR KLATZOW: Okay. Now, you've also been on record, very vociferously at the time and over the ensuing years, as saying that South African Airways, and clearly it is your own stated intention, wants to make absolutely certain that the truth about the Helderberg comes out?

MR VAN DER VEER: Yes.

DR KLATZOW: And that every assistance that the airline and yourself could offer was there for the taking?

MR VAN DER VEER: Yes.

DR KLATZOW: And that you would in no way intimidate or prevent the truth from coming out?

MR VAN DER VEER: Definitely not.

DR KLATZOW: And that it was the airline's stated intention to find out what had gone wrong, through Margo?

MR VAN DER VEER: No.

DR KLATZOW: Or through your own endeavours?

MR VAN DER VEER: We have nothing to do with an investigation into an airline, that is the responsibility... (intervention).

DR KLATZOW: No, let me stop you... (intervention).

MR VAN DER VEER: ...of DCA. Yes.

DR KLATZOW: Let me stop you. I understand that DCA bears the final responsibility, but you as an airline, having lost an expensive piece of equipment and 159 lives of valued crew and passengers, wanted to know what was going on, didn't you?

MR VAN DER VEER: Yes.

DR KLATZOW: You wanted to know what caused that fire, didn't you?

MR VAN DER VEER: Yes.

DR KLATZOW: You stated... (intervention).

MR VAN DER VEER: We still do want to know that.

DR KLATZOW: ...you were going to offer Margo every assistance that was possible for Margo to get to the truth?

MR VAN DER VEER: To Judge Margo or DCA or anybody else.

DR KLATZOW: For Judge Margo read DCA, because they acted as one and the same group, but you were not going to inhibit that in any form or shape?

MR VAN DER VEER: Definitely not.

DR KLATZOW: Now, I'm going to come back to that.

MR VAN DER VEER: Uhum.

DR KLATZOW: ZUR, tell the commission what the functions of ZUR are. Let me lead you through it. ZUR, and you can correct me if I'm wrong, is a home base radio station, which maintains long distance communications with your overseas fleet throughout the world?

MR VAN DER VEER: Yes, on a periodic basis.

DR KLATZOW: I'll get to the periodicity of it in a minute. ZUR is set up as a permanent radio station at SAA?

MR VAN DER VEER: Yes.

DR KLATZOW: It has a sophisticated tape recorder?

MR VAN DER VEER: Yes.

DR KLATZOW: Which has a 24 hour a day reel to reel tape recording apparatus?

MR VAN DER VEER: I don't know whether the reel occupies 24 hours, but it has a continuous recording capability.

DR KLATZOW: Correct, it's roughly one reel per day, let me help you.

MR VAN DER VEER: Thank you.

DR KLATZOW: And those reels are manned 24 hours a day by a staff of about three people?

MR VAN DER VEER: Yes.

DR KLATZOW: Not only are the manned 24 hours a day, but Mr De Veer, those reels are kept for at least a month, and probably nearly five weeks?

MR VAN DER VEER: Correct.

DR KLATZOW: And they are kept under lock and key?

MR VAN DER VEER: Correct.

DR KLATZOW: What is the function of ZUR?

MR VAN DER VEER: To be able to communicate with the aircraft from the, let's say this central control of the airline, and to give the pilot the ability to record to central control, and we have the system of roughly every hour of reporting back to base station... (intervention).

DR KLATZOW: That's correct.

MR VAN DER VEER: ...finding out whether everything is okay, whether there's any problems or any messages or any urgency, I mean (indistinct) just having chairs and things like that, right.

DR KLATZOW: Sometimes more than an hour... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...sometimes it was an hour and a half, it depended... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...there were standing regulations?

MR VAN DER VEER: Yes, and it also depended on whether one could reach the aircraft... (intervention).

DR KLATZOW: Correct.

MR VAN DER VEER: ...depending on the time of day, because this is not a foolproof communication system.

DR KLATZOW: No, I understand that.

MR VAN DER VEER: Okay.

DR KLATZOW: Now, ZUR, with its full-time apparatus, its full-time occupancy of a building and its full-time staff on a three shifts a day, was not a cheap operation to run, was it?

MR VAN DER VEER: No.

DR KLATZOW: It cost the airline a substantial amount in salaries, perks, benefits... (intervention).

MR VAN DER VEER: I guess so, like everything else.

DR KLATZOW: Absolutely. And it had a serious side to it as well. The last thing you, as chief executive officer, wanted to find out is if an aircraft was missing only when it was late on arrival or when it failed to make contact with an FIR?

MR VAN DER VEER: No.

DR KLATZOW: So one of the things... (intervention).

MR VAN DER VEER: Sorry, no, no, I mean you're making a number of things now. I, as chief executive officer, would not be informed about that or would be interested in that.

DR KLATZOW: No, let me back and let me put the questions to you piecemeal.

MR VAN DER VEER: Thank you.

DR KLATZOW: One of the functions of ZUR is, if there was a major problem aboard the airline, wherever it was, it would be
HELDERBERG HEARING

expected, after the preliminaries of dealing with that contingency had passed, that they might be expected to inform the home base?

MR VAN DER VEER: Sorry, when you, no, when you speak to ZUR, you are informing the home base.

DR KLATZOW: That's the point.

MR VAN DER VEER: Okay.

DR KLATZOW: They would speak to ZUR and inform the home base?

MR VAN DER VEER: Quite correct.

DR KLATZOW: ZUR was not set up, at considerable time, cost and effort by SAA, to make certain that there was enough water on the aircraft when it landed at Seoul? That would be inter alia one of its functions?

MR VAN DER VEER: Correct, I've just referred to that earlier... (intervention).

DR KLATZOW: Correct.

MR VAN DER VEER: ...it might be the need for an armchair for a passenger on the aircraft or something similar... (intervention).

DR KLATZOW: But of course... (intervention).

MR VAN DER VEER: ...anything.

DR KLATZOW: Any operational thing about the airline.

MR VAN DER VEER: Yes.

DR KLATZOW: But certainly ZUR, with a full-time tape recording facility was not set up solely to deal with the occasional armchair that you needed, or wheelchair?

MR VAN DER VEER: It had many functions.

DR KLATZOW: Correct. Of which notification of serious events aboard the aircraft was one of them?

MR VAN DER VEER: Of course.

DR KLATZOW: Right. Could you think of a single reason for me on that score why members of South African Airways whom I've spoken to over the years, have always attempted to denigrate and lower the role of ZUR to that of providing water and wheelchairs, and incidentally it's interesting that you use both, because those are the examples which have often been quoted to me, with a diminution of the more crucial role which I've outlined to you and which you've already told me is one of the functions?

MR VAN DER VEER: Uhum.

DR KLATZOW: Could you think of a single reason why people wanted to get away from that real function?

MR VAN DER VEER: Again, that's one of the functions, okay, but I cannot think of any one.

DR KLATZOW: Mr Van der Veer, you've been commendably... (intervention).

CHAIRPERSON: When you say you cannot think of any one, you cannot think of any one reason... (intervention).

MR VAN DER VEER: No.

CHAIRPERSON: ...why anybody would try to (indistinct) diminution... (intervention).

MR VAN DER VEER: I'm not even aware of it, so... (intervention).

CHAIRPERSON: All right.

MR VAN DER VEER: I'm not even aware of it so... (intervention).

DR KLATZOW: In all fairness I would say to you, Mr Van der Veer, that you've been commendably open and I'm enjoying the interchange, in that I'm getting information now which has been previously inaccessible to me, despite extraordinary attempts to get the kind of information I'm getting from you. Now... (intervention).

MR VAN DER VEER: Mr Chairman, on that point, sorry, did you approach the airline on that?

DR KLATZOW: Yes.

MR VAN DER VEER: In what way?

DR KLATZOW: Telephonically, at numerous times. But we'll deal with that. Mr Van der Veer... (intervention).

CHAIRPERSON: In any event, now it is the TRC which, through him, is approaching you, so everyone's indebted to you.

MR VAN DER VEER: Sir, I have no problem with that.

DR KLATZOW: Mr Van der Veer, you've indicated to us previously that deep in your heart, and deep in the heart of the airline, there's a desire to find out the truth about this thing, however terrible it might have been, and yet, on every level that I have dealt with members of SAA staff, over the last 5½ or six

years, there is a golden thread which runs through every single investigation that I've made, and that is one of fear. So much so that I had to resort at times to interviewing your staff members or ex-staff members clandestinely in places where they would recognise me and they would not explain to me how and when they were going to get there, it was very difficult. Could you advance possibly a reason why there should be such a climate of fear which envelops the whole of the Helderberg story, apart from your lack of fear today?

MR VAN DER VEER: I cannot think of any reason at all, except one. Let me explain, Mr Chairman, I retired from that position in '93, okay? I'm not aware that while I was chief executive of the airline that you approached me for any question in that regard. Okay? I have been approached subsequently, and I've been approached by a number of journalists, and Mr Chairman my attitude was exactly the same on every, every question I got, and the answer to that is "no comment", and the reason for that is not because I was not prepared to talk about the incident at all, on the contrary, but the last thing that I want to do is fire rumours or start rumours or encourage rumours about a very sensitive situation like the Helderberg, and any journalist that phoned me, and one or two did, I said to them, "If you have any evidence about the Helderberg accident, don't come and tell me about it, don't ask me questions, go to the powers that be", and I referred them specifically to the attorney, state attorney-general, and said, HELDERBERG HEARING

"Go to them, or the Department of Civil Aviation, and any question that they may have as far as where I can contribute, I will only be too pleased to assist with, but I'm not prepared to give evidence or to give comment on anything just from anywhere".

DR KLATZOW: I think that we've strayed a little bit from the question.

MR VAN DER VEER: Okay.

DR KLATZOW: The question was, and I'm going to assume your answer was no, the question was, can you think of a reason why the whole investigation should be pervaded by fear, and I'm sure your answer... (intervention).

MR VAN DER VEER: No.

DR KLATZOW: ...must be no? Okay. Now, let me get back again, and I'm sorry to jump around like this, but I want to get back to that awful morning when it was dawning on you that the aircraft was overdue and probably missing. Contact had been lost at Plaisance and the operators at ZUR knew about that, and you, by that time, were at the airport. Are you aware, well let me rephrase that question, you must be aware that immediately after the aircraft went missing, numerous rumours surfaced, almost immediately? You must be aware of those, sorry, I'm going to have to ask you for a verbal response onto the record?

MR VAN DER VEER: The answer is, one is aware of rumours at that point... (intervention).

DR KLATZOW: Yes.

MR VAN DER VEER: ...and you have also yourself in your mind another 15 or 20 other... (intervention).

DR KLATZOW: But of course.

MR VAN DER VEER: ...things, okay?

DR KLATZOW: But there were rumours?

MR VAN DER VEER: I guess so.

DR KLATZOW: And many of those rumours must have come to your attention?

MR VAN DER VEER: I guess so, yes.

DR KLATZOW: You must be aware that one of the earliest rumours was that there had been an acrimonious conversation between Uys and ZUR which had been tape-recorded?

MR VAN DER VEER: No.

DR KLATZOW: Have you never been aware of that?

MR VAN DER VEER: I've only heard that much, much - the word acrimonious I don't even know about, I'm not aware of an acrimonious conversation, and I have not heard that, I've picked that up later as a rumour.

DR KLATZOW: Were you aware that there was a rumour of any conversation?

MR VAN DER VEER: I've read it in the newspaper, there was even a rumour that Captain Uys phoned me through ZUR apparently in the middle of the night.

DR KLATZOW: Correct, that rumour was certainly current at some stage during the investigation.

MR VAN DER VEER: I think so.

DR KLATZOW: Yes.

MR VAN DER VEER: Now you are also aware that after an accident there are certain guidelines which have to be complied with in terms of Department of Civil Aviation rules, aren't you?

MR VAN DER VEER: Correct.

DR KLATZOW: And one of the guidelines is that every available piece of information relating to the aircraft which could possibly have a bearing on its loss has to be made available to DCA?

MR VAN DER VEER: Yes.

DR KLATZOW: And that you, as a responsible chief executive officer, would make certain that that standing instruction was complied with to the last letter?

MR VAN DER VEER: Theoretically yes, as CEO... (intervention).

DR KLATZOW: Correct.

MR VAN DER VEER: ...practically that's impossible to do in a large organisation.

DR KLATZOW: Correct, but that would be the role of the chief executive officer... (intervention).

MR VAN DER VEER: Certainly.

DR KLATZOW: ...and that man would be you?

MR VAN DER VEER: Certainly.

DR KLATZOW: Now, you must be aware at this stage, and you must be aware shortly after the accident, that the middle tape of the ZUR tape recordings was no longer available for the Department of Civil Aviation?

MR VAN DER VEER: Uhum.

DR KLATZOW: You must be aware, and have been for all these years, that the tape regarding the take-off of that aircraft was available, and still is, in fact?

MR VAN DER VEER: I've never listened to it, I'm not aware of that, I know there is a tape missing, okay?

DR KLATZOW: Right. Let me - the tape - let me fill you in... (intervention).

MR VAN DER VEER: Please.

DR KLATZOW: ...and if you want to contradict any of it, please do so. The information that I have is that the tape of the take-off from Taipei is available. The tape recording at ZUR of the following day is available. What is missing is the tape in between.

MR VAN DER VEER: That's the piece that I'm aware of is missing.

DR KLATZOW: Correct.

MR VAN DER VEER: Okay, I don't know what there is, please.

DR KLATZOW: No, we're ad idem, there's a tape... (intervention).

MR VAN DER VEER: Okay.

DR KLATZOW: ...there's tape in between that is missing.

MR VAN DER VEER: Yes.

DR KLATZOW: And not only is that tape missing, but the rumours have persistently alleged that there is something sinister on that tape.

MR VAN DER VEER: Uhum.

DR KLATZOW: You're aware of that?

MR VAN DER VEER: Uhum.

DR KLATZOW: You're also aware, Mr Van der Veer, that an extensive investigation by DCA culminated in a hearing chaired by Mr Justice Margo?

MR VAN DER VEER: Yes.

DR KLATZOW: Were you satisfied with the outcome of the Margo Inquiry?

MR VAN DER VEER: Yes.

DR KLATZOW: You felt that it was done impartially and taking all facts into consideration?

MR VAN DER VEER: Yes.

DR KLATZOW: And in fact I remember quite well that you attended a large number of the sessions of that inquiry, because I remember seeing you there?

MR VAN DER VEER: Not a large number, a few, sorry.

DR KLATZOW: You were certainly there, because I...
(intervention).

MR VAN DER VEER: I was there... (intervention).

DR KLATZOW: ...I can remember seeing you there?

MR VAN DER VEER: Yes I was, yes I was.

DR KLATZOW: So you paid more than a passing interest to Mr Margo's deliberations?

MR VAN DER VEER: Yes.

DR KLATZOW: And I presume that you would have had staff members inform you... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...about the proceedings?

MR VAN DER VEER: Yes.

DR KLATZOW: Probably Viv Lewis?

MR VAN DER VEER: Anyone that was there.

DR KLATZOW: And certainly Mickey Mitchell was there quite a lot?

MR VAN DER VEER: Yes. And the legal adviser, Mr Malherbe... (intervention).

DR KLATZOW: Correct.

MR VAN DER VEER: ...etcetera.

DR KLATZOW: Correct. There would have been, probably daily or every other day, there would have been debriefing sessions?

MR VAN DER VEER: Not necessarily debriefing, but they kept me informed.

DR KLATZOW: Right. Now you must also have been aware that at the time, with the rumours circulating, that the missing
HELDERBERG HEARING

ZUR tape would be likely to be viewed in an extremely serious light?

MR VAN DER VEER: Yes.

DR KLATZOW: And it must have been obvious to anybody but a fool, and you are no fool, that the most sinister inter-pretation possible could be placed on that missing tape?

MR VAN DER VEER: Obviously.

DR KLATZOW: And that any steps towards elucidating what had happened to the tape would have been useful?

MR VAN DER VEER: Yes.

DR KLATZOW: You were also, I'm assuming, and correct me if I'm wrong, well informed about the legal preparations relating to the Margo Inquiry, who was to be called, not necessarily the nitty-gritty... (intervention).

MR VAN DER VEER: Not the nitty-gritty.

DR KLATZOW: ...but you would have been aware of the broad... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...brash picture of what was happening?

MR VAN DER VEER: Yes.

DR KLATZOW: And certainly the missing ZUR tape would have been more than a detail on that canvas, it would have been part of the broader picture?

MR VAN DER VEER: It was one of the items.

DR KLATZOW: It was. Are you aware that the tape was signed out that night of ZUR? Or let me just start you a little further back, you realise that not anybody could just walk into ZUR and help yourself to a tape?

MR VAN DER VEER: Correct.

DR KLATZOW: But for the tape to get out of ZUR, it would have to be signed out according to a well-rehearsed procedure?

MR VAN DER VEER: Correct.

DR KLATZOW: You're also aware that with the seriousness of the allegations being made relating to that tape, that if the tape had been accidentally or inadvertently overtaped, that the simplest thing to do to allay the fears, would have been to take the tape, because they are large, they are larger than this book, take the empty tape, the tape which has now been unfortunately overtaped, and go to Judge Margo in open court and say, "Judge Margo, we have made an unforgivable error. Here is the tape which somehow got back into the line and got overtaped and we are sorry, but here it is". Was that ever done?

MR VAN DER VEER: No.

DR KLATZOW: Did anybody ever tell you at the time that the tape had been overtaped?

MR VAN DER VEER: Yes.

DR KLATZOW: Who told you that?

MR VAN DER VEER: Probably Captain Mitchell or Mr Viv Lewis.

DR KLATZOW: And did you admonish anybody for this?

MR VAN DER VEER: No.

DR KLATZOW: Did you ask to see the overtaped tape?

MR VAN DER VEER: No.

DR KLATZOW: You know, of course, that the tapes have a record system of a yellow card which is filled in as each is completed?

MR VAN DER VEER: I don't know the detailed record system, but I do know there is a record system.

DR KLATZOW: There is a record system. And it would not have escaped you that, had that been the version, that Mitchell or Lewis would have come to you and said, "We've blued, this is serious, we've overtaped that tape". Did they do that?

MR VAN DER VEER: Yes.

DR KLATZOW: Did they show you the tape?

MR VAN DER VEER: No.

DR KLATZOW: So you accepted that the tape had simply been overtaped?

MR VAN DER VEER: Yes.

DR KLATZOW: Without any further investigation?

MR VAN DER VEER: Yes.

CHAIRPERSON: Can I just... (intervention).

MR VAN DER VEER: Because it was out of my hands at that point in time.

CHAIRPERSON: Yes. You know, I just want to say you should accept that you are not on trial. I'm not saying that you have done anything to indicate that you consider yourself to be on trial, but we will ask some of the questions in a very broken and a penetrative way, and I think one of my questions which you have endeavoured to counter already is, was going to be whether you did not consider that it was a matter for which, as chief executive officer, you should have demanded more proof of it having happened, but then you had begun to say it was out of your hands. Maybe let me allow the questioning to flow. Mr... (intervention).

DR KLATZOW: Well I don't mean for one moment to suggest that you're on trial, Mr Van der Veer. What I'm trying to do is to get to the base of the problem. Having been aware that the tape was important, having been aware that it was taped over, are you aware that Jimmy Deale signed the tape out that night?

MR VAN DER VEER: No.

DR KLATZOW: That his signature is somewhere in the records and that he has told me in a tape recorded telephone conversation, albeit inadvertently, that he signed the tape out that night.

MR VAN DER VEER: I'm not aware that Jimmy Deale signed it.

Let me explain the situation on that Saturday morning, not that night, okay? It's five o'clock in the morning, we have an

aircraft missing, we're not sure what happened, okay? When Mr Lewis phoned me the first time, he said to me, "It's got fuel for

another hour, hour and a half". So we did not necessarily assume that it had gone down at that point, okay? Just about five o'clock, or just after five o'clock, we then realised, if it hadn't landed at Mauritius and it hadn't landed anywhere else, it would be out of fuel, full stop. We would then have to assume at that point in time the aircraft is lost. Now the priorities on the mind of a chief executive at that time of the morning with an incident like that are yes, to secure records, obviously, but there's no way that the CEO can do that on his own, right? So it was reported to me, and if I'm correct, it was Captain Mickey Mitchell and Lewis which said, "We have taken the tapes and we've sealed them", that's it, nothing more. My attention at that point in time was far away from trying to look at detailed records, because, and let me explain this, please, Mr Chairman, the first point is, if the aircraft is in the sea, there could be survivors, what are we going to do? That's our first priority. The second priority is, we have 159 people on board. The aircraft would land very early that Saturday morning in South Africa, the people are basically on their way to the airport to meet their relatives. How do we handle them? The third thing on my mind, which you may or may not be aware, but that same evening we had an engine failure on a 747 on (Indistinct) Island, on the other side, the London route, and the aircraft, we could get no relief aircraft to remove 300 passengers. The other one is to send the rescue team to Mauritius. So when a man reports to me, whom I've got the

greatest confidence in, that it's been done, I accept, I don't need to check up.

DR KLATZOW: I want to stop you there, because we've got limited time... (intervention).

MR VAN DER VEER: Thank you.

DR KLATZOW: ...and much information to gather and I accept immediately your assurances that there was pandemonium, in a controlled way, that night.

MR VAN DER VEER: There was no pandemonium.

DR KLATZOW: There was frenetic activity... (intervention).

MR VAN DER VEER: Okay, yes.

DR KLATZOW: ...would that be more acceptable?

MR VAN DER VEER: Yes.

DR KLATZOW: Right.

MR VAN DER VEER: And high stress... (intervention).

DR KLATZOW: Correct.

MR VAN DER VEER: ...and everything else.

DR KLATZOW: Now, your evidence to this commission is that Mickey Mitchell told you that he'd sealed all the tapes, including the ZUR tapes, and they were ready for collection by the DCA?

MR VAN DER VEER: Not all the tapes, the ZUR tapes.

DR KLATZOW: Correct, the important ones, the ZUR tapes.

Could you explain to the commission how it was that when Mr Roy Downes from DCA came to the airport to collect those tapes, they were missing?

MR VAN DER VEER: Number one, I don't know when he came to collect that... (intervention).

DR KLATZOW: Three weeks later.

MR VAN DER VEER: Okay. Let me explain to you that in those three weeks I had not been once in my own office, okay? I only got back 21 days after the accident for the first time in my own office. My office is in town, sir, it's not at the airport.

DR KLATZOW: But I think the answer to my question is, you have no explanation as to how, once Mickey Mitchell had... (intervention).

MR VAN DER VEER: No.

DR KLATZOW: ...sealed the tape... (intervention).

MR VAN DER VEER: No.

DR KLATZOW: ...it could go missing?

MR VAN DER VEER: No. It could have gone missing in umpteen ways.

DR KLATZOW: Correct. But Mickey Mitchell had told you he sealed the tape?

MR VAN DER VEER: That morning.

DR KLATZOW: Did you ever approach him and upbraid him for the missing tape?

MR VAN DER VEER: Yes.

DR KLATZOW: What did you say to him?

MR VAN DER VEER: What did I say to him?

DR KLATZOW: Yes.

MR VAN DER VEER: That was much later than just the three weeks, to the best of my recollection, remember this was 12 years or something ago, 11 years, and they told me that somehow the tape had got back into the circulation, okay?

DR KLATZOW: Did you question them how that somehow was?

MR VAN DER VEER: Yes I did.

DR KLATZOW: What did they say?

MR VAN DER VEER: What can you say, if that's the situation, okay, it happened.

DR KLATZOW: Well... (intervention).

CHAIRPERSON: I think the question is, what did he say, if you can still remember?

MR VAN DER VEER: I cannot remember.

CHAIRPERSON: This is a tape that contained vital information relevant to over 100 people who had died in very tragic circumstances.

MR VAN DER VEER: Mr Chairman... (intervention).

CHAIRPERSON: I think what we are trying to say - no, I must say from the very onset, Mr Van der Veer, that we are not pretending that in the cosy room in which we are, with the benefit of hindsight, we have all the answers, but we must be satisfied at the end of the day that the suspicions that surround this thing are able to be explained away in a manner that will satisfy the 101 victims of, friends of victims of Helderberg, so that also you can say and feel at the end of the day that you are clear in your own

conscience you did everything that any human being can have done in the circumstances. So take our questions in that light. So if we want to know what Mitchell said to you, if he said that to me, I don't know what would have been my reaction then, but it would have struck me as extremely strange for a man who had not only said he has taken the tapes and secured them and sealed them, for him now to tell me that those tapes have somehow gone back into circulation, so I think that's what we are trying to get at, how did this happen? We will ask Mitchell, if he does come, but, you know, we would like to know what he said to you... (inter-vention).

MR VAN DER VEER: Okay.

CHAIRPERSON: ...to the best of your recollection? Is that the... (intervention).

DR KLATZOW: That's what I want to know. I'm not suggesting anything else, but you must have been at the time extremely perturbed to find out that a vital, or potentially vital, piece of information had been destroyed?

MR VAN DER VEER: Yes, but not that vital. First of all... (intervention).

DR KLATZOW: I'll get to that.

MR VAN DER VEER: ...if there had been a conversation, the operators would have been speaking to ZUR... (intervention).

DR KLATZOW: Well I'm going to get to that.

MR VAN DER VEER: ...and the individuals are there to question. That's my first point. The second point was that you must remember that there was much more evidence from the Mauritian side, in terms of... (intervention).

DR KLATZOW: Well, let's deal with it slowly, Mr Van der Veer... (intervention).

MR VAN DER VEER: Okay.

DR KLATZOW: ...in pieces... (intervention).

MR VAN DER VEER: All right.

DR KLATZOW: ...because otherwise I'm going to lose the thread of what I want to ask you, and I'm sure that there'll be ample opportunity at the end for you to add whatever you want and I won't interrupt you.

MR VAN DER VEER: Thank you.

DR KLATZOW: But the issue is that how could you know, at that early stage, that it wasn't vital information? Here was a piece of documentation covering the period, the exact period, when the trouble aboard the Helderberg started, how could you possibly know that that didn't have the vital piece of information on it?

MR VAN DER VEER: Because the vital piece of information, or the information, the aircraft had, the Mauritius tower had the full recording of the conversation with the pilot.

DR KLATZOW: No, that's making a number of assumptions, and I will deal with those assumptions... (intervention).

MR VAN DER VEER: Thank you.

DR KLATZOW: ...in due course, but the point is this, that you could not have known that there wasn't something important on that tape?

MR VAN DER VEER: No.

DR KLATZOW: And your evidence to this commission is that you reacted to Mickey Mitchell with some degree of reprobation?

MR VAN DER VEER: Disappointment.

DR KLATZOW: Disappointment, correct. Would it surprise you to know that Mickey Mitchell says that he took the tape from Jimmy Deale, who was sent there, who does not deny that, and says that he gave it into the hands of you and Malherbe. Do you wish to deny that?

MR VAN DER VEER: No, but I - it could have been, I don't know.

DR KLATZOW: Hang on, let's stop there. If Mitchell says that he took the tape from Jimmy Deale and gave it to you, do you accept that?

MR VAN DER VEER: If he says so, I will not deny it, but I cannot recollect that.

DR KLATZOW: Right. That is what he says.

MR VAN DER VEER: Okay. Could you explain possibly to the commission then how Mickey Mitchell should be blamed for having lost the tape, because according to his evidence you were the last person in possession of that tape?

MR VAN DER VEER: I have no answer to that. I cannot honestly recollect. Okay, I cannot say whether he gave the tape to me, what I do know, in my mind, all the years, is that we made sure that the tape was there and it was sealed, okay? Mr Malherbe could have been with me, yes, but you must remember at that point that was not the most important item on my mind.

CHAIRPERSON: No, no, that's not the question, Mr Van der Veer.

MR VAN DER VEER: Okay. So I don't know.

CHAIRPERSON: You see... (intervention).

MR VAN DER VEER: If Mickey says he gave it to me, I will accept what he says.

CHAIRPERSON: You see, we have now to be certain, because I don't know whether I follow this very slowly. My recollection of your evidence thus far has been, until this question was put, that you were informed by Mickey Mitchell that, or the other gentleman, Lewis, that the tape had been secured and I got the impression that it was they who had secured it, they had sealed it.

Now you don't seem to be denying the fact that it could have been you and/or Malherbe who did it. Now is it possible for you, if I understand and recall your evidence well, to say whether in fact it was you and/or Malherbe who secured the tape, or whether it was, as you originally testified, Mitchell who did so? Because it's then going to be able to elucidate for us as to whether the conversation which you seem to allude to took place where

HELDERBERG HEARING TRC/WESTERN CAPE

Mitchell came back to you to say, "We have unfortunately lost the tape (indistinct)". So it is important who secured that tape, was it you and/or Malherbe or was it Mitchell, as originally testified to by you?

MR VAN DER VEER: Mr Chairman, what does the word secure mean?

CHAIRPERSON: Taking the tape and put it somewhere where it is going to be sealed.

MR VAN DER VEER: No, I did not do that.

CHAIRPERSON: Not even in the fashion - are you then firmly denying that the tape was put into your hands by Mitchell, as has been put to you by Dr Klatzow, and that the last person who had that tape was you, because we must get a firm denial from you on that score?

MR VAN DER VEER: Okay, I did not secure the tape in any plastic bags or something like this, okay... (intervention).

CHAIRPERSON: That was not my question, Mr Van der Veer.

MR VAN DER VEER: No, that's the word secure.

CHAIRPERSON: No, that is not the word secure.

MR VAN DER VEER: Secondly, if it was handed to me or to Mr Malherbe, I will not deny that, okay, I don't know.

CHAIRPERSON: Can you answer the other question, are you accepting, as Mitchell has indicated, that you were the last person to whom the tape was given?

MR VAN DER VEER: I don't know. If I knew, I would tell you so.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Well let me ask you this, at the time of the Margo Commission, you must have been aware that the rumours, ugly rumours, were already circulating and that the ZUR tape, as was indicated, if you read the Margo Inquiry, formed a part of Margo's annoyance, allegedly?

MR VAN DER VEER: Uhum.

DR KLATZOW: Margo expressed the view that he wanted to find out exactly what had happened to this tape. Now did you ever instruct Viv Lewis or Mickey Mitchell to go to Margo and say, "I had the tape and I'm sorry, we taped over it"?

MR VAN DER VEER: No, because as I say now, I cannot even recollect of having the tape in my hands, okay?

DR KLATZOW: No, listen to the question very carefully... (intervention).

MR VAN DER VEER: Thank you.

DR KLATZOW: ...your evidence has been twofold... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...the first evidence that you gave, when I first started dealing with this question, was that you asked Mickey Mitchell, or Mickey Mitchell had told you that he had secured the tape, and that upon learning that Mickey Mitchell had somehow

inadvertently not secured the tape and that it had been overtaped, you responded to that with disappointment?

MR VAN DER VEER: Disappointment, hmm.

DR KLATZOW: When I put to you that Mitchell would say and has said, on tape, to me, that he gave that tape, and in fact Jimmy Deale backed him up, that they gave that tape to you, in the presence of Malherbe, you will not deny that?

MR VAN DER VEER: I cannot deny it, because I do not recollect that he gave it to me. If he did, he could have given it to me, I cannot recollect though. Correct.

DR KLATZOW: I just want to get your evidence correctly, which of the two is correct, because they are mutually destructive of each other, the two versions you've given?

MR VAN DER VEER: I guess so.

DR KLATZOW: So which of them is correct?

MR VAN DER VEER: How can I say which one is correct if I cannot recollect. You have... (intervention).

DR KLATZOW: Right.

MR VAN DER VEER: ...I mean you have a third person here, which is Mr Malherbe, the legal man.

DR KLATZOW: I'm going to ask him, believe me, when I get the opportunity... (intervention).

MR VAN DER VEER: Please.

DR KLATZOW: ...I'm going to ask him that question.

MR VAN DER VEER: And I hope you're going to ask him to come in.

DR KLATZOW: Yes.

MR VAN DER VEER: Okay, because I don't know.

DR KLATZOW: Let's get - we're diverting now... (intervention).

MR VAN DER VEER: Thank you.

DR KLATZOW: ...what I want to do is get back to the real issue, which is this, did you ever tell Mickey Mitchell to go and make a full disclosure of that to Judge Margo, say to him, "Look, I messed up, I lost the tape..."... (intervention).

MR VAN DER VEER: No.

DR KLATZOW: "...I overtaped it"?

MR VAN DER VEER: No.

DR KLATZOW: Why not?

MR VAN DER VEER: Because at that point in time, remember the investigation into the Helderberg accident took place much much later than the accident itself.

DR KLATZOW: Yes.

MR VAN DER VEER: Isn't it something like 18 months... (intervention).

DR KLATZOW: Yes.

MR VAN DER VEER: ...if I recollect, because... (intervention).

DR KLATZOW: Yes, it's a year's gap.

MR VAN DER VEER: Well, a year went by before we found the cockpit voice recorder, you'll remember that?

DR KLATZOW: Yes.

MR VAN DER VEER: So at that point in time the whole investigation, all documents, were under control of DCA, okay, and we were not... (intervention).

DR KLATZOW: Except the ZUR tape?

MR VAN DER VEER: That's right, because it was missing.

DR KLATZOW: And it was missing... (intervention).

MR VAN DER VEER: Okay.

DR KLATZOW: ...they found out that it was missing three weeks after the fatal accident?

MR VAN DER VEER: Apparently, I cannot recollect when that was said to me, you're saying three weeks, I accept that.

DR KLATZOW: I'm telling you that both René van Zyl and Roy Downes found out that that tape was missing three weeks.

MR VAN DER VEER: I accept that.

DR KLATZOW: Right. Could you explain to me, the tape now having been secured by Mickey Mitchell, and according to him given into your hands, how Captain Du Toit would be in a position to say to Roy Downes and to René van Zyl that he had listened to the tape and there was nothing on it?

MR VAN DER VEER: Mr Chairman, could I find out which Captain Du Toit this was?

DR KLATZOW: I've given you the full information, I think his name was Charl du Toit.

MR VAN DER VEER: Charl du Toit, correct, okay, I'm aware of Charl du Toit.

DR KLATZOW: Now he made a statement to René van Zyl, saying, "I've listened to the tape and there's nothing on it", when could he have done that?

MR VAN DER VEER: I don't know.

DR KLATZOW: Do you think it is possible that he could have done that?

MR VAN DER VEER: I don't know.

DR KLATZOW: Now let me... (intervention).

MR VAN DER VEER: I mean if the tape went missing, okay, and it was only found out three weeks later, what happened to that tape? I don't know.

DR KLATZOW: Now, you must be aware that Margo made the following finding: he said the ZUR tape either was over-taped or was inadvertently lost. You're aware of that?

MR VAN DER VEER: Uhum.

DR KLATZOW: Sorry, you must give a verbal response.

MR VAN DER VEER: Yes.

DR KLATZOW: Okay.

DR KLATZOW: Let me put to you the reasons why I say that cannot possibly be true. If the tape had been inadvertently overtaped, somebody would have gone to Margo and said, "There
HELDERBERG HEARING TRC/WESTERN CAPE

is the tape". Did anybody, to your knowledge, do that during the inquiry?

MR VAN DER VEER: Not to my knowledge.

DR KLATZOW: Ever?

MR VAN DER VEER: Not to my knowledge.

MR VAN DER VEER: Therefore that cannot be a viable version, do you agree with me, Mr Van der Veer?

MR VAN DER VEER: I don't know, because I have no knowledge.

DR KLATZOW: But just reason it through and logic. If I've damaged a tape so that it can no longer provide the tape recorded information, the honest, open thing to do would be to go to the judge running the inquiry and say to him, "There is the overtaped tape, there is its card, there's all the information, I'm sorry, we've blued". Now nobody did that?

MR VAN DER VEER: Not to the best of my knowledge.

DR KLATZOW: I can assure you, I've read the inquiry extremely carefully, nobody did that.

MR VAN DER VEER: Okay.

DR KLATZOW: Therefore that cannot be a correct version. Now let's deal with that, that cannot be so. The next step is to find out what happened to the tape and who was responsible. Do you know whether Captain Mitchell ever made any statement? He sat in the court listening to the inquiry, he realised that there was a great to-do being made about the missing tape, are you

aware of any statement that Captain Mitchell made to elucidate and to put the judge out of his misery?

MR VAN DER VEER: Not to the best of my knowledge, but then I didn't attend the whole court case... (intervention).

DR KLATZOW: Okay.

MR VAN DER VEER: ...I didn't read the proceedings, I don't know.

DR KLATZOW: But you are correct, Jimmy Deale was not called or questioned on the missing tape. Not only was Jimmy Deale not called, Mitchell had overheard Judge Margo's alleged displeasure at the missing tape, and failed, either through his attorneys or your attorneys, to furnish the judge with the missing piece, to say that either he had overtaped it, or got it back into the system, and explained how, or that he had given it into your hands, as he alleges. Could you explain that?

MR VAN DER VEER: I can't.

DR KLATZOW: There is no explanation.

MR VAN DER VEER: Well I can't explain it... (intervention).

DR KLATZOW: Okay.

MR VAN DER VEER: ...because I'm not aware of the detail.

DR KLATZOW: Okay, but I'm inviting you to give a logical explanation, apart from amnesia. Look at it in the light of the facts that I've given you and give me a reasonable explanation, to the commissioner.

MR VAN DER VEER: I've just told you, I cannot give you an explanation.

DR KLATZOW: Thank you.

MR VAN DER VEER: Now let us turn to another important issue. The cockpit voice recorder is a half hour tape recording of the last half hour in the cockpit, is that correct?

MR VAN DER VEER: Correct.

DR KLATZOW: It is a wire recorder which sits in the tail?

MR VAN DER VEER: Yes.

DR KLATZOW: It was recovered and deciphered?

MR VAN DER VEER: Yes.

DR KLATZOW: An official record and an official version of what is on that exists and was before the Margo Commission?

MR VAN DER VEER: Yes.

DR KLATZOW: That version was gathered at considerable expense, in excess of R200 000,00?

MR VAN DER VEER: I don't know what the price was, but the answer is yes, it was considerable cost... (intervention).

DR KLATZOW: Okay.

MR VAN DER VEER: ...to the taxpayer.

DR KLATZOW: Correct. Now let's get back to the flight. Have you ever flown aboard SAA flights to and from Taipei?

MR VAN DER VEER: Yes.

DR KLATZOW: Have you ever taken off from Taipei on the way home on an SAA flight?

MR VAN DER VEER: Yes.

DR KLATZOW: When is dinner served?

MR VAN DER VEER: It depends what time the aircraft left.

DR KLATZOW: Well, let's put it at hours... (intervention).

MR VAN DER VEER: Okay.

DR KLATZOW: ...hours after leaving?

MR VAN DER VEER: What was the timetable at that point in time?

DR KLATZOW: They left, you know as well as I do what the timetable was, they left at, I think it was... (inter-vention).

MR VAN DER VEER: It was about ten o'clock that night?

DR KLATZOW: ...it was about ten o'clock that night.

MR VAN DER VEER: I think that's round about the time, okay.

DR KLATZOW: When would they have served dinner?

MR VAN DER VEER: It depends what class you're in, but probably within an hour after take-off, because it would be fairly late at night.

DR KLATZOW: Well, do they not, is the normal standard fare that a bar service comes before the dinner?

MR VAN DER VEER: Yes.

DR KLATZOW: And that bar service is throughout the plane?

MR VAN DER VEER: That's why I'm saying it depends on what class you're sitting in.

DR KLATZOW: Yes. And thereafter they clear up the bar service, give you another drink and serve you a dinner?

MR VAN DER VEER: Normally, yes.

DR KLATZOW: Correct. Are you aware that on the official version of the tape recording of the cockpit voice recorder there is a discussion in the cockpit of dinner being served?

MR VAN DER VEER: No.

DR KLATZOW: Have you never been aware of that?

MR VAN DER VEER: I'm not aware of it. All I have looked at is the 83 seconds that had to do with the accident.

DR KLATZOW: But your own staff members had copies of that... (intervention).

MR VAN DER VEER: Uhum.

DR KLATZOW: ...of the official record.

MR VAN DER VEER: Uhum.

DR KLATZOW: And if there were a discussion of a dinner on that cockpit voice recorder, Mr Van der Veer, I want to put it to you that it is extremely important, okay, because we know that had that cockpit voice recorder stopped functioning at the top of descent into Mauritius, dinner would long since have been served up and the plates cleared away, and that the tape recorder would have been covering topics other than a discussion of dinner, because I know of no flight where dinner is served at the top of descent, is that correct?

MR VAN DER VEER: Not normally.

DR KLATZOW: Correct.

MR VAN DER VEER: I mean... (intervention).

DR KLATZOW: So if a dinner is served, and if an official version of that tape recording is that dinner was discussed aboard that flight, and that conversation was recorded on the cockpit voice recorder, it would indicate that that cockpit voice recorder had stopped round about the time of dinner?

MR VAN DER VEER: I guess so, but then remember your pilot would not necessarily be served dinner when the passengers are being served dinner.

DR KLATZOW: No, normally the pilot is served dinner at the end of the passenger (indistinct).

MR VAN DER VEER: I don't know. Okay, it depends... (intervention).

DR KLATZOW: That is normally the case?

MR VAN DER VEER: ...it depends on - because they have been resting, their time is out, so they may elect to have dinner or something to eat at other times, I don't know.

DR KLATZOW: That may be, but this was dinner served in the cockpit, and it was dinner served to the entire cockpit crew... (intervention).

MR VAN DER VEER: Uhum.

DR KLATZOW: ...and it is unlikely that the version which you are wanting to suggest is the correct version. It is likely that what happened is that at the time of the tape recording going useless, because of a fire I may add, it had its last conversation immortalised in the form of a discussion about dinner.

MR VAN DER VEER: Uhum.

DR KLATZOW: Which means that it would have occurred at the time dinner was served, do you accept that?

MR VAN DER VEER: To the pilot?

DR KLATZOW: Correct.

MR VAN DER VEER: Yes.

DR KLATZOW: And that would not have been... (intervention).

MR VAN DER VEER: If they discussed about it, then presumably that would be the time.

DR KLATZOW: Mr Van der Veer, you're not going to seriously suggest that your crews aboard the aircraft, and your crews have an enviable reputation for being good crews, would be sitting guzzling dinner as they're preparing to go into Mauritius to land?

MR VAN DER VEER: Certainly not.

DR KLATZOW: Correct. So to suggest that they were being served dinner at the time of the accident occurring or just before is not tenable?

MR VAN DER VEER: I guess not.

DR KLATZOW: Correct. And therefore if a discussion of dinner, which is an official discussion about dinner, is immortalised on that tape recorder, it suggests that there is or was a problem which caused the CVR to stop functioning within two hours of Taipei?

MR VAN DER VEER: Possible. I don't know.

DR KLATZOW: Well, could you give me a better explanation?

MR VAN DER VEER: It could be much more than two hours.

DR KLATZOW: Well, three hours.

MR VAN DER VEER: Okay.

DR KLATZOW: Okay. It could be?

MR VAN DER VEER: It could be.

DR KLATZOW: But... (intervention).

CHAIRPERSON: I think the suggestion here, Mr Van der Veer, is that, on all what he has been putting to you, the likelihood is more that the recorder was rendered unfunctionable, not as the plane was preparing to descend, but however significant the time might have been after it had taken off from Taipei? So if we are talking eight hours of travel between Taipei and Mauritius, I think what is being suggested to you is that it was more in the direction of it happening after it left Taipei than when it was just about to land in Mauritius?

MR VAN DER VEER: Yes, okay. But the voice recorder did work, I mean it may have stopped, okay, I mean one could derive that from that, but the voice recorder did work when the actual incident happened... (intervention).

CHAIRPERSON: Yes.

MR VAN DER VEER: ...or when the fire was detected... (intervention).

CHAIRPERSON: Yes, I think... (intervention).

MR VAN DER VEER: ...okay?

CHAIRPERSON: ...but when he says is... (intervention).

MR VAN DER VEER: Let's get that very clear.

CHAIRPERSON: ...what he says is that that is more likely to have been happening en route from Taipei rather than at the time that it was preparing to descend. I think that's what is sought to be put to you.

MR VAN DER VEER: Ja, okay. Remember when the incident happened he wasn't preparing to descend, he was still at top of level flight, and you can ask about the flying people about that.

MS TERREBLANCHE: Still top of descent?

MR VAN DER VEER: Well, before that. Okay, he wasn't on top of descent at that point, okay?

DR KLATZOW: Mr Van der Veer, if he was not at top of descent, he would have been very close to top of descent?

MR VAN DER VEER: Very close to it, likely.

DR KLATZOW: Then it would be unlikely that dinner would have been served... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...at that time?

MR VAN DER VEER: Yes. I'm not arguing that point with you.

DR KLATZOW: Now, you very, very fairly conceded that if dinner is discussed aboard the CVR, it places the event which caused the CVR to stop working closer to Taipei than to Mauritius?

MR VAN DER VEER: Yes, from that point of view, yes.

DR KLATZOW: And therefore a discussion about dinner would be extremely important, if it were so and if it were true?

MR VAN DER VEER: Yes.

DR KLATZOW: Right. Are you aware of a group of people who call themselves the Flight Engineers Association?

MR VAN DER VEER: Yes.

DR KLATZOW: Do you know that they prepared a report for Judge Margo?

MR VAN DER VEER: No, not specifically. I know a lot of people have prepared reports for Judge Margo, or for the commission... (intervention).

DR KLATZOW: The question is... (intervention).

MR VAN DER VEER: ...for the commission.

DR KLATZOW: ...do you know whether they did?

MR VAN DER VEER: If you ask me specifically, I cannot say so.

DR KLATZOW: Okay. Are you aware of Jimmy Mouton, does the name ring a bell?

MR VAN DER VEER: Jimmy Mouton, Jimmy Mouton?

DR KLATZOW: Jimmy Mouton.

MR VAN DER VEER: Just give me some more information please?

DR KLATZOW: Well, he calls himself Jimmy Mouton, but other people call him Jimmy Mittens.

MR VAN DER VEER: No.

DR KLATZOW: Are you aware... (intervention).

MR VAN DER VEER: Except for having read, is this the same name on the document?

DR KLATZOW: That is correct.

MR VAN DER VEER: Okay. No, not aware of such... (intervention).

DR KLATZOW: Are you aware of Ray Scott?

MR VAN DER VEER: Explain please who Ray Scott is?

DR KLATZOW: He was also part of the airline Flight Engineers Association.

MR VAN DER VEER: Not specifically, sir.

DR KLATZOW: Are you aware of a man called Judge Bedaar

MR VAN DER VEER: How do you spell that?

DR KLATZOW: B E D A A R, and Judge is obviously a nickname.

MR VAN DER VEER: No.

DR KLATZOW: And does the name Peter de Beer also not ring a bell with you?

MR VAN DER VEER: Peter de Beer in what context?

DR KLATZOW: He was the chairman of the airline Flight Engineers Association.

MR VAN DER VEER: Yes.

DR KLATZOW: Do you remember him?

MR VAN DER VEER: Yes.

DR KLATZOW: Now, I've put to you a version about the tape recorder which you have found reasonable, it is not an unreasonable suggestion and in fact you yourself have agreed that the event was the fire and that that caused the lack or the cessation of function of the CVR?

MR VAN DER VEER: Yes.

DR KLATZOW: I want to tell you that the Flight Engineers Association put together a report and attempted to put it before Margo. Are you aware of that?

MR VAN DER VEER: No. Not to the best of my knowledge again, I... (intervention).

DR KLATZOW: Are you aware that Margo refused to hear it?

MR VAN DER VEER: No. I wouldn't be able to understand why he should.

DR KLATZOW: Should hear it or should not hear it?

MR VAN DER VEER: Why he should not hear it.

DR KLATZOW: Absolutely.

MR VAN DER VEER: I mean there was an open invitation to everyone to submit evidence.

DR KLATZOW: Correct. And Margo, together with SAA, wanted to find out the truth, is that not correct?

MR VAN DER VEER: I hope so.

DR KLATZOW: Are you aware that all the members of the airline engineers committee were called into Margo's chambers, are you aware of that?

MR VAN DER VEER: No.

DR KLATZOW: I presume then you're also unaware that they were told to drop their inquiry?

MR VAN DER VEER: I'm not aware of that. I see the allegations, or whatever, the reference in this thing. No.

DR KLATZOW: Do you find that strange, that Margo should call people in who wish to present him with a perfectly reasonable explanation, and are told to drop their inquiry?

MR VAN DER VEER: Yes, I would.

DR KLATZOW: In fact it might even be improper?

MR VAN DER VEER: I cannot make any judicial, but I mean it would be very - to me, I couldn't understand that.

DR KLATZOW: Well is a judge's duty not to hear and test the evidence rather than to prevent it from coming before him in the first place?

MR VAN DER VEER: I guess so.

DR KLATZOW: I'm going to read you something, Mr Van der Veer.

MR VAN DER VEER: Please.

DR KLATZOW: This is from a man who was on that committee and was called into Margo's chambers, and I want your comment on this.

MR VAN DER VEER: Uhum.

DR KLATZOW: He, Mittens and Judge Bedaar and Ray Scott were called into Margo's chambers and told to drop the inquiry. It could cost the country 400 million rand and it was causing tension. They were told that they did not have the expertise, and that national security was at risk. Present were Mickey Mitchell, Judge Margo, your lawyers for the airline and he thinks the DCA was there. Margo said to this individual, whose name is Ray Scott, "The safety of your future and your family are at risk". Let me hear your comment about that?

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DR KLATZOW: Well if that had been said, do you find that reprehensible?

MR VAN DER VEER: I wouldn't understand an attitude like that.

DR KLATZOW: But let's assume for a moment that it was said, what would you say?

MR VAN DER VEER: That's what I'm saying, it's unthinkable that that could happen, sorry, that's all I'm saying.

DR KLATZOW: Have you read - do you remember who Guiseppe Belagarde was?

MR VAN DER VEER: Yes.

DR KLATZOW: Did you see there an affidavit from his wife?

MR VAN DER VEER: I saw that.

DR KLATZOW: She was with Jimmy Mouton the day he was called in to judges chambers... (intervention).

MR VAN DER VEER: I read that one just now.

DR KLATZOW: ...he came back visibly shaken.

MR VAN DER VEER: Uhum.

DR KLATZOW: That's what she says. Is there any reason why she should lie?

MR VAN DER VEER: No.

DR KLATZOW: Is there any reason for you to doubt that that was correct?

MR VAN DER VEER: No. If that's what she said, I don't know whether she did this under oath, I don't know.

DR KLATZOW: It is, it is a sworn statement.

MR VAN DER VEER: Then I must accept what it says.

MR VAN DER VEER: Are you aware that the same information has come to this commission from a number of different sources?

MR VAN DER VEER: No. Except from what I've read here.

DR KLATZOW: Correct.

MR VAN DER VEER: Okay.

MR VAN DER VEER: Those are a number of sources, they are three sources... (intervention).

MR VAN DER VEER: Okay.

DR KLATZOW: ...independent and independently gathered, and furthermore wrung from the witnesses at great cost, this was not something that they were wishing to tell, they told it at great

personal anguish and pain. Is there any reason why we should disbelieve them?

MR VAN DER VEER: Not if it's a sworn statement, and I mean... (intervention).

DR KLATZOW: Even if it's a statement of what happened, unsworn, is there a reason to disbelieve what I tell you... (intervention).

MR VAN DER VEER: No.

DR KLATZOW: ...and only to believe it when I swear to it?

MR VAN DER VEER: No, why should I?

DR KLATZOW: So there's no reason to disbelieve them?

MR VAN DER VEER: I don't think so.

DR KLATZOW: If that is true, would you accept that that points towards Margo wanting to cover certain information?

MR VAN DER VEER: I cannot make any deductions, all I'm saying, it's very, is the word incomprehensible?

DR KLATZOW: Would you accept, Mr Van der Veer, that if that happened, a reasonable and probable explanation is that Margo did not wish that information to come before his tribunal?

MR VAN DER VEER: That's one of the deductions one could make.

DR KLATZOW: Give me another one?

MR VAN DER VEER: Gosh, you're jumping this on me right now. I don't know. If that's the deduction you want to make, I think it's fair.

DR KLATZOW: I'm happy, Mr Van der Veer, for you to mull over that for as long as you like, and to give me a better explanation.

MR VAN DER VEER: I cannot, I cannot explain, you understand, if this is true, then I cannot explain what Judge Margo's attitude was, and again then I would suggest that one, you mentioned the name of certain individuals, that you get them before the commission, because I'm not aware of it, I'm sorry.

DR KLATZOW: Mr Van der Veer, they are terrified to the point of patheticness.

MR VAN DER VEER: Why? Sorry, I mean... (intervention).

DR KLATZOW: I would like to ask you.

MR VAN DER VEER: I don't know.

DR KLATZOW: Because I can't think of a reason other than that they've been intimidated.

MR VAN DER VEER: Right.

DR KLATZOW: And each and every one of them... (intervention).

MR VAN DER VEER: By whom?

DR KLATZOW: ...has told me that they've been intimidated.

MR VAN DER VEER: By whom?

CHAIRPERSON: Let's put it in another fashion. Here is a judge of the supreme court (indistinct), and I'm assuming for the moment, I am not in a, this is an investigative inquiry, let us assume that it happened as they say it did happen, I mean they are saying it almost 12 years after the event, and the judge says to you, "The security of your work and your family is at risk", and I want you to contextualise this in the period that we are talking about, we are talking about 1988, and we now know, even if we didn't know then, from all the things that the De Kocks and everybody else have said, that we lived in a time and period when people did die, when people did disappear, when people did get killed, and if a judge could have said that, wouldn't it have been enough reason for anyone to be afraid?

MR VAN DER VEER: I guess so, yes.

CHAIRPERSON: And if we again assume that this took place as is indicated by these people, and I'm asking just your own opinion, don't you find that this was very discomfoting?

MR VAN DER VEER: And inexplicable, and I'm very sorry it wasn't brought to my attention.

CHAIRPERSON: Yes, well we can now explain some of the things that we couldn't explain in that era. I mean the work that we've been doing over the last 2½ years, exhuming bodies, being led to those bodies by senior police persons, colonels, say "This is where we buried so and so", I mean those are things that

ordinarily were inexplicable. So I think what I'm trying to get at is really to get your own sense of what you, whether you now are able to say those were really bad times, "If this is true, then it explains a lot of things that I have in my own mind been refusing to accept because they were totally incomprehensible and inexplicable in what I regarded as a normal and decent, civilised society".

MR VAN DER VEER: Then totally inexplicable, I mean if this is true, then it's inexplicable, okay, and that's the last thing you would expect from any board or any inquiry. I mean I have had myself 25 years of experience in the Railways, of accidents, and I've headed boards, and the last thing I would have done, as chairman or whatever of the board, or member of the board, to point people away and ignore any evidence that they might give. Okay?

CHAIRPERSON: Let me give you another example. We lived through a period where allegations were made about hit squads and hit squad activities, there was even a commission of inquiry that was instituted, presided over by a judge, Judge Harms, evidence placed before it by an advocate of the supreme court, Tim McNally, and that went through the course, evidence was led, cross-examination took place and all that, and a finding was made by that judge, that there's no evidence of these hit squad activities, but that same judge has now had to say, in the light and in the wake of revelations, that "Had I just but known", that

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is more, it's in a sense that's what he says, "Had I just but known that these things were actually taking place, because now I'm able to accept", I mean it's not only Dirk Coetzee and Mfumelele(?), it's a whole legion of security police persons. So I'm just trying to get you to appreciate that this is not just an idle inquiry, even judges then were misled, that's supposing (indistinct), but then when there is evidence that says he himself took an active role in saying things about national security, things about the security of your family, things about the security of your job, and as it turns out, there were many people whose jobs, and I think that will be put to you, whose jobs took a better turn in the wake of this inquiry, but then that's something else that Mr Klatzow - but I think what I was trying to get you to understand is that if the allegations are true, and it's not just a question of it being inexplicable, it's totally reprehensible, and I would like to know that if we qualified it by saying let's imagine that these are true, would you take the view that this was the most reprehensible thing any judge, any person, let alone a judge, could have done?

Are you able to say that?

MR VAN DER VEER: Yes, but I don't know about the facts of it, but the answer is yes, I mean, okay.

DR KLATZOW: Predicated totally on if it was true, we're reaching the end of our session and I don't want to delay you

more than I have to, but there are some important things I have to ask you.

MR VAN DER VEER: By all means.

DR KLATZOW: And please bear with me, Mr Van der Veer... (intervention).

MR VAN DER VEER: I've got no problem.

DR KLATZOW: ...how much was a Boeing in those days, ballpark figure, give or take a few shillings here or there?

MR VAN DER VEER: Well the new 400's we bought just subsequent to that, when was it, '91, 1991, were 135 million dollars, you can work out the rand value.

DR KLATZOW: So it was, would a figure of 400 million rand be close, give or take a few shillings?

MR VAN DER VEER: Ja.

DR KLATZOW: Small change?

MR VAN DER VEER: Ja. 350, something like that, or depending on - okay.

DR KLATZOW: Let me put to you an interpretation on what Margo said to Scott. "The country cannot afford, it's going to cost the country 400 million rand", which is give or take a few shillings, the price of a Boeing.

MR VAN DER VEER: Okay.

DR KLATZOW: Okay? And the interpretation which I wish to place on that is that if the insurers had known about the true facts

of the Helderberg, they would have delayed or refused to pay out that claim.

MR VAN DER VEER: Ja, one can make that deduction.

DR KLATZOW: Did they ever pay you out the claim?

MR VAN DER VEER: Yes, they did.

DR KLATZOW: Lloyds of London paid out the full amount?

MR VAN DER VEER: I don't know whether it was Lloyds, because we go through a whole consortium.

DR KLATZOW: But believe me it was Lloyds.

MR VAN DER VEER: Okay.

DR KLATZOW: And they paid out?

MR VAN DER VEER: Yes they did.

DR KLATZOW: Did you ever make any disclosures to Lloyds that the airline may or may not have been carrying weapons of war?

MR VAN DER VEER: No.

DR KLATZOW: Did you ever say to them, "On the odd occasion, we're going to be carrying explosives for Armscor"?

MR VAN DER VEER: We never did.

DR KLATZOW: So if they found out about the fact that you were, that would have been a material non-disclosure?

MR VAN DER VEER: Yes.

DR KLATZOW: And they would have told you to take your claim and take a hike?

DR KLATZOW: Yes.

MR VAN DER VEER: And that is probably what Margo meant when he said that to Ray Scott?

MR VAN DER VEER: I don't know.

DR KLATZOW: Okay.

MR VAN DER VEER: I mean... (intervention).

DR KLATZOW: Now, let me deal with another point. The role of a radio operator at ZUR, how would you describe that in the hierarchy of SAA, was it close to your position... (intervention).

MR VAN DER VEER: No.

DR KLATZOW: ...in terms of seniority, was it a lowly position?

MR VAN DER VEER: Yes.

DR KLATZOW: Very lowly?

MR VAN DER VEER: I wouldn't say very lowly.

DR KLATZOW: Well how much lower could you get than a radio operator, apart from being possibly a cleaner or one of those very menial tasks? It was, as I understand his job, it was menial and it required very little skill, he had to keep notes of what was said... (intervention).

MR VAN DER VEER: Uhum.

DR KLATZOW: ...and he had to see that the tapes didn't get fouled up, and it was not a job that required a rocket scientist to do?

MR VAN DER VEER: No.

DR KLATZOW: What is Mr Nadel doing now?

MR VAN DER VEER: Was he the operator?

DR KLATZOW: Yes.

MR VAN DER VEER: I have got no idea.

DR KLATZOW: Are you aware that he became the area manager for SAA in Miami?

MR VAN DER VEER: No, that was subsequent to my time.

DR KLATZOW: It was very close to your time that that happened.

DR KLATZOW: When was this?

DR KLATZOW: It was shortly after the accident, Mr Van der Veer.

DR KLATZOW: No.

MR VAN DER VEER: You retired in '93?

MR VAN DER VEER: That's right, but we didn't fly to Miami then.

DR KLATZOW: Well... (intervention).

MR VAN DER VEER: We started flying, when was it, July, was it 1990 again.

DR KLATZOW: Yes.

MR VAN DER VEER: And I introduced, we introduced, when did we introduce the first flight to Miami? I can't remember.

DR KLATZOW: You tell me.

MR VAN DER VEER: Probably '91, I don't know. I'll have to check up.

DR KLATZOW: '91?

MR VAN DER VEER: Was it? I think so, I don't know.

DR KLATZOW: Yes.

MR VAN DER VEER: I honestly don't know.

DR KLATZOW: Correct, which is two years before you retired?

MR VAN DER VEER: Yes.

DR KLATZOW: And therefore you did fly to Miami shortly after the accident?

MR VAN DER VEER: No, that's not shortly after the accident... (intervention).

DR KLATZOW: It's within a year?

MR VAN DER VEER: ...that's four, five years later.

DR KLATZOW: No, '91?

MR VAN DER VEER: I'm sorry, the accident happened in '87.

DR KLATZOW: Yes. Yes, after the inquiry.

MR VAN DER VEER: After the inquiry.

DR KLATZOW: When was the inquiry?

MR VAN DER VEER: The inquiry happened about 18 months after the accident, so that... (intervention).

DR KLATZOW: So that's '89.

MR VAN DER VEER: ...must have been the middle of '89.

DR KLATZOW: And within two years, in other words within a year, 18 months, Vernon Nadel was the manager for SAA in Miami, is that correct?

MR VAN DER VEER: I cannot, I cannot, sorry, if you look at the records, then that's correct.

DR KLATZOW: That is correct.

MR VAN DER VEER: Okay, I'm not denying that.

DR KLATZOW: I want to put it to you that that is correct.

MR VAN DER VEER: Okay.

DR KLATZOW: Is that, in your experience, a fairly meteoric rise?

MR VAN DER VEER: No, not necessarily.

DR KLATZOW: Can you give me the name of one other person who has enjoyed a similar rise from radio operator status to area manager in your airline?

MR VAN DER VEER: I'm sorry, I can't answer that question, you can look at the records, but the point I'm trying to make, first of all, cargo, at one stage, at that stage, was not the most important section of SAA, we had no cargo division, if you remember, and the reason for that simply is this, because in the sanction time we had to fly around the bulge, and the aircraft has a limited payload, so you carry the kilo that brings you the best result, which means passengers, so it was only, if I'm correct, round about '91, and I stand corrected, you can look at the records, that we started in fact with the cargo division, okay? So if he was cargo manager, Miami, at that point in time, I don't

know how many flights we had, but it's probably one or two flights a week, initially, and that would not be a very high job.

DR KLATZOW: No, it wasn't cargo manager, it was area manager.

MR VAN DER VEER: Was it area manager? Well then he was, gosh, you're talking '91, I think it's later than '91.

DR KLATZOW: Do you remember Vernon Nadel?

MR VAN DER VEER: Ja. I remember the name.

DR KLATZOW: Does it not strike you, because it has struck many people, in the airline and outside the airline, as a rather spectacular rise in fame and fortune?

MR VAN DER VEER: I can't comment. I would have to look at the gentleman's record, okay, where he had been, what his background was.

DR KLATZOW: Yes.

MR VAN DER VEER: All right?

DR KLATZOW: Now, let me ask you another question, if a serious incident occurred aboard a South African Airways plane on a foreign airfield... (intervention).

MR VAN DER VEER: Yes?

DR KLATZOW: ...is it likely that you would get to hear of it? Let's assume a nuclear cargo fell out of it on Miami Airport, would you get to hear of that?

MR VAN DER VEER: If it was nuclear, yes, but then we never transported nuclear cargo.

DR KLATZOW: If it was military, would you get to hear of it?

MR VAN DER VEER: No, not necessarily, because we don't transport military equipment.

DR KLATZOW: Are you certain?

CHAIRPERSON: Or at least not to your knowledge?

MR VAN DER VEER: Unless - ja.

CHAIRPERSON: Because you didn't check what was being put there and what have you?

MR VAN DER VEER: No.

CHAIRPERSON: I think that is what is being conveyed to you, that people like you either would be unaware of what was conveyed, but that did not remove the fact that it was conveyed, or were colluding about it and were not prepared to disclose it, no such a suggestion has been put to you, but I think you must accept that... (intervention).

MR VAN DER VEER: Yes.

CHAIRPERSON: ...we can put propositions, because there is investigation that has gone on that has revealed, so whenever he says, he premises, "Look, you were carrying, you know, military hardware", etcetera, etcetera, it is on the basis that there is information to that effect, and therefore you are entitled to say, "I didn't know about it", but I don't think you are entitled to be as emphatic as to say, "We never carried it".

MR VAN DER VEER: Not to my knowledge.

CHAIRPERSON: It would never have been licensed...
(intervention).

MR VAN DER VEER: Definitely not.

CHAIRPERSON: ...for you to carry those, because...
(intervention).

MR VAN DER VEER: Well, again... (intervention).

CHAIRPERSON: ...(a) you had an arms embargo, which was an international arms embargo, and secondly I don't think the aviation rules would have allowed you to carry dangerous substances in passenger airlines... (intervention).

MR VAN DER VEER: The point is... (intervention).

CHAIRPERSON: ...and since the Helderberg was a passenger airline, though it had what I understand in your technical terms, kombi, kombi aircraft, but nonetheless it was a passenger aircraft and I'm sure your rules would have made it impossible for you to carry dangerous substances on an airline that was supposed to be carrying human beings as well.

MR VAN DER VEER: Quite correct, but the point is, certain military equipment, okay, we would, one, not know that it was military, but that military equipment would not be a danger at all, okay? There is lots of equipment that all airlines transport. I mean we transport our own aircraft components and everything else, okay?

DR KLATZOW: Would you carry rockets?

MR VAN DER VEER: I would carry a rocket if it was classified under IATA and it wasn't loaded or charged.

DR KLATZOW: Are rockets classified under IATA?

MR VAN DER VEER: I'm not sure, you will have to ask the people.

DR KLATZOW: Well let me put to you a proposition... (intervention).

MR VAN DER VEER: Okay, please.

DR KLATZOW: ...Mr Van der Veer, do you know a pilot called Flippie Looch?

MR VAN DER VEER: I've heard of the name.

DR KLATZOW: Have you heard of a pilot called Deon Storm?

MR VAN DER VEER: Yes.

DR KLATZOW: Are you aware that both pilots, whilst refuelling and being parked on the apron at Tel Aviv Ben Gurion Airport, experienced a very similar experience?

MR VAN DER VEER: I'm not aware of that, I have heard the rumour subsequently.

DR KLATZOW: Are you aware that, let me tell you what it is, and it is not a rumour, it is true.

MR VAN DER VEER: Uhum.

DR KLATZOW: During the loading of his plane, Looch saw them drop a piece of cargo out and walked around to find that it was rockets. Are you aware of that rumour?

MR VAN DER VEER: No, not that it was a rocket.

DR KLATZOW: What were you aware of?

MR VAN DER VEER: That there was, as it says here basically, there was a crate and something fell out of it that they might interpret as a missile. I don't know what's a missile, but it could have been a rocket then.

DR KLATZOW: Well... (intervention).

MR VAN DER VEER: But tell me, when did that happen?

DR KLATZOW: That happened a few years before the Helderberg.

MR VAN DER VEER: A few years?

DR KLATZOW: Yes.

MR VAN DER VEER: Before '83?

DR KLATZOW: Yes.

MR VAN DER VEER: Okay. I just want to put it clear that before '83 I wasn't there... (intervention).

DR KLATZOW: Correct.

MR VAN DER VEER: ...so I wouldn't know. I know the rumour.

DR KLATZOW: Yes.

MR VAN DER VEER: I never investigated the rumour, there was no need.

DR KLATZOW: It happened '84, '85.

MR VAN DER VEER: I'm not aware of it.

DR KLATZOW: Okay.

MR VAN DER VEER: Okay.

DR KLATZOW: Now, Looch has confirmed that and so has Deon Storm. Can you think of a reasonable explanation as to why SAA have gone to extraordinary lengths to suggest that these were mirage wing tanks?

MR VAN DER VEER: No.

DR KLATZOW: Surely, and I want to put it to you, Mr Van der Veer, that if they were rockets, if they were something which Captain Looch and Deon Storm, both ex Defence Force pilots, would have easily recognised, and would not have been confused between that and a drop tank, if they were in fact things that were classified to be carried aboard your airline, the airline could have easily said, "These are IATA approved, they are uncharged, we'll carry them and mind your own business", can you think of a reason why they didn't say that and why they tried, as recently as three years ago, to try and convince me that they were drop tanks for a mirage?

MR VAN DER VEER: Who tried to convince you? Sorry, I just... (intervention).

DR KLATZOW: Theuns Kruger tried to convince me.

MR VAN DER VEER: Theuns Kruger... (intervention).

DR KLATZOW: Yes.

MR VAN DER VEER: ...Dr Theuns Kruger?

DR KLATZOW: Yes, the same man.

MR VAN DER VEER: And Captain Storm?

DR KLATZOW: Well, Deon Storm never spoke to me, I have a report of his, but Flippie Looch did, and he was very unwilling to talk until I suggested to him that SAA had already suggested to me, and incidentally the other person who told me that was John Hare.

MR VAN DER VEER: John Hare wasn't with the airline then.

DR KLATZOW: But he was when I asked him the question... (intervention).

MR VAN DER VEER: Okay.

DR KLATZOW: ...and that's the answer he gave me.

MR VAN DER VEER: Okay.

CHAIRPERSON: There's an interesting linkage there again, talking about weapons and I mean armaments and SAA, because John Hare was in Armscor, wasn't he?

MR VAN DER VEER: Yes, he was.

CHAIRPERSON: Yes.

MR VAN DER VEER: And I recruited him from there, Mr Chairman, if you're worried about it, and that he was one of the experts on money, and I think I included him... (intervention).

DR KLATZOW: (Indistinct) expert on... (intervention).

MR VAN DER VEER: Well... (intervention).

DR KLATZOW: Is that all?

MR VAN DER VEER: We took him in as financial manager specifically for that job.

DR KLATZOW: Yes, but the picture I'm painting for you, Mr Van der Veer, is a very simple one. You've got a series of inexplicable things happening. In each and every occasion the airline has reverted to some kind of devious way to escape the truth, "It's not rockets, it's mirage wing tanks", okay?

MR VAN DER VEER: Uhum.

DR KLATZOW: "We never fly that sort of cargo". Incidentally, as recently as a few years ago, well after the Helderberg, one of your officials was involved in a similar issue. Do you have or did you ever have a man in your airline by the name of Mike van Rensburg?

MR VAN DER VEER: In what position?

DR KLATZOW: Was he not the cargo manager at Singapore?

MR VAN DER VEER: There was a Mike van Niekerk in Singapore.

DR KLATZOW: All right, I might have got the name wrong.

MR VAN DER VEER: Because we started flying very late to Singapore, you may recollect... (intervention).

DR KLATZOW: Okay.

MR VAN DER VEER: ...and the gentleman was Mike van Niekerk.

DR KLATZOW: Mike van Niekerk. I accept that I may have been wrong in that. He was with one of your employees at Singapore, and the employee, who was a contract worker for you,

overheard the following conversation, quote, "How are the Armscor shipments going?", "Fine, thank you". "Are they still being shipped out under the title of hairdryers?" Could you comment on that?

MR VAN DER VEER: I can give no comment on that at all.

DR KLATZOW: Well, you see, what I'm suggesting to you is that senior members of staff of your airline knew that Armscor was breaking the regulations, they knew that cargo was being misdeclared, and they continued to do this even after the Helderberg had happened?

MR VAN DER VEER: I'm not aware of that, okay? As I said earlier on, I mean I'm not denying that we have not shipped Armscor equipment or whatever it is, but then it would have been without the knowledge. Secondly, if you... (intervention).

DR KLATZOW: Without whose knowledge?

MR VAN DER VEER: On my instructions of the management, okay? But if people had been aware of that, then I would be very, I mean I would have been very disappointed they did not tell us about it.

DR KLATZOW: Well it goes further than that... (inter-vention).

MR VAN DER VEER: Okay.

DR KLATZOW: ...Mr Van der Veer, because these are senior people, this is not a boy pilot or a boy running the airline, these are senior members of your staff, and what I want to say to you is

this, that are you aware that Boeing employed a fire expert to examine the cause of the fire in the Helderberg?

MR VAN DER VEER: Yes.

DR KLATZOW: Do you remember from which firm he came?

MR VAN DER VEER: No.

DR KLATZOW: His name was Mr Southeard and he came from a very, very reputable firm called Dr J H Burgoyne and Partners in London.

MR VAN DER VEER: Uhum.

DR KLATZOW: They are probably the finest fire experts in the world. Do you remember what his conclusions were?

MR VAN DER VEER: No, but I remember speaking to him.

DR KLATZOW: Well let me tell you what his conclusions were. His conclusions were that the fire was unlikely to be a fire which was fuelled by ordinary packaging material, that it had to be a promoted or accelerated fire with something that contained its own oxygen.

MR VAN DER VEER: I do not remember that, but carry on.

DR KLATZOW: Believe me, that is what he found. Can you give me a reasonable explanation why Margo ignored that finding?

MR VAN DER VEER: No. If that was his finding that was given to Judge Margo, no I cannot give you any explanation. But I mean there were many - if he was an expert on that, sorry I'm just trying to, while I'm talking I'm just trying to recollect, you

understand? You are aware of the experiment that was done where we rebuilt... (intervention).

DR KLATZOW: Yes, I am aware of it.

MR VAN DER VEER: ...the back of the aircraft... (intervention).

DR KLATZOW: Yes.

MR VAN DER VEER: ...and tried certain experiments as to what could and could not have happened.

DR KLATZOW: Let me stop you there.

MR VAN DER VEER: Okay.

DR KLATZOW: I'm aware of that experiment.

MR VAN DER VEER: Thank you.

DR KLATZOW: I know that Theuns Kruger and Dr John Bland conducted that experiment, and I must tell you at the onset that if ever that were to be presented in a court of law, it is so deficient in experimental design that anybody would have little difficulty in shredding it.

MR VAN DER VEER: Okay.

DR KLATZOW: It was simplistic in the extreme.

MR VAN DER VEER: Okay.

DR KLATZOW: Here you had a man who had done intimate calculations, and furthermore he was the only man called under oath... (intervention).

MR VAN DER VEER: Yes.

DR KLATZOW: ...at the Margo Inquiry, and Margo inexplicably ignored his findings. Can you give me an explanation?

MR VAN DER VEER: No.

DR KLATZOW: Right. What I'm saying to you is that everything here points, that I've told you today and I've been open with you, Mr Van der Veer, everything points to a situation where Margo either deliberately misdirected the inquiry, or was stunningly incompetent in actually getting at the truth, it points to a cover-up, in terms of missing documentation, where people would be justified, in the light of no better explanation forthcoming, in saying "Where did the tapes go?" It points to a situation where vital evidence, and you've conceded that the tape recording of the cockpit voice recorder is vital evidence, has been ignored, and in fact the judge directed that that not be heard in open court, everything points to an interpretation of a cover-up, which if it is to be ever waylaid and refuted, requires now urgently a new inquiry under proper director-ship, to be launch forthwith. Would you give that your blessing, having heard what you've heard today?

MR VAN DER VEER: I would say anything that can throw light on the cause of the accident, and I said that earlier on in this inquiry, I would support.

DR KLATZOW: But, Mr Van der Veer... (intervention).

MR VAN DER VEER: Okay?

DR KLATZOW: ...you've heard an interpretation today which I've given you, which you have... (intervention).

MR VAN DER VEER: I've got no objectoin.

DR KLATZOW: ...you have no answers to many of the questions.

MR VAN DER VEER: No, no.

DR KLATZOW: Not only do you have no answers, you claim today at this inquiry that you've never heard these interpretations before.

MR VAN DER VEER: I've heard the rumours.

DR KLATZOW: But I've given you certain interpretations to that.

MR VAN DER VEER: Okay, you've given me certain interpretations.

DR KLATZOW: And they're not rumours, what I've given you today is not rumours, I have given you factually based material and you have no answers... (intervention).

MR VAN DER VEER: No.

DR KLATZOW: ...to them?

MR VAN DER VEER: No.

DR KLATZOW: Can you think of any reason why this inquiry should not be started again and the entire Margo report be reworked?

MR VAN DER VEER: I think that's for you to decide, okay?

I don't... (intervention).

DR KLATZOW: I'd like an answer to the question please.

MR VAN DER VEER: If you want an answer, then it's no.

DR KLATZOW: You don't think that the Margo Inquiry should be restarted?

MR VAN DER VEER: No, I didn't say that, I've just said if you want to restart the Margo investigation and it is a panel of experts, no objection.

DR KLATZOW: But you see, do you see the reasons why those of us who have investigated this for so long, have the deepest, darkest misgivings about the whole affair?

MR VAN DER VEER: That I can understand.

DR KLATZOW: Well that alone, Mr Van der Veer, should enable you to motivate strongly that the inquiry should be re-opened, that fact alone... (intervention).

MR VAN DER VEER: I'm sorry, I've seen a couple of pieces here, you have a whole line-up of people coming in for the rest of the week, okay, and I would, at the end of that, I would like to see exactly what their, let's say not their reactions are, that's irrelevant, but their statements as to the facts, but if it is necessary, please do re-open it.

DR KLATZOW: What would be your response, would you welcome... (intervention).

MR VAN DER VEER: I would welcome it.

DR KLATZOW: ...an inquiry and a reinvestigation?

MR VAN DER VEER: I would welcome it, if there's any doubt, then I would welcome that you open it up and, as you're doing now... (intervention).

DR KLATZOW: Do you see the need for it, Mr Van der Veer?

MR VAN DER VEER: Yes.

CHAIRPERSON: Dr Klatzow, I don't think you can take the matter any further with Mr Van der Veer, I think he has - have you further questions?

DR KLATZOW: Mr Commissioner, thank you very much, I've run out questions. If there are some which re-occur, maybe Mr Van der Veer would give me the opportunity of putting to them in his private capacity at a later stage, or as I pursue my investigation.

Would you have any objection to that, Mr Van der Veer?

CHAIRPERSON: No, no, no, no... (intervention).

MR VAN DER VEER: I can't do that.

CHAIRPERSON: ...(indistinct).

MR VAN DER VEER: I mean if there's anything to be submitted... (intervention).

CHAIRPERSON: He forgets that he's now an employee of the commission.

MR VAN DER VEER: That's my problem, sir, that's my problem. If the commission comes back to me on any other questions, I'd only be willing to answer, I have no problem with that, but I cannot answer individuals, I'm sorry.

DR KLATZOW: I withdraw the question.

MS TERREBLANCHE: If you remember or have anything more on the matters that were discussed with you that you perhaps would think of making a written presentation on it to the commission?

MR VAN DER VEER: I will.

MS TERREBLANCHE: Thank you very much, Mr Van der Veer for... (intervention).

MR VAN DER VEER: Pleasure.

MS TERREBLANCHE: ...making yourself available.

CHAIRPERSON: Any questions from the panel? Mr Magadla?

MR MAGADLA: Mr Van der Veer, are you aware of a delay of the departure of that plane from Taipei?

MR VAN DER VEER: No. No, I think, sorry, again, I have to think very very carefully, I must be very honest with you, I have closed my mind to the Helderberg, okay, it was one of the most traumatic experiences in my life. I haven't read anything on the Helderberg subsequent, I even was given a book by somebody who wrote it, I haven't read that, okay? It's past, and one tends to say, "Look, get it out of your mind". A question which still stays with me is the cause of that fire, but I think there was a slight delay, if I recollect, I think there was a slight delay in the departure, but the record will show that very clearly.

MR MAGADLA: Could there have been an explanation for that slight delay?

MR VAN DER VEER: Sir, aircraft have delays, okay, for umpteen reasons, there would be umpteen reasons, and if somebody hid the reason, that would also be quite acceptable, because aircraft, I mean 20% of them get delayed normally. I may also just say something, where's the doctor, is he not here, on his cockpit voice recorder, I'm at present on the board of an airline in India, they had an incident on Saturday morning on the runway. What is very interesting is that the cockpit voice recorder tape stopped at a certain point, and started again later on. Okay, that's one of the first things we found out. I'm just referring to what Dr David asked me about, you know, when the cockpit, the tape stopped. Again, what I'm just saying, these things happen, to explain them away is very, very difficult, and I'm very interested to see what the Bombay story is. I'm just giving this to the panel, to say that these things don't work perfectly, unfortunately.

CHAIRPERSON: Well thank you very much, Mr Van der Veer. I have, on behalf of the commission and on behalf of this panel in particular, to thank you for having made yourself available, at what, in ordinary circumstances, was short notice really, and in circumstances where you have not even had an opportunity to prepare yourself, and that you were even prepared to come without any legal representations.

These are heavy matters for us and we feel ourselves totally inadequate to the task, but we have a job to do which we hoped

we would do, and if your attendance here has assisted us in getting a better picture of what was going on in those days, we are very, very indebted to you.

When you read, if you had an opportunity to do so, letters from scores of people who write to the Archbishop in his capacity as chairperson of the commission, and some letters in representative capacity from institutions such as the Friend of the Victims of Helderberg, an organisation calling themselves FOVA, people who were enraged even about the fact that we are having this in camera, because there is a burning suspicion that once again the matter is being covered up because there's something to be hidden away, you can appreciate why we may have gone a little bit further in our probing in the manner in which questions were put by Dr Klatzow. It was not intended to be any reflection on your integrity, it was intended to possibly cause you to reflect also, and for us it is in fact moving to hear you say you have not wanted to look on this incident, to a point where you have not even read any books that have been written on it. It can only explain to us that you are a human being and you are aware of the allegations that have been made, and for us who have been entrusted with the duty to establish the truth, and we are not very successful in most cases, it is something that we have to do, even if it means dragging you into these hearings. Believe you me, it's not something we do with relish or with glee. We are

endeavouring to find, in the interests of this country and in the interests of future government, if there was a group of people or some people who were involved in a tragedy that cost this country and very many other countries the sort of trauma that you also have been going through, then those facts need to be established, if it is possible, not for their own sake, but to make sure that in the future your children and my children can live in societies where deviousness should not be of a nature that lives can be sacrificed at the altar of political expedience, and if our inquiries are going in that direction and we prove that, then your coming here would not have been in vain, because you will have added in a way you cannot understand, a thread that, taken together with others, might bring us closer to finding out what exactly happened.

It's a long way of saying thank you for having come, and believe us when we believe that there are certain aspects that we think you can assist us with, we will officially communicate with you.

For the moment you are excused, and I am sure we have no longer, or no more use for you.

Thank you very much.

MR VAN DER VEER: Thank you, Mr Chairman, that last word I don't like, "no more use for you", but - I'm an old man already, but no, all I want to say is that if there's anything that the Truth Commission needs, or other questions subsequent to this, I will

be very grateful to answer them, I don't have a problem with that, and if I recollect things, then I will also, you know, like Christelle asked me, I will slowly start this computer moving again and say, "Look, you know, what can you or what can't you remember?"

The other thing is, there are other people you may also want to ask to come to the commission. I've mentioned for instance, what's it, Mr Lewis, as one name, who was my deputy, and I mean he was deeply involved in that. The other gentleman that was deeply involved in this is Mr Boschhoff, who in fact was later on seconded to the DCA to help them with the investigation on the island. Another gentleman, Mr Nic Vlok, who's now with Comair, okay? What I'm trying to say is, if you look for more evidence, then there are more people who could throw light. Captain Jimmy Hippert, I think is a gentleman that could help very much. I don't know whether you're going to bring Captain Deon Storm in, I have the highest regard for him as an individual.

All I'm saying is, you know, then that should happen, and if there's anything else I can be of assistance with, please shout.

CHAIRPERSON: Thank you, Mr Van der Veer.

WITNESS EXCUSED

CHAIRPERSON: Is there any more evidence you are calling, Ms Terreblanche?

MS TERREBLANCHE: Not today, Mr Commissioner.

CHAIRPERSON: We're adjourned until half past nine tomorrow.

COMMITTEE ADJOURNS

ON RESUMPTION ON 2 JUNE 1998 - DAY 2

CHAIRPERSON: This is a continuation of a Section 29 Enquiry. Ms Terreblanche I believe we are still going ahead with the enquiry into the Helderberg?

MS TERREBLANCHE: Yes. Apart from one witness today I think we will have, at least I have seen here four witnesses from the South African Airways. Two of them former employees and two of them current employees. We have here with us Mr John Hare. He is currently still with SAA. Good morning, welcome.

MR HARE: Good morning, thank you.

CHAIRPERSON: I will ask Commissioner Wildschut to swear you in but before we do that let me welcome you and let me say we are extremely pleased that you have been able to take the time to be here. A few ground rules. The enquiry is held in terms of Section 29 of the Act.

It is an in-camera hearing. It is held in terms of the Act and the section provides that all evidence that has been led here will be confidential and remain confidential until the Commission decides otherwise and if and when the Commission so decides it will be in the circumstances where the people who have led such evidence and those who might be affected adversely by the evidence so taken at such an enquiry will have been given an opportunity to make representations.

So for the moment everything that you will be giving to us in this information gathering exercise will remain confidential. It is for that reason that only people who have been invited or subpoenaed to attend and members of the Commission and their staff which include the translators and the sound engineers are permitted and will be attending at the enquiries.

Which therefore brings me to who you have here. On my left is Commissioner Wildschut. She is a Commissioner in the Reparations and Rehabilitation's Committee. My name is Ntsebeza. I am a Commissioner in the Human Rights Violations Committee and to my right is Wilson Magadhla. He is the head of the Special Investigative Section of the TRC Investigative Unit. To the right is Ms Crystal Terreblanche who is an investigator who has been doing all the investigation that has caused this hearing to be held.

And with her is Dr David Klatzow who is a forensic specialist and who has been contracted by the Commission as a consultant and will be assisting Ms Terreblanche in the execution of their tasks. There will be tea which I believe will be served between 11 and quarter past 11 and there will be lunch. I do need to indicate that I will, I have an engagement at 5 with the Ministry, Minister Pallo Jordan and I will therefore have to excuse myself at half past four.

We might have to then try and expedite matters such that I am free to leave for me to be able to make the appointment.

MS TERREBLANCHE: That's very well Mr Chair, I think we will be through.

CHAIRPERSON: Commissioner Wildschut, if you could then swear Mr Hare in.

MS WILDSCHUT: Are you Mr Hare? Mr Hare, do you have any objection to taking the oath?

MR HARE: No I don't.

MS WILDSCHUT: Could you please state your full name for the record?

MR HARE: My name is John David Hare.

JOHN DAVID HARE: (sworn states)

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: Thank you. Mr Hare, we have asked you to come here for the following reasons. To provide details and answer questions about the relationship between Armscor and SAA during the 1980's with particular reference to the period 1985 to '88. To answer questions pertaining to your role in Armscor as well as in South African Airways.

We understand that you were not at SAA at the time of the Helderberg incident. But we also understand that you have some expertise and you have knowledge of Armscor and SAA?

MR HARE: Ms Terreblanche I'm sorry your microphone went dead at certain stages, would you mind repeating that?

MS TERREBLANCHE: Sorry. Do you want me to repeat everything? You heard me spelling out the questions that we've already put to you. We understand that you weren't at SAA at the time of the Helderberg incident but that you have certain expertise. At the moment I would just like to know whether you've prepared anything pertaining to the questions that we have put to you?

MR HARE: Ms Terreblanche, in answer it may seem quite strange to you but you ask a question alluding to a relationship between Armscor and South African Airways and my only response to that is that I am not aware of any such relationship that may or may not have existed but I certainly am not aware that there was any relationship in the period that you refer to and therefore continuing from that in the particular period that you refer to in the question later on, the same answer would apply.

I am certainly not aware of any relationship that could have existed between Armscor and South African Airways other than a normal relationship in terms of which personnel of Armscor made use of South African Airways for passenger services.

MS TERREBLANCHE: Very well we'll get back to that. I would just like at this stage for us to tell you how long you were with Armscor and what were you doing at Armscor?

MR HARE: Could I just go back before we do that to your earlier opening remark where you say that I am in possession of certain

expertise and point out to you that that expertise would certainly not cover items such as the Helderberg or the technicalities of what happened to the Helderberg other than by way of hearsay that I've picked up during the course of my employment with SAA.

MS TERREBLANCHE: We'll note that. I understand but can you just explain then what your expertise with Armscor was and then come, also come back to SAA?

MR HARE: I think the easiest will be if I give you an indication of what the role was that I played at Armscor and then refer that to the change in my employment in 1990 and indicate what my responsibilities are and have been from that period.

I was employed by Armscor in the capacity of the general manager of one of the subsidiary companies Infoplan in 1976, April of 1976. Infoplan is a subsidiary company which at the time was responsible for the provision of data processing services, computer services to Armscor and certain of its subsidiary companies.

It had a small personnel and there was an in-house data processing company. Approximately a year later I was asked to move from the general managership of Infoplan through to the Armscor head office when Armscor and the Armament Board amalgamated its operations.

At the time the change in my function involved the installation and updating of financial records, particularly those that had been

maintained by the old Armaments Board, the installation of financial systems and the development of those systems so that the company could account properly and duly in terms of the Companies Act and it's own enactment which was applicable.

I served in that capacity for a number of years. I continued my responsibility for the data processing company. My capacity, my role at that stage was, title was that of senior general manager finance. At a later stage we split the functions, Armscor split the functions of finance into two. The one that I retained responsibility for was in essence the treasury function.

The treasury function was predominantly the provision of funding for the operations of Armscor through approaches to the capital market, through approaches to various lenders. It was over and above that a specialist function in terms of the negotiation and provision of export finance for export contracts where arms were sold to a variety of purchases and it continued through holding directorships of Armscor's manufacturing, certain of their manufacturing subsidiary companies in which role I was particularly responsible for their financial acumen for their proper accounting of their transactions.

In late 1989 I was approached by a consulting firm of recruitment specialists. At the time it was indicated to me that a major client of that company had a desire to appoint a chief financial

officer. It was put to me that the particular role was very necessary in terms of the degree of expertise held by that company and the fact that they were in the throes of corporatising and converting from a State owned entity into a parastatal and after several months of negotiation concerning the possibility I had made the decision to transfer and commence employment with South African Airways.

I was appointed at the time as senior general manager of South African Airways with a particular responsibility for finance and accounting systems and in that capacity I acted for several, for a couple of years until such time as we had some re-organisations within South African Airways and my responsibilities were augmented. I later became responsible for data processing operations, for capital purchases, for fuel purchases, for a period for the cargo operations of the company, that was for a limited period and subsequently for the maintenance operations of South African Airways.

MS TERREBLANCHE: Thank you. We have talked obviously to a large number of people in terms of the Helderberg. Now two former SAA employees, in fact one is still an employee has told me that Armscor did have an account with SAA and I think you would be in a very good position to clarify that?

MR HARE: Ms Terreblanche I can't shed any light on that. I'm not aware that there was an account. My only comment would be

that any number of South African corporations have accounts with South African Airways. It may be that there was such an account in existence. That would include, if I look at the average South African corporation an account for passengers, it would include a cargo account, it could include any number of items that were transacted between South African Airways and Armscor.

MS TERREBLANCHE: Would you have been aware of such an account being aware of the financial position?

MR HARE: I think that, you know you infer in, aware of the financial position the level of detail, but quite frankly I'm not aware of. We had a number of accounts that were operated by South African corporations with SAA. I would normally only expect to become aware of the detail of those accounts if they were in a situation where they were giving problems. If they weren't paying their bills or they were in arrears for some particular reason. So I wouldn't normally expect to be aware of an account like that.

MS TERREBLANCHE: Thank you. I think Dr Klatzow would also like to ask you a couple of questions.

DR KLATZOW: Mr Hare, thank you for coming along. Your background is accounting, is that correct?

MR HARE: I'm a chartered accountant yes.

DR KLATZOW: And as part of that background you would have intimate and detailed knowledge of the structure of a company?

MR HARE: I would expect to have a comprehensive knowledge, yes.

DR KLATZOW: And therefore if you were in a senior executive position you would know how that company functioned?

MR HARE: In terms of it's basic operations I would expect to have knowledge of it's functions.

DR KLATZOW: Now, at the time you were an executive member of an Armscor subsidiary, is that correct?

MR HARE: I was a member of the board of directors of various Armscor subsidiary companies.

DR KLATZOW: And you would be aware that Armscor - I think if you use the other microphone it won't keep switching off. The basic structure of the company would be something that would be well known to you. Now Armscor functioned in a period where we as South Africans were considered to be pariahs of the world, is that correct?

MR HARE: Certainly.

DR KLATZOW: We had to use every skill and ingenuity that the country could offer in order to break the sanctions that were occurring at the time, is that not correct?

MR HARE: I would say so.

DR KLATZOW: And Armscor did so by means of not only the skill which they could bring to it by the use of skilled personnel such as

yourself but they did not hesitate to use subterfuge in order to achieve their ends on many occasions, is that not correct?

MR HARE: Dr Klatzow I think that when you say use subterfuge, I think that it's correct to say that none of the transactions that Armscor undertook were at the time contrary to any South African Law.

DR KLATZOW: I'm not referring to South African Law. You broke International Laws on, with impunity, on many occasions in order to achieve your aims and in fact up until recently, the Armscor had a major embarrassment and was a major stumbling block because you had broken Federal Laws in the United States and your Armscor officials are up on a charge in the United States, is that not correct?

MR HARE: I'm not aware of the detail of the charges that were levelled against them. Certainly it would be correct to say that Armscor was involved in the acquisition of military hardware and that there were items which, or that in that acquisition it was probable that certain international regulations would have been broken.

DR KLATZOW: With impunity in fact?

MR HARE: Dr Klatzow that's your definition, not mine.

DR KLATZOW: Would you, do you remember that South Africa was involved in the illicit gaining of plans for the Daphne class submarines which caused an international outrage?

MR HARE: You're operating in an area of which I have no knowledge.

DR KLATZOW: But it was public news.

MR HARE: I have read that that was the case.

DR KLATZOW: Alright, let me re-phrase it. Would you deny, under oath, that Armscor broke international regulations in the achievement of its aims which was at that time the pursuit and fighting of the total onslaught?

MR HARE: Dr Klatzow that may well have been the case. I have no personal knowledge of regulations that were broken by Armscor.

DR KLATZOW: Mr Hare I'm not suggesting that you did so. I'm suggesting that as a senior member of the Armscor stable, you would have been aware that there were certain things to be done and that you couldn't just walk over to the various countries who regarded us as pariahs and buy the equipment you needed and therefore I'm not debating the rightness and wrongness, I'm debating that you had a task to be done and you did it and you did not let regulations stand in the way and I think you've agreed with that.

MR HARE: I've agreed in broad terms that Armscor had a task to fulfil and that it certainly made every effort to comply with that task.

DR KLATZOW: Right.

CHAIRPERSON: It is a pretty common cause Mr Hare that Armscor did break the arms embargo and that in fact fairly recently that was one of the issues that seemed to be militating [inaudible] recommendation of the US/South Africa relationships as far as those deals go because there was evidence that the arms embargo that was violated by South Africa and Armscor, wasn't that common cause? Can't we admit without being specific that generally it was the position. Without discussing the ethics and the wrongness or rightness of it.

MR HARE: Commissioner I believe that I have so indicated that that was the task that Armscor was set up for. It was one of the main tasks that they fulfilled over a number of years.

CHAIRPERSON: Okay.

MR HARE: Please let us not assume then by extrapolation that I was party to transactions of that nature or had specific knowledge and I was aware of what was going on in a variety of areas. Dr Klatzow in a question earlier on referred to specific and detailed and intimate knowledge of the company and it's structures and I would say that Armscor, in the case of Armscor one needs to take into account that the structures of Armscor were created in a way that our knowledge was restricted to those people to whom it was essential to have that knowledge.

CHAIRPERSON: On a need to know basis?

MR HARE: Purely on a need to know basis.

DR KLATZOW: That is exactly the point that I was getting to because, as a man well versed in commercial practises you would see, from the structure of the company that it was specifically designed on a need to know and that it was designed in a fashion which was ideally suited, if I could put it, to sanction busting and clandestine operations in order to achieve their stated aims.

It wasn't set up for instance like Woolworths. It was set up on a completely different basis?

MR HARE: That is correct.

DR KLATZOW: Right. Now, I presume that there was a very tight chain of command at Armscor. That people couldn't just go off doing whatever they wanted to do. The chain of command was closely regulated?

MR HARE: Correct.

DR KLATZOW: And that junior members of the Armscor staff wouldn't do things that were inimicable to the well-being of the company or wouldn't do things off their own bat, there was a well structured line of orders?

MR HARE: I think one has to be careful with the assumption there will inevitably be a number of people who would "be doing their own thing", choosing their own way of doing things. The task would be

one that was defined, the objective defined, the way of doing it would not necessarily have been defined at all.

DR KLATZOW: That's correct but ultimately for a large capital expenditure project or for a significant project there would be a line of command and that there would be some monitoring, it wasn't a free for all?

MR HARE: No, it was certainly never a free for all.

DR KLATZOW: Right. Now, there are links between Armscor of course and Somchem?

MR HARE: Somchem at the time was an operating subsidiary company.

DR KLATZOW: Correct. And one of the functions of Somchem was that it was producing a variety of military ordinance, ranging from small arms ammunition through to pyrotechnics and it produced the compound called ammonium perchlorate. Are you aware of that?

MR HARE: The first part of the statement is correct regarding explosives, pyrotechnics I'm less certain of, I'm not aware that they were in the business of manufacturing pyrotechnics and I'm certainly not aware of the details of particular product manufacture.

DR KLATZOW: But are you aware that they were the only company in the country who were manufacturing that kind of material, apart from AE&CI which manufactured commercial explosives?

MR HARE: As far as I am aware they were the only company who were manufacturing military style explosive products.

DR KLATZOW: Correct. And Mr Hare, it will not have passed you by that South Africa was at the time, and it has been admitted officially, engaged in what turned out to be an abortive development of rockets?

MR HARE: I'm not aware of which style of rocket you're talking about or type of rocket you're talking about. There were certainly rocket developments that were undertaken through the 1980's.

DR KLATZOW: Yes. And let me be a little more specific, there was the normal military weaponry type rocket, such as surface to air and air to air missiles?

MR HARE: Certainly.

DR KLATZOW: And there was also, and the one that I refer to as being abortive was a rather more adventurous project to develop some sort of delivery mechanism for the fledgling nuclear industry. Some kind of intercontinental or long range missile. You're aware that that?

MR HARE: I'm aware of it.

DR KLATZOW: Right. You must also be aware that the primary component in rocket fuel is a compound called ammonium perchlorate?

MR HARE: No, I'm not aware of that.

DR KLATZOW: Well, can I make you aware of it because that is in fact the case. It is a very common chemical. You must also be aware that part of the policy of Armscor in achieving it's aims was what has been referred to by too many of ex Armscor officials to take anything but seriously as Chinese engineering. Do you know what the term Chinese engineering is?

MR HARE: I would assume that you're talking of a process which is otherwise referred to as reverse engineering.

DR KLATZOW: That's absolutely correct. And for the enlightenment of the Commission, the principle was that you obtained by whatever means a sample of whatever it was that you wished to have and your chemists, engineers and scientists back in South Africa would copy it and then manufacture it on a proper scale. Is that correct?

MR HARE: I cannot state whether it's correct or otherwise, I don't know.

DR KLATZOW: But that is reverse engineering, isn't it?

MR HARE: That is reverse engineering as I understand it.

DR KLATZOW: Correct. Now many many of the products which Armscor have produced are in fact straight copies of other products which were available on the market and I will name just three for you. The Z88 pistol which was made by Armscor is a copy of the Baretta. The R4 is a copy of the Galleou and the R1 was a direct

copy of the Belgium FN FAL Rifle. You could put the parts from the one into the other and they would function. You're aware of that?

MR HARE: I have no reason to dispute what you're saying but I have no intimate knowledge of it.

DR KLATZOW: Now what I'm getting to is this, that Armscor saw to it that whatever it's goals were, were achieved by means, whatever means at it's disposal and if that meant purloining international intellectual property they didn't scruple to do that. You're not going to deny that?

MR HARE: I've indicated that Armscor was fulfilling a task at the time. It may well be that that was included but that is beyond my knowledge.

DR KLATZOW: Okay. Now, I want to put to you the following. That the military at the time in Angola were having a problem with new fighter jets and they were having a problem with the surface to air or air to air missiles and I want to put to you that it became extremely important for Armscor to develop a means for countering this threat and further I want to put to you that at the time the only way that was able to do that was by means of developing a better missile and that there was an urgent need to do that. Do you have any knowledge of that?

MR HARE: Dr Klatzow you're operating in an area which I have no personal knowledge. I can assume that your statement is correct but that would not be from personal knowledge.

DR KLATZOW: Okay, but what I'm trying to indicate to you is that having been faced with a problem of that magnitude, can you think of any reason whatsoever having already indicated that Armscor was prepared to break the niceties of International Law why they would not try and get a better rocket propellant brought into the country to reverse engineer? Can you think of a single reason why that would be an outlandish suggestion?

MR HARE: Dr Klatzow that would fall into the category of one of a variety of different solutions that Armscor could have been investigating at the time. The case is hypothetical.

DR KLATZOW: I accept that it's hypothetical but the question was quite a specific question. Given the fact that there was a problem with aircraft in Angola. Given the fact that there was an urgent need to develop a better form of rocketry. Given those facts, can you think of a reason why Armscor would not have brought in the material that they needed to reverse engineer to deal with this extremely urgent problem?

MR HARE: Dr Klatzow you have indicated that there was an extremely urgent problem. I have no knowledge of that. You have indicated a scenario that indicates that Armscor would have wished

to develop such a project or such a projectile and such a counter measure. I have no knowledge of that.

DR KLATZOW: I understand. You're missing the question Mr Hare.

MR HARE: We're in the area where this kind of hypothetical speculation, I could certainly not deny and say that it's possible that Armscor would wish to have brought in a product A, B, C, D or E. That may well be.

DR KLATZOW: The question was very simple and we're getting side-tracked. The question was, if my premises are correct, if the suppositions that I've put to you are correct, can you think of a reason why Armscor would not have broken international sanctions by whatever method getting the material they needed and bringing it in aboard a civilian airliner. And I think the answer is no.

MR HARE: Well you've now added a new dimension into the transaction, you've said aboard a civilian airliner.

DR KLATZOW: Correct.

MR HARE: And right up to now, you and I have probably not differed on the subject of what Armscor was busy doing and the ways that they would have used. I am certainly not aware of the situation whereby Armscor would have taken steps on an irresponsible basis to conduct importation of materials on any basis

that was not particularly safe or that would have placed any particular, either aircraft or passenger aboard an aircraft at risk.

DR KLATZOW: Well we'll get to that. Let me, I presume that the answer to the first part, without the civilian airliner is that they would have brought that in by whatever means they needed to get it here?

MR HARE: I think that you could qualify that by saying, by adding the rider that I have added.

DR KLATZOW: Okay.

MR HARE: I think that Armscor operated with integrity. Armscor in my opinion would not have undertaken such a risk. I would certainly not have been party to doing so had I known that that was going to happen.

DR KLATZOW: I understand that. Now you also as a chief executive of SAA are aware that I have personally phoned you in relation to this matter on a number of occasions some four years ago?

MR HARE: May I correct you, I'm the deputy chief of SAA. I'm not the chief executive. Promotion would be very nice but it certainly is not contemplated.

DR KLATZOW: Well if it were in my power I would try and help you but you are a senior man at SAA?

MR HARE: Certainly.

DR KLATZOW: And you are aware that I questioned you some years ago about an incident which occurred at Ben Gurion Airport?

MR HARE: Correct.

DR KLATZOW: And you referred me to a pilot by the name of Captain Flippie Look?

MR HARE: Correct.

DR KLATZOW: Now at the time you also referred me to one of your senior technical people, a man by the name of Theuns Steyn, Theuns Kruger?

MR HARE: Theuns Kruger I believe.

DR KLATZOW: Correct, Dr Theuns Kruger. And your suggestion to me at the time was that SAA had been transporting mirage drop tanks and that the whole incident involved mirage drop tanks?

MR HARE: Dr Klatzow you were referring to an incident of which I had no knowledge.

DR KLATZOW: I accept that.

MR HARE: I referred you to the people who in my opinion could have assisted you in providing information regarding that concern.

DR KLATZOW: And they were very helpful.

MR HARE: And I understand that they were helpful.

DR KLATZOW: They were very helpful.

MR HARE: I hope that that's the case.

DR KLATZOW: Now Captain Look, you know has an airforce background?

MR HARE: I know.

DR KLATZOW: You know that he flew mirages?

MR HARE: I understand that.

DR KLATZOW: And you know that he has vast experience as a pilot? When I put to Captain Look that he was mistaken and that the items that fell out of his hold were mirage drop tanks. He was infuriated. And I'm telling you this for your own interest, he was quite infuriated. Infuriated to the point where he quite unwillingly indicated to me that he was a man who would clearly know the difference between a mirage drop tank and a rocket which had fallen out.

MR HARE: That may be.

DR KLATZOW: Now those have been loaded aboard SAA aircraft.

MR HARE: I'm not aware of the circumstances but that may be.

DR KLATZOW: Well it's not so much the circumstances, it's the fact that numerous people at SAA have attempted to try and convince me that the items which fell out of the aircraft were mirage drop tanks. And it is that which I want to deal with. Because surely Mr Hare, the simple thing that if you were transporting something in a responsible fashion aboard a civilian airliner which bore or posed no risk to the passengers, you could easily as an

airline and Dr Kruger could easily have said to me, we were carrying empty rocket casings, it is a simple matter, they posed no risk and we were quite entitled in terms of IATA Regulations to carry them. Why didn't he do that? Why did he resort to trying to convince me that they were mirage wing tanks?

MR HARE: You would have to ask him the question, I don't know.

DR KLATZOW: But there isn't a simple answer to that, you will agree with me?

MR HARE: There may be a particularly simple answer, you know you've posed the question, you posed the question to me originally and I sent you to the people who I believe had information that could have assisted you. If you're saying that the information they gave you was incorrect, please pose the question to them again.

DR KLATZOW: I'm going to do that.

MR HARE: I'm unaware of that.

DR KLATZOW: I'm going to. But what I'm trying to deal with, with you, is to suggest to you that the way in which they answered my question was to divert me from my investigation rather than to give me information. And I'm asking you if you can think of a reason why they would want to do that?

MR HARE: Let me be very categorical Dr Klatzow, I believe that everybody within SAA, from the time that the Helderberg accident occurred through to the present day would go out of their way to

assist you in finding the cause of the fire that was on board the Helderberg. I think that nobody who sits within the airline would have any interest other than doing that. I cannot answer as to a particular question that you posed to an individual. I would put it to you that you didn't come back to me at that stage and say, Mr Hare what is the problem, these guys are giving me information that I cannot regard as being accurate.

DR KLATZOW: There's a reason that I didn't come back to you because in fact I had the information in my hands at the time that SAA was on a regular basis transporting military ordinance from Israel to South Africa, there was a to and fro traffic and if SAA chose to deny that, that was their problem. May I also tell you, for your information that Deon Storm who is also a pilot with SAA had exactly the same experience.

MR HARE: Thank you.

DR KLATZOW: Okay. Now I want to deal with another issue. Armscor is primarily involved in the production of military ordinance and matters closely related to military ordinance. I mean they don't make civilian hairdryers for instance?

MR HARE: They certainly don't make civilian hairdryers to my knowledge. They do make a range of civilian equipment. They make a range of items that have been, could quite probably be

derivatives from some military product. They certainly operate in areas of commercial expertise and commercial competitiveness.

DR KLATZOW: But you don't make a range of commercial products that would be household items. You don't make heaters and hairdryers and toasters and things of that nature?

MR HARE: I've indicated to you a thought that there are a number of items which may well be defined as commercial products.

DR KLATZOW: No, but I've given you specific ones. Hairdryers in particular.

MR HARE: I'm certainly not aware of any manufacture of hairdryers.

DR KLATZOW: Are you aware that there is a cargo control man, a senior man called Mike Van Niekerk at Singapore Airport?

MR HARE: To the best of my knowledge Mr Van Niekerk was the station manager at Singapore.

DR KLATZOW: That's correct. And are you aware that he was asked by a senior member of SAA during a visit there whether the Armscor shipments were going okay?

MR HARE: I'm not aware of that.

DR KLATZOW: And his reply was, yes they are and they're still being shipped out as hairdryers.

MR HARE: If I'm not aware of it I couldn't be aware of the response, could I?

DR KLATZOW: The point that I'm trying to make is that we know that South Africa has a murky past. We know that arms dealers are not angels in terms of that murky past and we know that there was a holy war that was being fought in this country and that Armscor was part of that holy war.

And I want to put it to you that there would be no inhibition whatsoever on Armscor's behalf in doing whatever they needed to do to make that war work. And I want to suggest to you further that material that was brought in aboard the Helderberg was destined for Armscor because the stuff that was in the palate PR on the front of that aircraft was incapable of producing the fire which destroyed the aircraft and that the material that was aboard that aircraft was misdeclared and was in fact destined for Armscor and that it was that material which caused the loss of the Helderberg.

MR HARE: Dr Klatzow I'm not in a position to comment on your statement.

DR KLATZOW: I have only one last question. About, shortly after you joined SAA, a member of the operational staff, a member of staff of SAA had an altercation with you. And that altercation involved, shaking his hand in your face and saying, you know what is aboard the Helderberg. Do you remember that altercation?

MR HARE: No I don't.

DR KLATZOW: Do you deny that it ever happened?

MR HARE: I don't recall the incident.

DR KLATZOW: Did none of the staff members of SAA, a pilot in particular ever shake his hand in your face and say, Mr Hare you know what was aboard the Helderberg? I'm not suggesting you did but I'm suggesting that that incident took place.

MR HARE: Dr Klatzow you're in an, asking a question, I certainly have no recollection of any such incident ever taking place.

DR KLATZOW: Thank you.

CHAIRPERSON: Let me ask the question. When you say you have no recollection of the incident happening, are you saying the incident never happened? Or are you saying it may have happened except that you now have no recollection of it, you don't remember?

MR HARE: Commissioner I do not wish to appear to be ducking the question or anything like that. I certainly have no recollection of such an incident. If somebody says that such an incident occurred and can quote me chapter and verse and the occasion on which it occurred maybe my recollection is incomplete.

My own feeling is that there was not such an incident that took place but, really we're going back quite a number of years and I am certainly not aware of such an incident.

CHAIRPERSON: Dr Klatzow, can you provide chapter and verse?

DR KLATZOW: I may very well be able to do that. I don't have it with me at the moment but I have a note in my personal notes where

that allegation was made but having said that, it is the kind of incident that would be difficult to forget, if it occurred to you.

MR HARE: Dr Klatzow, the only comment that I would make at this stage is that you would appear to be indicating that there's some unusual reason as to why I was at SAA.

DR KLATZOW: No.

MR HARE: Certainly the press has taken us into that area with a whole lot of questions that have been posed to me as to why I moved employment and was in fact at SAA. Now let me initially say that that statement is incorrect, there is no unusual reason for my being at SAA. Had any such incident occurred, I'm pretty sure that I would have remembered such an incident, you know. It would seem that the kind of incident that one remember from the way you describe it.

DR KLATZOW: I'm not suggesting anything untoward about the fact that the incident occurred. I mean, the simple answer could be that the person involved may have been entirely mistaken and may have simply mistaken the fact that you had come from Armscor and implied a sinister reason for it. He might have been totally off the wall.

All I'm saying to you is, do you remember the incident?

MR HARE: I don't remember the incident. I think that one has to accept that a lot of statements that were made concerning the

incident, concerning the whole Helderberg situation were made under a vast amount of emotion. There were a number of people, including goods friends of mine who were on board the Helderberg.

I think that a statement made like that would, if such a statement was made was totally incorrect.

DR KLATZOW: I accept that. Just one last question, did you know Mr Oslo?

MR HARE: I knew Mr Oslo.

DR KLATZOW: In what capacity did you know Mr Oslo?

MR HARE: I had worked together with Mr Oslo on a number of projects.

DR KLATZOW: And is it correct to say that Mr Oslo was part of an Armscor front company?

MR HARE: No.

DR KLATZOW: Did he have any dealings with Armscor?

MR HARE: Mr Oslo provided assistance to Armscor on a consultative basis, regarding a transaction that Armscor was interested in.

DR KLATZOW: That is correct. And the information which I have is that Mr Oslo did this on a regular basis?

MR HARE: I would certainly not have called it a regular basis. It may have been that there were other instances where I was not

aware of his activity. In the particular case that I am aware of, it was really on a one off basis only.

DR KLATZOW: Was that a procurement function that he acted in?

MR HARE: No.

DR KLATZOW: Would you tell us what the function was that Mr Oslo?

MR HARE: It was the export of items from this country.

DR KLATZOW: And is there any reason why he could not have also been involved in a procurement facility for you?

MR HARE: I was certainly not aware of that. It would have been unusual I think because of the degree, the area of expertise that he was operating in. South Africa was not at the time producing the product in which he was a specialist.

DR KLATZOW: Thank you very much.

MS TERREBLANCHE: What was that product that he was a specialist in?

MR HARE: He was operating in the strategic oil fund.

MS TERREBLANCHE: And was he on an Armscor mission when he got killed in the Helderberg?

MR HARE: Not to my knowledge.

MS TERREBLANCHE: There's one last question. You were referring to commercial goods manufactured by Armscor at the time. Can you give an example and the company or subsidiaries involved?

MR HARE: For example. The computer company that Armscor operates, sells commercial computer systems. They've been involved some time ago in the payment of pensions, using computer systems that were developed there.

MS TERREBLANCHE: What is the name of that subsidiary or company?

MR HARE: That company was Infoplan. But I do believe that if you have a look you will find, and I can't recall specific instances but there are in fact and were throughout the period a number of commercial product derivatives of military manufactured items.

MS TERREBLANCHE: Thank you.

CHAIRPERSON: Thank you Ms Terreblanche. Well it remains for me to thank you Mr Hare for having taken the time to come out and assist the Commission in its endeavour to re-visit the whole Helderberg enquiry and try and find out if we are any where near establishing the truth of what really happened.

You must understand that we have got enquiries from a number of quarters, including an organisation called the Friends of the victims of Helderberg. It's been twelve years since the event and it's an event that we had hoped and we possibly might be able to throw some further light on and it is when people like you are ready, even at short notice to come and share with us what they know or

don't know about the incident. So, we thank you very much.

MR HARE: Commissioner, may I thank you for paying me the compliment and may I also say that as I have said earlier, I truly believe that every single individual within the South African Airways would very dearly love to be able to get to the bottom of what caused the Helderberg incident but I also believe that every individual will offer you every assistance that they possibly can and will answer whatever question is possible in an attempt to get to find a solution as to the cause of the Helderberg incident.

If I may provide further information at any stage please do not hesitate. I would welcome coming back and answering any further questions if cause arises.

CHAIRPERSON: Thank you very much. You are excused Mr Hare.

MR HARE: Thank you.

WITNESS EXCUSED

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: I think we should now call Mr Willemse, Mr Tienie Willemse. I believe the two of them need to....

CHAIRPERSON: Welcome Mr Willemse. I have explained very quickly to most witnesses that this is a Section 29 enquiry. What it means is it is an investigative enquiry. It is not a trial, it's not a tribunal, it's not disciplinary enquiry, no findings will be made. It's an information gathering exercise.

It is held privately so you can safely regard everybody here to have been sworn to confidentiality and so also will the evidence that will be taken here to not be made public and that decision will be the decision of the Commission as and when certain requirements have been complied with.

We have translators who are also part of the Commission who are contracted to the Commission and who will be able to translate for us on any person who would prefer to take the evidence in English should you choose to give your evidence in Afrikaans. So you are entirely free to testify in the language you best would like to testify in.

We will not be disadvantaged thereby because as you will see there are listening devices which will assist us to listen simultaneously as you speak in to the English version of your evidence. So if you want to speak in Afrikaans, please feel free to do so.

Welcome to these proceedings and before you testify I will therefore ask Commissioner Glenda Wildschut who is to my left to swear you in. But let me introduce the members of the panel. She is Commissioner in the Reparations and Rehabilitation's Committee. I am Ntsebeza.

I am a Commissioner in the Human Rights Violations Committee and are in the investigative unit.

To my right is Mr Magadhla, Wilson, he is head of special investigations. He is also as you see a member of this panel. To the right is Ms Terreblanche, Chrystelle, who has investigated and has collected all information relevant to this hearing and with her is Dr David Klatzow who has been contracted to the Commission and who will give, will assist us in those technical aspects and in any of the aspects about this matter which is fairly familiar, having dealt with it on a substantial number of years thereafter. Ms Wildschut will therefore swear you in.

MS WILDSCHUT: Mr Willemse good morning. Do you have any objection to taking the oath? No objection. Could you state your full name for the record please?

MR WILLEMSE: Martinus Gerhardus Willemse.

MARTINUS GERHARDUS WILLEMSE: (sworn states)

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: Good morning Mr Willemse. Thanks for coming. I see we misspelt your name on the invitation. Sorry about that.

MR WILLEMSE: The Williams, I'm used to that, that's no problem.

MS TERREBLANCHE: I think it's these computer spell checks that insist on these things some times. We've asked you to come and provide details of your role in SAA at the time of the

Helderberg disaster, to explain SAA's role in terms of the investigation into the Helderberg disaster. To answer questions pertaining to the relationship between SAA and Armscor during the 1980's and answer questions pertaining to SAA's relationship with airlines and cargo agents in Israel and Taiwan.

May I just start off by asking you to explain to us your career in SAA. When you started and?

MR WILLEMSE: May I have the opportunity, as the Chairman said that Afrikaans is my mother tongue, that if it will be okay with you that I conduct the session in Afrikaans?

MS TERREBLANCHE: Please go ahead. Can you use the earphones because then you will hear the English, so that we can have, but it's quite fine. Can you hear us?

MR WILLEMSE: Yes I can.

MS TERREBLANCHE: Please continue Mr Willemse. You may speak in Afrikaans.

MR WILLEMSE: I hope it won't cause any inconvenience.

MS TERREBLANCHE: No. Not at all. Thank you.

MR WILLEMSE: The question is that I should briefly explain what my career was with SAA. I was asked to transfer to SAA during 1979. At that stage I was a member of the legal advisors team and was known then as the South African Railways and Harbours and I fulfilled a very specific role there. I had to appear on behalf of the

old Railways and Harbours before the National Transport Commission to look after the so-called competition between road and rail.

The reason why I asked to transfer to the airlines was because there was a commission of enquiry appointed at that time under the chairmanship of Justice Margo which had to look at the whole issue of a new airline policy for South Africa and the then deputy asked me to transfer to the airlines so that I could become a member of the Margo Commission itself, to advise them on the new aviation policy for South Africa.

What was at stake was mainly the open skies policy which had taken hold in America at that stage and I followed it and some particulars and I attended some of the hearings in Washington at that stage to find out what the impact of the so-called open skies policy would be in South Africa. That was chiefly my role. To advise the South African Airways and to help with the activities of the Margo Commission which extended over a couple of years and that was very briefly the reason for my transfer to the South African Airways. It was a very specific instruction which I had.

MS TERREBLANCHE: At the time of the Helderberg disaster, could you please explain what your position was at SAA?

MR WILLEMSE: After the Margo Commission had been completed I acquired other responsibilities and I then moved in to the

commercial side of the airlines and away from the pure legal side of matters. We used different titles initially. My title was trade director.

There were two of us and then we subdivided it into the director of marketing and director of planning. Subsequently we changed it to chief director international. At that stage I was mainly responsible for the international or the commercial side of international services of SAA. There was no clear dividing line between domestic activities and the international activities because we were in the process of developing those as two separate products and we said that the internal scenario was aimed at a very specific public market and internationally speaking the target market was very different and I was chiefly engaged in the development of the root structure of the international section of South African Airlines.

MS TERREBLANCHE: Did that include passengers as well as cargo?

MR WILLEMSE: Yes. It was the total enterprise. But I must tell you that in the 1980's there was very little emphasis on cargo in the sense that we didn't have a specific cargo section and the reason for that was as a result of all the detours that we had to use due to sanctions existing at the time and we had very little cargo capacity which we could utilise on our planes.

South African Airways at that stage was mainly a passenger enterprise. So the emphasis was on the development of routes for passenger purposes and where cargo could be added that was regarded as a bonus. From South Africa there was very little cargo but it was mainly perishables which depended very much on the season and the main route was towards Europe.

MS TERREBLANCHE: You're talking about sanctions now, were you aware of the fact that SAA sometimes carried cargo intended to evade sanctions or circumvent sanctions?

MR WILLEMSE: No. The cargo which we carried was any commercial cargo which we could obtain in the market at competitive prices to bring it in, well in both directions. In other words, in to South Africa and from South Africa. The sanctions to which I am referring is this, the fact that SAA could not fly along the normal commercial routes which our competitors used.

You will remember that since 1963, that was before my time, we could not use the shortest routes across Africa. So all our routes to Europe were via the West Coast of Africa or the stop at Sol Island. At some point most of our flights stopped.

MS TERREBLANCHE: Yes, now we understand that, I just want to make sure about this question, were you ever aware of the fact that cargo was carried or placed on SAA flights which were actually

not destined for South Africa or which South Africa could actually not export due to sanctions?

MR WILLEMSE: No I was not aware of anything like that.

MS TERREBLANCHE: I think that Dr Klatzow wants to ask you a couple of questions.

DR KLATZOW: Thank you Mr Willemse. Do you have any objection if I ask my questions in English? And if you have any difficulty, you may just ask me. Mr Willemse, your duty with SAA was a legal advisory and a general commercial advisory capacity, was that not correct?

MR WILLEMSE: Initially a legal advisor in the sense only when I acted in the role of representing SAA at the Margo Commission of Enquiry into civil aviation.

DR KLATZOW: Correct, but at the time of the Helderberg. In 1988, your function was to oversee the commercial aspects of the international trade that SAA was doing?

MR WILLEMSE: That's correct.

DR KLATZOW: And as such you would have been intimately involved with the accident and the following investigations and the matters that transpired as a result of the accident?

MR WILLEMSE: No, I was not intimately involved. Let me explain it to you. I was not at all involved in the investigation into the Helderberg disaster. It was an aspect which was dealt with

purely on the technical side at the airport. The only role which I fulfilled during and after the accident was that I and my team of marketing and sales people, I'm talking about passenger sales, passenger marketing, we set up an office at Johannesburg, at the head office and our sole function was to transmit information to the families and friends of the passengers who had died in the disaster.

That was our main purpose. To actually effect contact with the next of kin. To keep them informed regarding the progress and I'm specifically referring to the first couple of days after the accident took place, to contact as many of these as possible because we had the passenger lists and the arrangement which we made was that we sent our sales people to the next of kin as far as we could trace them in South Africa to have contact with them on behalf of SAA, to tell them what the position was and also to convey our condolences and to find out whether there was anything that we could assist them with at that stage.

What we also did was that we attended as many of the memorial services as we could as a sign of our condolences.

DR KLATZOW: Yes, but the night of the accident were you at Jan Smuts Airport?

MR WILLEMSE: No. At no stage was I personally at Jan Smuts Airport during or after the accident.

DR KLATZOW: You were never in the operational room?

MR WILLEMSE: No.

DR KLATZOW: Along with Mickey Mitchell and others?

MR WILLEMSE: No. As I said, I set up an office in headquarters or I had an office in headquarters in Johannesburg and that is where I did my work from.

DR KLATZOW: Did you ever know a man, Tinus Jacobs who was working for SAA?

MR WILLEMSE: Tinus Jacobs was at some point and I think especially during the Helderberg disaster, he was our manager in Taiwan.

DR KLATZOW: That's quite correct. Can you inform us about Tinus Jacobs' career after the Helderberg disaster?

MR WILLEMSE: As far as I can recall Tinus Jacobs, he resigned some time afterwards. I don't know exactly how long he resigned from SAA and started up his own business as a tour operator.

DR KLATZOW: In the name of Crown Travel?

MR WILLEMSE: As far as I know, yes. Yes it is so.

DR KLATZOW: Who is his foremost client in that business, his best client?

MR WILLEMSE: I wouldn't be able to tell you.

DR KLATZOW: Isn't it true that the SAA is his best client and that he gets a lot of work from SAA?

MR WILLEMSE: It's possible but that is not within my field of knowledge. But it is possible if he is a tour operator and as far as I know he is established in South Africa, then you would assume that he would do business with SAA.

DR KLATZOW: Are you also aware of a man called Vernon Nadel, he's waiting outside.

MR WILLEMSE: Yes I know Vernon.

DR KLATZOW: What is his function at SAA at that stage?

MR WILLEMSE: At what stage are you referring to?

DR KLATZOW: The stage of the Helderberg disaster.

MR WILLEMSE: I don't know. I didn't know him at that stage.

DR KLATZOW: Right. Very well thank you.

MS TERREBLANCHE: Mr Willemse I have a couple of questions. I would like you to think back, I'm sure you know Mr Flippie Look. He is still a pilot at SAA.

MR WILLEMSE: Yes. It's difficult to say, if that is the person that I am thinking of now then, I'm speculating now, I have to add, I did meet Flippie Look once during a meeting which we had with SAPA, now that was quite a number of years ago. This was at some place outside Johannesburg. SAPA is the South African Pilots Association.

We met with them, we meaning South African Airways management and the management of the Pilots Association but then I have to add that I suspected he was there.

MS TERREBLANCHE: In 1985 Mr Flippie Look told us that he met you in Mauritius at the airport. You were there with your family. Can you recall that?

MR WILLEMSE: No. I think he was the pilot of the plane but.

MS TERREBLANCHE: Were you in Mauritius in 1985?

MR WILLEMSE: I don't know, it's possible. I would have to go and check. If I was there with my family I was probably there on leave, on holiday.

MS TERREBLANCHE: Yes, but if I told you what he told me as to what he told you, maybe that will help you. He said that in June 1985 he landed at Tel Aviv Airport and whilst they were still in the plane looking or watching a movie, the cargo was off-loaded and he peeped out and there was a crate which had been broken and he said that he saw a missile inside this crate and this was confirmed to him by the freight or cargo controller at Ben Gurion Airport, the SAA man there.

A week afterwards another South African pilot and I think you know Mr Deon Storm?

MR WILLEMSE: Yes, I do.

MS TERREBLANCHE: Exactly the same happened to him. Mr Look said that he expressed his concern about the situation to you and said that what happened then was that he had hoped that you would be able to explain this, clarify matters. But he was later called in and told that Mr Van Veer and Mr Mitchell had gone to Armscor and obtained assurances that that would not happen again. Can you recall this conversation?

MR WILLEMSE: No I can't recall it.

MS TERREBLANCHE: Can you not recall that you ever heard from anybody that they were worried about the cargo which they had to convey on SAA planes?

MR WILLEMSE: Once again as far as I can remember you're talking about '85 so it's a long time ago, I can't remember, I would have to go and check up whether I was in Mauritius in '85 but as far as I can remember there was no such a conversation with me. I'm not saying that it isn't so, I just can't remember it. And I also can't remember that anybody had a conversation with me or expressed concern about cargo which we were conveying on SAA planes. Cargo had a very low profile in the '80's, on our flights.

MS TERREBLANCHE: You don't have to give a definite figure or even a definite percentage, but can you recall how much of your cargo in the mid '80's came from Taiwan and Israel? What percentage of your cargo went along those routes?

MR WILLEMSE: I have no idea.

MS TERREBLANCHE: So you didn't target certain countries as being more lucrative than others?

MR WILLEMSE: Any cargo which became available on any route where the tariff was worthwhile we would have accepted that. As far as I can remember our biggest concentration of cargo was from Germany into South Africa because I know we had a very active team and as far as I can remember Germany was the only South African Airways depot under the control of the Germans and which is very active in obtaining cargo.

The system in Europe was that they moved cargoes by means of trucks and they concentrated on certain stations so if you ask me what were the places where there was the highest concentration of cargo then as far as I know and can remember it was from Frankfurt and also from Italy. We had a considerable amount of freight from Italy as a result of the fact that they used trucks extensively.

MS TERREBLANCHE: Were you ever aware of the fact that SAA conveyed goods for Armscor?

MR WILLEMSE: Not specifically. If you're telling me that we conveyed goods for Armscor and it was good cargo then I would say to you yes, we probably would have done it.

MS TERREBLANCHE: What is good cargo?

MR WILLEMSE: That means cargo which generates a high tariff. I would compare that instance with the following. From South Africa we often sat with cargoes of perishable goods such as flowers etc., and at that stage it was a very low tariff cargo. It was subsidised to quite a high degree by the Department of Agriculture so the income which SAA got from that was very low.

And it was important for an airline to carry cargo which had a small volume but high weight because that's where you made your money. So if Armscor was a client offering cargo falling into that category then you would rather have conveyed that and perhaps rejected flowers and perishables. But that would have applied to any other supplier.

MS TERREBLANCHE: Thank you. Dr Klatzow?

CHAIRPERSON: Commissioner Wildschut?

MS WILDSCHUT: Mr Willemse I just need to clarify for myself, you have a legal background?

MR WILLEMSE: That's right yes.

MS WILDSCHUT: And your interest and part of the reason why you came on board, pardon the pun, to SAA was because of your interest in policy?

MR WILLEMSE: My interest in?

MS WILDSCHUT: Policy, policy development.

MR WILLEMSE: Was my interest in policy, that's right.

MS WILDSCHUT: Policy, yes, particularly airline policy and you were looking at open skies policy and so on from the US. And is it true to say that somebody whose involved in policy would be involved where the airline is experiencing difficulties such as accidents and so on that one would then want to re-look at what has happened, particularly with accidents to inform policy?

MR WILLEMSE: The policy which I was looking at was totally different to for instance safety policy because airline policy and aviation policy is something quite independent and very specialised. It was very important for us in South Africa to understand what was happening globally.

The two things which were very closely interconnected were the following. What was the policy in other countries in respect of aviation policy and that is reflected in your bilateral air agreements and was important for us to understand what the policy would be of our department of transport and especially civil aviation, how would they structure our air agreements in future.

So for an airline in a country it is extremely important to understand that so that the government and the department don't decide overnight, for instance that it is now in the interests of the country to move towards an open skies policy whilst the infrastructure is not prepared for that step.

As against the situation with a disaster or an accident like the Helderberg, that is a completely different field and I would like to answer you as follows. The reason why I did not become involved at all in the Helderberg disaster was that after the accident took place I played a very limited role because I was looking at the marketing side of things and I was managing the affairs of the next of kin.

All the other legal aspects, for instance in dealing with the finalisation of claims, claims instituted by the next of kin, negotiations with our insurers. There were several sets of negotiations involved. The settlement of claims in South Africa and also in other countries where passengers came from, such as Japan, Taiwan, Korea, I think there were passengers as far afield as England and the United States.

This was all dealt with by the office of the chief legal advisor in Transnet itself. So from the airlines' side we didn't interfere at all. The chief legal advisor played that part and I was no longer part of his team and he dealt with the attorneys of the insurers because you immediately have to involve them when there is an accident and they, I'm referring you to the insurers in turn then appointed their own attorneys in the respective countries and instructed them to start up with the negotiations with the next of kin with a view to settlement of claims.

My impression was that the most important aspect here was to see whether in relation to the claims flowing from the Helderberg disaster whether this could be finalised as soon as possible in context of the international convention governing claims. And that's how the matter was dealt with so I was not at all involved in that aspect because I was no longer functioning as a legal advisor. I hope that answers your question.

MS WILDSCHUT: A question I was going to ask and that was about claims, insurance claims and so on. Are you saying that the insurance claims were not handled by SAA but by some other department and so which department, if you can just repeat that for me?

MR WILLEMSE: Yes. It was the office of the chief legal advisor of, at that stage we were not called Transnet, I think we were called the South African Transport Services. So in other words we had the legal advisor, with his team and he took over that function on behalf of Transnet of the company as such, well we weren't even a company at that time but of SATS, and he co-ordinated all the liaison with the insurers and with their attorneys and their various legal representatives.

MS WILDSCHUT: Right.

MR WILLEMSE: So he served as, let's call it, as a central point to then act into South African Airways and then from there into the

legal advisors of the various countries. So I know that there was interaction between his office for instance and our offices in Taiwan and in Tokyo and all over the show.

MS WILDSCHUT: And as marketing chief at that time, would you have co-ordinated all of those functions, would you have insured,

MR WILLEMSE: No.

MS WILDSCHUT: That people were reasonably happy with claims and insurance payouts and so on?

MR WILLEMSE: No. That was the function of the insurers as such. We didn't interfere. Their liaison was strictly with the office of the chief legal advisor and he would inform us of the progress that they were making. It's quite a structured environment in which you operate in an airline and with airline claims because you are dealing with a Warsaw Treaty which places a limitation on that which can be claimed and that applies to all international cargo or flight and then you have certain protocols which pushes up the amount that can be claimed.

So, in the case of the Helderberg, if I remember correctly, the maximum amount which could be paid to any passenger or next of kin was defined in the conditions adhering to your ticket which said that the liability of the airline is subject to the following international treaties as amended by the Hague Protocol and whatever conventions which were applicable.

So, it was quite neatly circumscribed and all that had to be determined by the insurers was actually the ultimate quantum, the amount which had to be paid out and we found that in the case of the Helderberg, the insurers were prepared to go for the maximum amount that could be paid out because I think that the dilemma which they faced was that once they started settling in a country such as Taiwan for instance, the Japanese and the Koreans would expect exactly the same settlement to make sure that there was no discrimination.

Because one country's attitude was that his citizens were no less valuable than the citizens of another country but these amounts were all determined by those international conventions and I can't remember whether the amounts were calculated in dollars or whether it was SDR or what but it was easily converted.

MS WILDSCHUT: So are you saying that there were differential payments made out to the different passengers on the flight?

MR WILLEMSE: No.

MS WILDSCHUT: Based on the tickets they have and the class they were flying or whatever.

MR WILLEMSE: No.

MS WILDSCHUT: Or relationship between the insurer and the countries that these people came from?

MR WILLEMSE: No. There was no difference. That is the point I am trying to make. The settlements which were concluded made very certain that there was no distinction made between passengers so there was parity in the offers made in terms of settlement to next of kin.

So unfortunately I can't talk about the detail because I wasn't involved but what I do know as a result of conversations that took place was that from our side, from the airlines side, we said that we should try to not cause any delays so that the negotiations as far as settlements were concerned could commence as soon as possible so that the next of kin not gain the impression that the airline was unwilling to pay out.

MS WILDSCHUT: And is there a difference between what, well, in terms of employees of SAA, look you've got passengers, people who are not employees on the flight.

MR WILLEMSE: Yes.

MS WILDSCHUT: And then you had employees of the company who are also victims of this disaster, particularly the crew and so on. Now in terms of SAA and insurance paid out to employees. Can you explain to us what happened there?

MR WILLEMSE: Yes. I'm not aware of the details but I know that as far as our crew was concerned, the former managing director, he personally visited all the next of kin of our crew. I was not involved

in that. I was only involved in the next of kin of the passengers. But I know that he made a point of visiting the crew's next of kin. He visited the pilots' wives and also the cabin crew's wives and next of kin and as far as I can recall there was a different set of rules applicable to payments to be made to next of kin of people who were actually working and were on duty whilst a disaster took place, it's different from a passenger with an ordinary ticket.

MS WILDSCHUT: You are aware of the fact that Mrs Uys is very unhappy? Do you know about the fact that she feels that she was dropped by SAA?

MR WILLEMSE: No, I am not aware of that.

MS WILDSCHUT: Thank you.

MR MAGADHLA: Mr Willemse, were you ever aware of allegations that this plane carried dangerous material, dangerous cargo?

MR WILLEMSE: Do you mean allegations?

MR MAGADHLA: From next of kin of some of the passengers and from a lot of other people. Newspapers included.

MR WILLEMSE: I am aware that long after the accident there was speculation at one stage in the newspapers. I cannot recall exactly when it was but there was speculation in the newspapers that there had been dangerous goods on board. That would surely have been

about four to five years, it might have been more recent than that. I am aware of that yes. I read that.

It must have been in one or other English newspaper that there was speculation about this possibility. So I do have knowledge of that type of speculation.

MR MAGADHLA: Are you saying your knowledge of such would have been confined to it having been expressed by newspapers and others whereas in this case there was actually the wife of the pilot who also complained, would you have regarded that as part of the rumour or the conspiracy by those people, the papers and others?

MR WILLEMSE: I'm personally not aware of as you say the wife of a pilot who complained about dangerous cargo. All that I can tell you is that I am aware of the fact that there was speculation about this in the newspapers, about the fact that dangerous goods were on board. I don't even know if they used the expression dangerous goods on board, specifically the Helderberg.

I am also not aware of the fact that there was a specific person, such as, for example the wife of a pilot who spoke to me or anyone else or where I was present and said that there were dangerous goods on board that aeroplane, no.

MR MAGADHLA: Thank you.

CHAIRPERSON: Thank you Mr Magadhla. Anything?

MS TERREBLANCHE: I think we have no further questions Mr Chairman.

CHAIRPERSON: Thank you Ms Terreblanche. Mr Willemse, thank you very much for having come and for having taken the trouble to come even with the shortest of notices and we value the information that you have been able to share with us. You are excused.

MR WILLEMSE: Thank you very much.

CHAIRPERSON: I think this will be a convenient time to take the tea adjournment. We're adjourned until twenty five past.

HEARING ADJOURNS

CHAIRPERSON: Are we ready to start? Mr Nadel, thank you very much for being here. This is a closed enquiry held in terms of Section 29 of the Act. All evidence that should be taken under oath remains confidential and will so remain until the Commission releases it subject to the requirements of the Act.

So everybody who is here has the permission to be here by reason of the fact that they are either invited to be here or have been subpoenaed to be here or are employees of the Commission. I was going to ask Commissioner Glenda Wildschut to swear you in before you testify but she is not here, she is otherwise engaged.

She forms part of the panel. She is in the Rehabilitation's and Reparations Committee. I am also one of the Commissioners who is going to be, who is chairing this panel. I am in the Human Rights Violations Committee. Mr Magadhla will assist us in the panel. He is sitting to my right and is a member of the investigative unit.

The investigator who has done most of the investigative work, in fact actually all of it, is Chrystelle Terreblanche who is sitting to our right and she has Dr Klatzow, David Klatzow who is a forensic expert and who has been contracted to the Commission to assist us in the presentation of the evidence.

In the interest of progress I will therefore swear you in, if you can stand. There is a red button there which you will press

whenever you speak, thank you. Now what are your full names for the record Mr Nadel?

MR NADEL: Vernon Nadel.

VERNON NADEL: (sworn states)

CHAIRPERSON: The witness has been sworn in Ms Terreblanche.

MS TERREBLANCHE: Thank you Mr Chair. You may sit, thank you Mr Nadel. Thanks for coming. Mr Nadel we have invited you to come here to just tell us about your role on that fateful night at the ZUR centre, Springbok Radio Centre at the former Jan Smuts Airport. We believe you have come all the way from Argentina and we are very thankful to you for making that time. Commissioner Ntsebeza I think that Dr Klatzow will do all the questioning in this one.

CHAIRPERSON: Very well, Dr Klatzow?

DR KLATZOW: Thank you Mr Commissioner. Thank you very much Mr Nadel. Mr Nadel, when did you join SAA?

MR NADEL: 2nd June 1969.

DR KLATZOW: And by the time of the Helderberg operation what was your position?

MR NADEL: I was then the duty officer in flight operations.

DR KLATZOW: Junior officer?

MR NADEL: Duty officer.

DR KLATZOW: The duty officer. What did your position entail?

MR NADEL: I was responsible for overseeing the flight operations, the radio station ZUR, as well as if and when any crew needed flight plans. This job entailed day shift as well as night shift. Obviously the functions at night were different to the functions during the day.

DR KLATZOW: Now is it correct to say that ZUR is a permanent radio station at what was then Jan Smuts Airport?

MR NADEL: Yes, at the time, yes.

DR KLATZOW: And is it correct to say that it was manned twenty four hours a day by a staff of three people?

MR NADEL: No, ZUR wasn't manned by three people. It was manned by one radio operator. The night shift consisted of a duty officer as well as the operations controller and the radio operator in ZUR.

DR KLATZOW: What was Gavin Dick's function the evening that you were there?

MR NADEL: Gavin Dick was the radio operator.

DR KLATZOW: In other words there were at least two people there that night?

MR NADEL: Yes. I don't know whether you know the set-up as far as what the building looks like. There's not two people sitting in front of the radios. There's only the radio officer.

DR KLATZOW: And is he geographically quite distant from you, the duty officer?

MR NADEL: No. You're probably looking at 20 yards, 20 metres. But there is a door separating the radio station and the ops room.

DR KLATZOW: Right. What was the difference in rank between you and Mr Gavin Dick?

MR NADEL: If you want to take it on the scale of a clerk, he was a clerk grade 1 and I would have been a senior clerk, with one gap between. So in other words I was two ahead of him.

DR KLATZOW: Is it also true that ZUR has a permanent tape recording of all the messages which are transmitted on that transmitter?

MR NADEL: Yes.

DR KLATZOW: And that the tapes are twenty four hour, slightly over twenty four hour tapes?

MR NADEL: I'm not too sure on the length of the tape but they are.

DR KLATZOW: They're not thirty minute tapes?

MR NADEL: No no, you're looking at probably an eight to twelve hour tape which does change over once it ends it automatically goes to the next one.

DR KLATZOW: Correct. And that there is a dual recording system whereby one tape immediately kicks in?

MR NADEL: If the one ends, the other one immediately kicks in, yes.

DR KLATZOW: And that the tapes are stored in large containers with a yellow or a description written onto the container?

MR NADEL: Yes, there's normally, once the tape ends the tape is put in a container with a card as you said with the date and time.

DR KLATZOW: And that those tapes are rotated on about a month or six weekly cycle?

MR NADEL: That's correct.

DR KLATZOW: So that the tape that is finished would go to the beginning of the queue and make it's way slowly up until six weeks later or so, it would be re-recorded?

MR NADEL: Correct.

DR KLATZOW: And the tapes once they are finished are kept under lock and key. I couldn't just walk in there and help myself?

MR NADEL: No it's kept in a glass, well at the stage was like a display cabinet which did have a lock but you're not looking at a safe type.

DR KLATZOW: No but it would be something that I would have to break the lock or damage it in some way to get in?

MR NADEL: Correct.

DR KLATZOW: So that anybody off the street couldn't just walk in and help himself to the tape?

MR NADEL: Well I don't think you'd get into the building, but no.

DR KLATZOW: Who had the keys to the cabinet?

MR NADEL: That was in ZUR at the time.

DR KLATZOW: Were you in charge of the ZUR keys?

MR NADEL: Well I was in charge of ZUR at the time. It was never an issue that you are given the key and it's your responsibility. The key was on top of a cupboard normally.

DR KLATZOW: But you would know if somebody took a tape out?

MR NADEL: Actually no.

DR KLATZOW: Who would know?

MR NADEL: The person in ZUR, the radio operator.

DR KLATZOW: Gavin Dick would have known?

MR NADEL: Yes.

DR KLATZOW: Now the person who was on duty immediately before you, his name was Mr Du Toit?

MR NADEL: No, Mr Du Toit was on duty in ZUR, he handed over his shift to Gavin Dick.

DR KLATZOW: Correct. And his shift ended at what time?

MR NADEL: 7 o'clock.

DR KLATZOW: And normally he would go home? Correct? There would be no reason for him to stay on?

MR NADEL: Unless he wanted to spend a few minutes talking. He would normally do the hand-over and then leave.

DR KLATZOW: Correct. And there would normally be some, unless he stayed for a cup of coffee or a chat or what have you, there'd be no reason for him to be there?

MR NADEL: No.

DR KLATZOW: Can you give me any reason why he was still there next morning and served a double shift that night?

MR NADEL: He did not stay that night.

DR KLATZOW: Well could you give me a reason why he told the Commission, the Margo Commission of enquiry that he booked off at 8 o'clock the next morning?

MR NADEL: I have no idea.

DR KLATZOW: Do you think he was lying?

MR NADEL: I believe he was probably confused.

DR KLATZOW: Why would he be confused about that?

MR NADEL: I don't know.

DR KLATZOW: So you say he's incorrect if that is what he said under oath?

MR NADEL: Absolutely.

DR KLATZOW: Now, what time did the tape change over occur that night?

MR NADEL: Sorry, can you repeat the question?

DR KLATZOW: What time did the tape change over occur that night?

MR NADEL: I can't recall.

DR KLATZOW: Did it occur during your shift?

MR NADEL: I believe it probably did yes.

DR KLATZOW: So you were there when the tape was changed over?

MR NADEL: I would have been in the office yes. Not necessarily in ZUR when the tape was being changed.

DR KLATZOW: Would you have known that the tape was changed over?

MR NADEL: Not necessarily no. It was a routine kind of operation. It was never a case that you had to go and check on it and to see that it was done correctly, no.

DR KLATZOW: So at some stage the tape, during your shift was changed over?

MR NADEL: Possibly.

DR KLATZOW: Now, in addition to that, who else was at ZUR with you that night?

MR NADEL: The operations controller was with me, Pete Pelser.

DR KLATZOW: What was his name?

MR NADEL: Peter Pelser.

DR KLATZOW: And did he, what was his function?

MR NADEL: He was what we call the operations controller. He would fill out the logs of the movements for during the day. The

night shift was basically there to prepare the documentation for the next day as well as to complete the logs for the flights that were still flying. Domestic flights that is.

DR KLATZOW: I want to return to Pete Pelser just now. But I want to put a proposition to you before I do so. The function of ZUR, it is an expensive operation, employing full time staff and occupying a room and a radio set up and a considerable amount of administration. It is not a Mickey mouse operation, if I could put it to you that way, has a function. What is it's function?

MR NADEL: Well, the main function was to monitor the movement of all aircraft world-wide and that was during the time of us flying around the bulge and

DR KLATZOW: Correct.

MR NADEL: They needed to know where the aircraft were.

DR KLATZOW: In other words it was not, it was not an operation which was simply designed to make sure that there was a wheelchair ready at the terminal?

MR NADEL: Not at all.

DR KLATZOW: It was a serious operation and the pilots would communicate to you if there was anything serious which happened on board the aircraft?

MR NADEL: If they felt they had to yes.

DR KLATZOW: Well, if there was a major problem aboard an aircraft it is very likely that they would have communicated that to their home base?

MR NADEL: Not necessarily no. Depending on the nature of the problem they would be talking to whichever air traffic control centre at the time and they would decide whether it was important enough to call us. If I may just mention that the radio station is not a requirement or prerequisite by any means, it's a, it was a luxury that the airline had but it was never an issue that it was legally required that the aircraft had to communicate.

DR KLATZOW: Nobody has ever suggested to you that it was legal requirement but nonetheless it was in existence and it was an expensive operation and it was not there simply to monitor the number of face towels aboard the aircraft and whether or not the hostesses were running out of water and that you needed, it had more serious functions in that it was to keep track of South African Airways fleet during a difficult period in their history?

MR NADEL: Correct.

DR KLATZOW: And it is likely and I want to put it to you that it's overwhelmingly likely that if something serious had happened aboard ZUR would at some stage have got to know about it?

MR NADEL: Not necessarily. The communication may not have been there at the time.

DR KLATZOW: But sooner or later there would have been communication. And I accept fully that they would have communicated with the nearest FIR but at some stage it is likely that they would tell you. What is the point of ZUR being informed for instance that they had taken off uneventfully?

MR NADEL: Well that was the normal operation. You would normally get a call top of climb and then during the course of the flight and then again at the descent. That is if the aircraft could communicate weather wise as far as static. We all know that radios are not.

DR KLATZOW: Well is it as simple as that Mr Nadel?

MR NADEL: I think at this particular time yes. If I may mention and it was mentioned at the Margo Commission that the radio station had actually had a lightning strike, some time before, so communications were not up to standard at the time.

DR KLATZOW: Mr Nadel, my information is that the lightning strike and your evidence at the Margo Commission was that the lightning strike had disabled the cell call facility?

MR NADEL: That is correct.

DR KLATZOW: And that it had not disabled the rest of the facility?

MR NADEL: No, the radios were still working but as I mentioned it could well have affected the reception of the transmissions.

DR KLATZOW: Correct. But did it?

MR NADEL: Well obviously in this case, yes because.

DR KLATZOW: Well no no, let's deal with that a little more simply. Did you have any difficulty hearing from them on their departure from Taipei?

MR NADEL: Well it wasn't on our shift, it was on the previous shift, no.

DR KLATZOW: Was there any difficulty that you were aware of?

MR NADEL: It appears not, no.

DR KLATZOW: What would suddenly make that difficulty?

MR NADEL: I'm not a technical expert as far as how radios work and the transmissions etc, but weather can cause transmissions problems.

DR KLATZOW: We'll get to the weather in a minute. Because weather is a changing phenomenon and the aircraft's position in relation to that weather is a changing phenomenon. Are there standing orders which govern the way in which you operate ZUR?

MR NADEL: No.

DR KLATZOW: Is there not a requirement that you make, try and make contact with the aircraft every hour to hour and a half?

MR NADEL: No, there is a requirement if the aircraft doesn't call you, you try and cell call them which obviously we tried and to no avail.

DR KLATZOW: And what effort did you expend to try and raise the aircraft after it failed to contact you, on the hour, the first time, on the hour?

MR NADEL: Well the aircraft was cell called but they failed to reply.

DR KLATZOW: So you cell called it and it failed to reply? What action did you take?

MR NADEL: Well there is no action to take, it happens quite often, well it used to happen very often that the aircraft would not call you.

DR KLATZOW: And is there not a laid down procedure whereby you try and contact them via speed bird or one of the other means of raising them?

MR NADEL: No.

DR KLATZOW: Now at the hearing, the Margo hearing, that was not your evidence.

MR NADEL: It was my evidence. I believe somebody else said there was standing orders.

DR KLATZOW: The evidence that was led at the Margo Commission was that if the aircraft was not contacted, it was a serious matter and that you would go to considerable lengths to try and contact them?

MR NADEL: No, that's not how it was.

DR KLATZOW: Now, let's get back to something else because I want to return to this. A number of people have phoned you to discuss this over the years. Is that correct?

MR NADEL: I've had many people calling me to discuss a lot of speculation over the years, yes.

DR KLATZOW: That's correct. What you consider speculation?

MR NADEL: Absolutely.

DR KLATZOW: And amongst those people was a man called Leon, sorry Nils Van Wyk who used to work for the SABC?

MR NADEL: I can't recall. It sounds familiar but I cannot recall exactly.

DR KLATZOW: He phoned you when you were in Miami, as did I.

MR NADEL: Oh yes I do recall now, yes.

DR KLATZOW: And at the time he asked you similar questions to the ones that I am asking you now, namely who was on duty with you that night?

MR NADEL: I can't recall.

DR KLATZOW: Well I'm going to tell you what he told me and if necessary he will tell this Commission. He said that you identified that you were there together with Mr Gavin Dick and that there was a third person whom you would not identify.

MR NADEL: I don't, I may have misunderstood his question but the question that's been presented to me on many occasions was, was there a high ranking person from the airline in flight operations.

DR KLATZOW: Listen to the question very carefully. He asked you who was there and you said to him, there was myself and Gavin Dick and there was a third person whom we will call Mr X and in his report and in his contemporaneous notes he refers to this person as Mr X.

MR NADEL: Well, I mentioned his name was Pete Pelser, I didn't think it was any.

DR KLATZOW: No, he says you specifically refused to mention his name.

MR NADEL: Well at the time I felt there's no reason for me to talk to somebody that has no authority as far as questioning me about the speculation that was going on at the time and the rumours that were so rife. He came to see me and he had no, as I say authority from anybody, it wasn't an official enquiry so I didn't feel it was necessary to talk to him.

DR KLATZOW: But you did tell him there was a third person and that person he called Mr X?

MR NADEL: Possibly.

DR KLATZOW: Now let's get back to that tape. How did the tape go missing?

MR NADEL: I don't know.

DR KLATZOW: How did it get out of ZUR?

MR NADEL: I'm not sure at what stage somebody decided they needed to take the tape but of course there were many senior people in ZUR at the time, it could have been taken at any time.

DR KLATZOW: Do you remember the tape being taken?

MR NADEL: No.

DR KLATZOW: Could the tape have got out of there on it's own?

MR NADEL: Absolutely not.

DR KLATZOW: Correct. So somebody must have come and taken it?

MR NADEL: Yes.

DR KLATZOW: Did anybody ever hand it back to ZUR?

MR NADEL: I don't know.

DR KLATZOW: When you tape record, and put a tape on, is taken strictly from the end of the row that you take, is that not correct?

MR NADEL: That is correct.

DR KLATZOW: You would not go to the middle of the row of tapes and take a tape out?

MR NADEL: It's highly unlikely but if it does happen, it obviously is a mistake.

DR KLATZOW: Well under what circumstances could a gross mistake of that nature be made?

MR NADEL: I don't know.

DR KLATZOW: Could you suggest a circumstance where somebody would under standing orders to take the tape from the end, goes to the middle of the row of tapes and takes the tape out?

MR NADEL: I have no idea.

DR KLATZOW: Do you think that that is a likely possibility?

MR NADEL: It's unlikely but it could happen.

DR KLATZOW: Right. Well let's examine that in a little more detail. The evidence given at the Margo Commission was to the effect that the tape had been either overtaped inadvertently or lost, is that correct?

MR NADEL: That is correct.

DR KLATZOW: And not only that there was really very little enquiry into the disappearance of that tape by Mr Margo?

MR NADEL: Sorry, can you repeat the question?

DR KLATZOW: There was in fact very little enquiry any further than that by Margo. And that was Margo's finding?

MR NADEL: I believe so yes.

DR KLATZOW: Now let's look at the first possibility. If the tape had been overtaped, you would have been able to go to somebody and say I'm sorry here is the tape. It's been overtaped. I don't know how it got overtaped but there is the tape.

MR NADEL: That is possible yes.

DR KLATZOW: Well that is likely isn't it?

MR NADEL: Yes, more than likely.

DR KLATZOW: Was that ever done?

MR NADEL: I don't know. I cannot recall.

DR KLATZOW: Did you ever do it?

MR NADEL: No.

DR KLATZOW: Did anybody to your knowledge ever do it?

MR NADEL: I don't know.

CHAIRPERSON: Can I just ask, at the time of the enquiry, did you personally become aware that it was muted as one of the possibilities that the tape was overtaped?

MR NADEL: Yes, I believe it was.

CHAIRPERSON: And did you seek to establish where the tape was and whether in fact the tape should not be taken to the enquiry if that was a moot question?

MR NADEL: What was the question? I don't believe I was in the position to investigate that kind of thing due to the magnitude of the occurrence and the people that were very much more senior to me that were involved with the case of the day.

CHAIRPERSON: Did you ever talk to anyone who was senior and hazard an opinion? Because I see now it possibly was a question where you would be hazarding an opinion, did you, what I'm trying to say is, here was a situation where a tape, let's look at it being

overtaped at the moment, where there was talk of it being overtaped and it happens to be the tape which was from ZUR with which you were associated and especially around the days, I mean the date in question.

Did you do anything in order for that sort of speculation to be dispelled by saying why don't you offer the tape and say here is the tape and let the Margo Commission have the tape so that we can get this particular point out of the way?

MR NADEL: Mr Commissioner as I said, at the time I was obviously too junior to be involved with that type of thing. If the tape was in anybody's possession I believe somebody should have given it or handed it in to the enquiry, the Board of enquiry.

CHAIRPERSON: Dr Klatzow.

DR KLATZOW: And yet that never happened?

MR NADEL: I understand not.

DR KLATZOW: Nobody ever went to Margo and said, here is the tape that was overtaped?

MR NADEL: I believe that what you're saying is correct.

DR KLATZOW: And if that is the case then we can safely assume that the tape was not overtaped?

MR NADEL: I don't know. As I say there was a lot of speculation.

DR KLATZOW: At the time of the Margo enquiry that speculation was rife?

MR NADEL: Yes.

DR KLATZOW: The most sinister interpretation possible had been placed on that tape? In fact it was rumoured at the time, it was said at the time that there was a conversation between ZUR and Captain Uys claiming to know something about the cargo and demanding permission to land?

MR NADEL: Not on my shift, no.

DR KLATZOW: Just listen to me. And listen to the question. The question was, at the time of the Margo enquiry which you were involved in, you knew about that rumour?

MR NADEL: There were a lot of rumours that were rife at the time.

DR KLATZOW: Did you know about that rumour?

MR NADEL: There was a rumour that there was somebody in ZUR that was speaking to the aircraft, telling the aircraft they could not divert.

DR KLATZOW: And that rumour has the most sinister implication possible for the airline?

MR NADEL: Absolutely.

DR KLATZOW: Did you ever seek to attempt to dispel this by taking the tape or did anybody to your knowledge take the tape that

had been overtaped and show it to the Margo Commission and say I'm sorry, we made a mistake?

MR NADEL: I'm not aware of that if it was.

DR KLATZOW: So we can safely assume that there is no record of in your knowledge or in the Margo Commission of that event having occurred?

MR NADEL: I don't know.

DR KLATZOW: Well I'm telling you that if you think that it's in the Margo Commission I will advise you to look at the Margo Commission and tell me where it is but I would suggest to you that it is not in the Margo Commission.

MR NADEL: No, I believe what you're saying.

DR KLATZOW: And therefore we can safely assume that the one thing that didn't happen to the tape was that it didn't get overtaped inadvertently?

MR NADEL: We can assume that then.

DR KLATZOW: Right. The second thing we've have established is that the tape didn't just walk out of there on it's own. Somebody must have taken it out?

MR NADEL: Yes.

DR KLATZOW: Do you remember Captain Jimmy Deel coming in and taking the tape out?

MR NADEL: No.

DR KLATZOW: When did you go off duty?

MR NADEL: When did I go off duty?

DR KLATZOW: Yes.

MR NADEL: My official shift ended at 8 in the morning. Due to the situation I believe I left at 10.00, 10.30, 11 o'clock.

DR KLATZOW: Before you left that day, that tape had been taken out of ZUR.

MR NADEL: I'm not aware of that.

DR KLATZOW: Who else was in the operations centre that night?

MR NADEL: Is this after the, after the

DR KLATZOW: After the notification of the accident?

MR NADEL: I initiated an emergency call list. There could have been any thing or any amount from 20 to 40 people.

DR KLATZOW: Was Captain Mickey Mitchell there?

MR NADEL: I believe he came later.

DR KLATZOW: What time? And would you identify the document that you're reading from please?

MR NADEL: I have in front of me a copy which I believe Civil Aviation has as well of the South African Airways Emergency Alarm Procedure. It's a list of names, if an emergency is declared we will go through the list, call the people.

DR KLATZOW: Who did you call that night?

MR NADEL: I'll start on the first page, not necessarily in the order that it was done, spoken to. Captain Deon Storm, Mr F Van Zyl Smit, Captain Mickey Mitchell and I can give you the time I actually called him, at 0040.

DR KLATZOW: No, don't give us that. What I would like you to do is make us a copy of that please.

MR NADEL: Certainly.

DR KLATZOW: But just read the names out.

MR NADEL: So Captain Mitchell was called at 0040, I called Captain Dries, I called Mr Davidson, Mr Britz, Mr Kate, Mr Willemse, Mr Botha, Mr Verster, Mr Roux ...[inaudible], Dr Van Der Spuy, Mr Klaase.

DR KLATZOW: What time did you call Mr Willemse?

MR NADEL: Mr Willemse was called at 0109.

DR KLATZOW: That's Tienie Willemse?

MR NADEL: Tienie Willemse, yes.

DR KLATZOW: What did you want him to do and what did he do?

MR NADEL: Well I notified everybody on this list and the normal procedure was they would either decide whether they wanted to come out to operations, go to airways head office.

DR KLATZOW: Did Tienie Willemse come to operations?

MR NADEL: I believe he would have yes.

DR KLATZOW: Was he there that night?

MR NADEL: I seem to think so yes.

DR KLATZOW: Do you remember seeing him there?

MR NADEL: I can't recall offhand, no.

DR KLATZOW: But it would be the likely thing for him to do?

Did Mickey Mitchell get there that night?

MR NADEL: Yes, I believe Mickey Mitchell was there.

DR KLATZOW: What time?

MR NADEL: I don't know what time he was, I only have the time I called him.

DR KLATZOW: But do you think that having been declared an emergency and having been told that there was a potential for an aircraft missing, do you think he would have dawdled his way to the airport?

MR NADEL: No, not at all.

DR KLATZOW: So he would have been there shortly after you notified him, which was just after 12 o'clock, or just before 12 o'clock?

MR NADEL: Yes, and let me just point out this is GMT time.

DR KLATZOW: Yes. But tell us in South African time to avoid confusion.

MR NADEL: Captain Mitchell would have been at 2.40 in the morning.

DR KLATZOW: In the morning, local time. Did you phone Gert Van Der Veer?

MR NADEL: I believe Mr Van Der Veer was called at 3 o'clock.

DR KLATZOW: What time was Mr Viv Lewis called?

MR NADEL: May I also just point out the name, Mr Van Der Veer wasn't called by me. He was called by somebody else. I believe Mr Lewis was paged on his pager at 2.40.

DR KLATZOW: Correct.

MR NADEL: He wasn't spoken to directly.

DR KLATZOW: No, but he would have come in immediately?

MR NADEL: If not to flight ops, he would have gone to the engineering department.

DR KLATZOW: Now, in your statement that you made to Nils Van Wyk, you said that Mickey Mitchell was present?

MR NADEL: Could well have been, yes.

DR KLATZOW: And you also recalled that Jimmy Deal was there?

MR NADEL: Yes.

DR KLATZOW: Not only did you recall that Jimmy Deal was there, you recalled that Tienie Willemse was there?

MR NADEL: Correct.

DR KLATZOW: And in addition to Tienie Willemse you made the statement that the last person to have contact with that tape was a man by the name of Connie Booysen?

MR NADEL: Yes, Connie Booyesen was the assistant manager of flight ops responsible for the radio station.

DR KLATZOW: And he would have had access to that tape?

MR NADEL: I believe so, yes.

DR KLATZOW: Can you think of any reason why Mr Willemse would deny that he was there that night?

MR NADEL: Like I say, I called him and whether he went through to head office or not, I cannot recall, I cannot recall seeing him.

DR KLATZOW: Mr Nadel, you are under oath and I want to remind you of your reply to my previous question. I put to you that on a previous occasion you had stated to a man that you remembered Van Der Veer, Mitchell, Deal and Willemse being present at ZUR. And when I put that to you stated, under oath that you remembered that they were there.

MR NADEL: I remembered making the statement to the person that spoke to me. I didn't say that they were definitely there. I remember speaking to

DR KLATZOW: You confirmed it in the previous question I put to you that they were there.

MR NADEL: I cannot recall.

DR KLATZOW: Now, and it is likely that they would have been there?

MR NADEL: As I say, not necessarily, some could have gone to engineering, some could have gone to the head office which is in Johannesburg, some could have come to flight operations.

DR KLATZOW: Right. Now, when was the, when, do you remember when DCA came looking for that tape?

MR NADEL: No.

DR KLATZOW: Do you know who gave them a tape?

MR NADEL: No.

DR KLATZOW: Do you not know how the tape was taken out of ZUR that night?

MR NADEL: No.

DR KLATZOW: Getting back to Mr Willemse. You remember quite well being questioned by Nils?

MR NADEL: Well he came to speak to me and it was an open discussion over a cup of coffee.

DR KLATZOW: And he made a contemporaneous note of that because you asked him not to use a tape recorder or bring a note pad?

MR NADEL: I said to him because this is not an official issue, I've had a lot of people speculating and I didn't want to be quoted out of context.

DR KLATZOW: But surely the best way to be not quoted out of context is to either allow him to tape record it or to allow him to make a note?

MR NADEL: He wasn't from an official board of enquiry.

DR KLATZOW: But then why speak to him at all?

MR NADEL: Well I spoke to him as a, he'd flown down from Orlando I believe, I'm not too sure.

DR KLATZOW: But let's look at your reason ostensibly. The reason that you didn't want him to make a note is that you didn't want to be quoted out of context?

MR NADEL: Correct.

DR KLATZOW: So you forced him to use his memory in order to quote you? A better way of being misquoted, I can't think of.

MR NADEL: Correct.

DR KLATZOW: Why didn't you allow him to make a note?

MR NADEL: As I say, I had been spoken to by many people. There was a lot of speculation, the newspapers were full of it and to tell you the truth, I was getting a little sick and tired of the reporters.

DR KLATZOW: Yes, but your actions in fact went further towards promoting the rumour than to have been open and said, tape record me, I have nothing to hide. Here it is. And yet you refused to allow him to do that.

MR NADEL: I made that statement to some other investigative reporters saying that I am quite happy to appear in front of any board or enquiry to get this whole thing over and past.

DR KLATZOW: But you see it's inexplicable Mr Nadel, I want to put it to you that if you didn't want to be misquoted, the right way would have been to allow him to make a note. As it is he did make a note. He went straight to his car and made a note. And the note that he made was as follows. And I'm going to read it to you.

“Mr Nadel said that in addition to Van Der Veer, Mickey Mitchell was also present as was Jimmy Deal and Tienie Willemse. Nadel could not elaborate as to why these persons were there, he later asked me not to mention the fact that Willemse was present at the facility.”

Why did you do that?

MR NADEL: That is not true.

DR KLATZOW: So is Mr Van Wyk lying?

MR NADEL: Absolutely.

DR KLATZOW: You never said that?

MR NADEL: I don't say I never said, I never said to him that I don't know why Mr Willemse was there.

CHAIRPERSON: No but the question is, did you ever say to him that he should not mention that Willemse was there?

MR NADEL: No.

CHAIRPERSON: Is it a coincidence that Willemse also said to us here that he was not there?

MR NADEL: No. I don't think it's a coincidence. As I said earlier on, I called the people and this is eleven years ago, I cannot recall who was actually there and who wasn't there. I called the people out and they either gone to the head office building or to engineering or to flight operations.

CHAIRPERSON: Dr Klatzow.

DR KLATZOW: You were at the Margo enquiry?

MR NADEL: Correct.

DR KLATZOW: Who sat next to you?

MR NADEL: I cannot recall that.

DR KLATZOW: Do you remember Jimmy Mitton sitting close by you?

MR NADEL: He may well have been because there was a lot of airline personnel sitting around that area.

DR KLATZOW: Jimmy Mitton's evidence will be that he sat very close to you.

MR NADEL: It's possible.

DR KLATZOW: And if he says that you would not deny it?

MR NADEL: No, I wouldn't deny it. I can't recall.

DR KLATZOW: He has a very clear memory of that.

MR NADEL: I don't deny that.

DR KLATZOW: When Mr Dick failed to raise the Helderberg on his shift, did he come and see you?

MR NADEL: Yes.

DR KLATZOW: What did he say to you?

MR NADEL: He said to me, there's problems with communication on the evening and he hasn't spoken to, not only that aircraft I believe there could well have been other aircraft that he hadn't spoken to either and I said to him it's not a problem.

DR KLATZOW: Despite the fact there were standing orders?

MR NADEL: There's no standing orders.

DR KLATZOW: Did you try to place, to put into place any of the procedures to try and raise the aircraft?

MR NADEL: The procedures were to call aircraft or to call them blindly on HF on the frequencies that they should be on and we tried that.

DR KLATZOW: Did you do that?

MR NADEL: Yes.

DR KLATZOW: How often did you try and do that?

MR NADEL: I'm not aware, Gavin Dick was the radio operator of the evening. Possibly every two hours, I'm not too sure.

DR KLATZOW: Did he ever come back to you and say I still can't get them?

MR NADEL: He came back to me I would believe. I cannot recall. But he possibly did come back and said he's having problems with communications and I probably said to him, given the fact that the communications were bad, it's not a problem. It happened on many many occasions before.

DR KLATZOW: And yet other evidence which has been led before various people and commissions and enquiries into this have led us to believe that the communications on that particular route were good most of the time, 85% plus at the time?

MR NADEL: I wouldn't want to speculate on that.

DR KLATZOW: Now, Mr Dick came to you and he said, I can't raise them and you said that's fine. What would have been the position if the aircraft had experienced some kind of dire trouble and had to ditch at sea?

MR NADEL: Well if the aircraft cannot call you it would be virtually impossible for us to have known that.

DR KLATZOW: Would it not be important for you to know that there was major trouble aboard the aircraft so that you could initiate some kind of assistance?

MR NADEL: I would believe at the time, if an aircraft has a problem he wouldn't be calling us, he would be calling the air traffic control centre that he is in contact with at the time.

DR KLATZOW: What happens if it is a peculiarly sensitive issue that needed to be discussed?

MR NADEL: I don't know.

DR KLATZOW: Would he not have called you?

MR NADEL: I don't know.

DR KLATZOW: You see the rumour is and has been for a long time that Captain Uys called ZUR and asked for permission to land after the first fire?

MR NADEL: I believe that is the rumour yes.

DR KLATZOW: Is there no truth in that?

MR NADEL: No.

DR KLATZOW: Do you think that that ZUR tape no longer exists Mr Nadel?

MR NADEL: I wouldn't want to speculate on that.

DR KLATZOW: And you say that there is nothing on that tape?

MR NADEL: There's nothing on the tape at all and I would be the happiest person if that tape did come to light.

DR KLATZOW: If I were to tell you that a copy of that tape exists, what would be your answer?

MR NADEL: I would say I'd welcome to listen to it then.

DR KLATZOW: And that that tape has been kept in a security establishment for the last ten years.

MR NADEL: I would be more than happy to listen to that tape.

DR KLATZOW: Do you think there is any reason why a major country would keep a tape of this nature in a security set up if there was nothing on it?

MR NADEL: I would not want to speculate but as I said, I would more than welcome that tape to be made public to dispel all the rumours that have been going on.

DR KLATZOW: Now at the hearing I've told you that Jimmy Mitton sat close to you?

MR NADEL: You mentioned that yes.

DR KLATZOW: Do you remember that Gavin Dick approached you at the hearing and said what am I going to tell them about the failure to contact ZUR?

MR NADEL: I cannot recall that.

DR KLATZOW: Jimmy Mitton will tell this Commission and will tell a Court of enquiry that he overheard Gavin Dick say that to you.

MR NADEL: It's possible, I don't recall though.

DR KLATZOW: Why would he say that to you if you had already given him those instructions at ZUR that night?

MR NADEL: I don't know.

DR KLATZOW: Well, let's look at it. Let's look at the possibilities. If you had said to Gavin Dick at ZUR, look it's not a problem, I mean this is routine, this is standard. There would be no need for him to ask you what he needed to tell Margo?

MR NADEL: If he asked me what he needed to tell Margo it was possibly because he felt uncertain, intimidated, I don't know but I do not recall.

DR KLATZOW: Mr Nadel, on what basis could you make that suggestion. You were his senior man at the station that night. You were the man in charge. He came to his officer in charge, said, I couldn't contact the Helderberg. His officer in charge said, it's not serious, this is nothing, no big deal. Why would he be uncertain about that. That is the thing that all junior officers love, to be able to place the responsibility on the next man up.

MR NADEL: I don't know.

DR KLATZOW: Why would he come to you at the Margo enquiry and say, what am I going to tell them?

MR NADEL: I don't know.

DR KLATZOW: Well could you give me a reasonable explanation?

MR NADEL: I have no explanation to give you.

DR KLATZOW: Well I'm going to give you an explanation. The explanation is that that conversation never took place between you and Dick at ZUR.

MR NADEL: I don't believe that.

CHAIRPERSON: Can I just ask, I'm sorry Dr Klatzow. You mentioned something here about him possibly having been intimidated. Why would he be intimidated by anything?

MR NADEL: I think maybe just the mere presence of the board in front of him. He was a junior employee and may have been intimidated.

CHAIRPERSON: What would intimidate him in going to speak the truth?

MR NADEL: I don't believe so but I think just the sheer presence of the people around him would make him feel nervous and I think that counts for me as well. I'm nervous as I sit here.

CHAIRPERSON: But wouldn't the obvious thing for him to say to you is look I feel very intimidated but I'm going to speak what I'm saying. But why would he have to ask you what must he say? Why must he seek to know from you what he has to say except that you know as the suggestion is being made, there was possibly something that you felt has or has not got to be said to the Commission?

MR NADEL: Commissioner I don't recall this discussion with him but it is possible that it did take place and as I say I cannot recall what I said to him or what I didn't say to him.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Mr Nadel, Jimmy Mitton will come under oath and say that that is what he heard, overheard between you and Gavin Dick. And I want to put it to you, for your comment, that there is only one explanation and that is that the conversation that you claim to have had with Gavin Dick that night at ZUR did not occur?

MR NADEL: Well I wouldn't want to speculate on that at all no. I believe the conversation did occur. We did communicate during the evening.

DR KLATZOW: Well then I'm inviting you to give me a better explanation as to why Gavin Dick would ask you what to say to the Margo Commission when it was quite clear that all he had to tell was the truth, if that conversation did take place.

MR NADEL: I cannot give you an explanation for that.

DR KLATZOW: Correct. Because I've searched my mind for an explanation for that for many years and none is forthcoming other than the one that I have given you.

MR NADEL: I spoke to Gavin Dick on the night.

DR KLATZOW: Well did you have the conversation that you allege that you had with him?

MR NADEL: During the evening?

DR KLATZOW: Yes.

MR NADEL: I would believe so yes. I cannot recall exact words and times and dates.

DR KLATZOW: If that is true then there would have been no need for him to ask you what he needed to tell Mr Margo?

MR NADEL: That's possible.

DR KLATZOW: That is likely, overwhelmingly likely I want to put it to you.

MR NADEL: I cannot comment on that.

DR KLATZOW: At the time of the enquiry you were aware of the rumours. You were also aware that the tape was given to Mr Mickey Mitchell?

MR NADEL: I would believe so yes. I cannot recall but I would believe so yes.

DR KLATZOW: He was the next in the chain up? You're also aware that that tape, whether it contained information or not would have been an important tape in relation to the investigation. Even if it was to negative certain allegations?

MR NADEL: I would believe so yes.

DR KLATZOW: That tape went missing. Who do you blame for the fact that that tape went missing?

MR NADEL: I would blame whoever took the tape and gave it to the person for safekeeping, that person, who it is I don't know.

DR KLATZOW: Well, whoever took the tape and I want to take you up on what you just said, would have taken the tape, not just to leave it lying around. He would have placed it in a position of safety, wouldn't he?

MR NADEL: I would understand that yes.

DR KLATZOW: And he wouldn't have just given it to the tea girl or the messenger man or the assistant who did things there, he would have given it to somebody in authority?

MR NADEL: It's likely.

DR KLATZOW: Is that correct?

MR NADEL: Correct.

DR KLATZOW: Who was the next person up in authority, easily available that evening at your station?

MR NADEL: I don't want to speculate on that. There was a lot of people. As I said, probably between 20 and 40 people coming and going at all times of the morning.

DR KLATZOW: Mr Van Der Veer was there?

MR NADEL: He was there yes.

DR KLATZOW: And it would be like to him, it would be the obvious person to have there. He was the chief executive officer?

MR NADEL: Correct.

DR KLATZOW: So it's likely he would have been at the hub of things?

MR NADEL: Oh yes.

DR KLATZOW: And had the tape been taken out of ZUR by Jimmy Deel, passed on to Mickey Mitchell, it is likely that it would have come into the hands of Gert Van Der Veer?

MR NADEL: It's likely but it's not that it's 100% possible.

DR KLATZOW: Well Jimmy Deal who is unfortunately dead told me on a tape recording that he handed the tape to Mickey Mitchell and Gert Van Der Veer.

MR NADEL: If that's what he said then it must have happened like that, I don't know.

DR KLATZOW: And that would not be unlikely?

MR NADEL: Not unlikely no.

MS TERREBLANCHE: Mr Nadel you said you were very concerned about the speculation?

MR NADEL: Absolutely.

MS TERREBLANCHE: Until today. You are aware that SAA had an in-house enquiry about the Helderberg about three years ago?

MR NADEL: I believe so yes.

MS TERREBLANCHE: So yes. My question is, were you not invited?

MR NADEL: I wasn't invited. I was called by the chief executive to answer one question which I answered honestly. He asked me, was there anybody of higher authority in ZUR talking to the aircraft and I said no.

MS TERREBLANCHE: In addition to that, did anybody ever ask you whether there was a conversation with the Helderberg?

MR NADEL: Yes.

MS TERREBLANCHE: Did they ask you again during the in-house enquiry?

MR NADEL: That was one of the questions that the chief executive asked me. He said was there anybody and was there a conversation and I said no. I was very adamant about that.

MS TERREBLANCHE: So you were not required to come to South Africa for that enquiry?

MR NADEL: It didn't appear to be no.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Did ZUR have the ability to patch through radio conversations with other senior members of SAA at the time. If there'd been a problem could you have contacted Mr Van Der Veer and put him on the line?

MR NADEL: It could have happened yes.

DR KLATZOW: There was that facility?

MR NADEL: There was that facility yes.

DR KLATZOW: And did anybody outside of ZUR that night speak to the Helderberg?

MR NADEL: I'm not aware of that no.

DR KLATZOW: Now, let me give you a scenario. You're aware that the cockpit voice recorder was recovered?

MR NADEL: Yes.

DR KLATZOW: You're aware that it was transcribed at great expense?

MR NADEL: Yes.

DR KLATZOW: And that it occupied approximately 30 minutes?

MR NADEL: Yes.

DR KLATZOW: You will also be aware that SAA serves meals at the beginnings of flights, not at the end of flights?

MR NADEL: I think each route is totally different, depending on the time of the day.

DR KLATZOW: Mr Nadel, can you give me one flight where SAA supplies a meal to it's patrons as they're about to come in to land?

MR NADEL: Not as they're coming in to land but if it's at breakfast time, two hours out, possibly a little longer, a little less they get breakfast, sure.

DR KLATZOW: Yes but we're not talking about breakfast, we're talking about dinner?

MR NADEL: No no, that's unlikely.

DR KLATZOW: Now if there'd been a discussion on that cockpit voice recorder about dinner. What would that imply?

MR NADEL: It would imply that dinner was being served or somebody was asking what is on the menu for the dinner.

DR KLATZOW: Well if it appears from that tape recording that dinner was served to the entire cockpit crew what would it imply?

MR NADEL: I'm not quite sure.

DR KLATZOW: Well it would imply that that cockpit voice recorder recorded that event at the time of dinner which would have been closer to the beginning of the flight rather than to Mauritius.

MR NADEL: It would probably imply that yes.

DR KLATZOW: Yes, it would imply that. Could you give me a better explanation?

MR NADEL: No.

DR KLATZOW: Right. We know that the cockpit voice recorder ceased to function because of the effects of fire?

MR NADEL: Yes.

DR KLATZOW: And therefore because it is a half hour recorded message which goes over itself and records only the last half hour, it means that that cockpit voice recorder ceased to function closer to Taipei than Mr Margo would have had us believe.

MR NADEL: I'm not an expert on technicalities so I'm really hesitant to answer questions about the cockpit voice recorder.

DR KLATZOW: But it stopped functioning as a result of fire. You can accept that?

MR NADEL: That's what they've found, yes.

DR KLATZOW: And it recorded a conversation about dinner?

MR NADEL: I'm not sure about the conversation.

DR KLATZOW: The official record Mr Nadel is that it recorded a conversation about dinner.

MR NADEL: I'm not aware of that, no.

DR KLATZOW: Well I'm now making you aware of that. And you've agreed with me that dinner would likely to be served closer to Taipei than to Mauritius?

MR NADEL: Yes.

DR KLATZOW: And therefore if the tape recorder recorded that dinner because it's a half hour recording, it must have ceased to function within a short period after, while dinner was being served, which is shortly after take off, rather than at top of descent?

MR NADEL: More than likely yes.

DR KLATZOW: Now, do you know what the standing instructions to pilots are if they have a fire on board?

MR NADEL: No.

DR KLATZOW: Well let me tell you that the instructions are that they are to put out the fire. Don't mess around. Put out the fire. It makes sense?

MR NADEL: Absolutely.

DR KLATZOW: It then says, seek the nearest available airfield and land as soon as possible. Does that make sense?

MR NADEL: Absolutely.

DR KLATZOW: If Uys had had a fire on board, is it not likely that he would have, at that stage, outside Taipei, two hours, three hours

from Taipei, is it not likely that he would have sought to land that aircraft?

MR NADEL: Absolutely.

DR KLATZOW: Do you think he would have done that off his own bat?

MR NADEL: I would believe so yes.

DR KLATZOW: Despite the fact that if he had known that there was contraband cargo aboard, do you still think he would have done it off his own bat?

MR NADEL: I would believe so yes.

DR KLATZOW: So he would have landed the aircraft and risked foreign countries who were hostile to South Africa searching the aircraft to find military contraband aboard. Do you think he would have done that without contacting you?

MR NADEL: I would believe at any given time if you're in a situation that I believe he was in, I don't think you'd think about the consequences as far as landing. You'd worry about that afterwards.

DR KLATZOW: So he would have landed willy nilly and placed the entire future of the airline in jeopardy because if that had become public knowledge to the authorities at Bombay or wherever these places were along the route it would have effectively have taken South Africa out of the skies.

MR NADEL: Possibly but you would have had a hundred odd people alive still.

DR KLATZOW: And you think Uys would have risked sinking South African Airways having thought that he had put the fire out, do you think he would have risked South African Airways merely to comply with a regulation?

MR NADEL: I think if he felt in his mind that the fire was out he would have continued. But I think if he knew in his mind that the fire was uncontrollable he would have landed.

DR KLATZOW: No. Let's get back to that and deal with that because I want to deal with your logic. If there'd been a fire on board and we've looked at the logic as to why we believe there was a fire on board outside Taipei and you've agreed with that logic?

MR NADEL: Yes.

DR KLATZOW: If that fire had been extinguished. The standing regulations require you to go down and examine the aircraft because it is possible that major structural could have been done to the aircraft by the fire?

MR NADEL: Yes.

DR KLATZOW: If Uys didn't do that, you're saying that it is quite easy on your mind that he would have done so without referral to higher authority?

MR NADEL: You mean that he continued?

DR KLATZOW: Yes. No. That he would go down, the regulations require him to go downstairs. He didn't do that. Why do you think he didn't do it?

MR NADEL: I'm not able to speculate why he did or why he didn't.

DR KLATZOW: But let's examine it Mr Nadel. You're ducking the question. Captain Uys had a standing instruction. That instruction is clear. If you have a fire, put it out and then go down. We know he didn't do that and we know that there is a great likelihood that the first occurred six hours or so earlier than the Margo Commission would have us believe?

MR NADEL: If that's what you say yes.

DR KLATZOW: And you've agreed with that logic?

MR NADEL: Yes.

DR KLATZOW: Now, can you think of a reason why he didn't go down and follow the eminently sensible regulations which all pilots know about and all pilots would adhere to because there is nothing that is feared more than a fire in the air?

MR NADEL: Well I couldn't give an explanation. I don't believe he wouldn't have done that.

DR KLATZOW: That he wouldn't have done what?

MR NADEL: Gone down.

DR KLATZOW: But he didn't go down.

MR NADEL: That was obvious.

DR KLATZOW: Correct. He went down in flames outside of Mauritius.

MR NADEL: Yes.

DR KLATZOW: Which means that if the argument that there was an earlier fire was correct, he did not go down. He did not follow those eminently sensible instructions and go down.

MR NADEL: That is if there was a fire beforehand, then obviously he didn't.

DR KLATZOW: And we've been through that logic and you find it logical?

MR NADEL: Well there's a lot of speculation once again.

DR KLATZOW: No no I've given you no speculation. I've told you certain facts. And those facts are not speculation. Those facts are that there's a discussion about dinner. That the tape recording has a certain period which it tape records and that it stopped functioning as a result of the fire. There's none of that that's speculation.

MR NADEL: I haven't heard a clear copy of the cockpit voice recorder so I cannot say.

DR KLATZOW: Mr Nadel, you're ducking the question. Margo accepted the official recording means whatever Margo accepted and Margo accepted that there was a discussion about dinner prior to the

failure of that tape recorder. Are you going to deny that there was a discussion about dinner?

MR NADEL: If that's what the tape said then no I won't deny it. What I'm trying to say is. The discussion about the dinner could have been dinner at home the next day.

DR KLATZOW: No, it clearly wasn't dinner at home the next day. It was to do with the dinner served in the cockpit. Would you like to read it? You've read that now.

MR NADEL: Yes.

DR KLATZOW: Are you in any doubt that a discussion about dinner being served in the cockpit was recorded?

MR NADEL: No, I have no doubt.

DR KLATZOW: Right. Now that must mean and there is no other explanation. I want to put it to you that that tape recorder must have recorded that outside Taipei when dinner was served and ceased functioning shortly thereafter?

MR NADEL: It's possible yes.

DR KLATZOW: Well if it is only possible give me another possibility.

MR NADEL: No, depending on what time dinner was served out of Taipei whether it was the normal time or slightly later I don't know but it is possible.

DR KLATZOW: Even if it was slightly later?

CHAIRPERSON: I think what the proposition has been or the perusing that has been made was that we must logically accept that whatever the time period was after the aircraft had departed from Taipei, whether it was an hour or two hours or even three hours, that recording, if it is a recording of dinner being served must be an indication that it was done closer to the time that the aircraft left Taipei than closer to the time that the aircraft was about to descend on Mauritius.

MR NADEL: I accept that.

DR KLATZOW: Now, can you think of a single reason why Mr Uys, having put out the fire would not go downstairs and check that his aircraft was indeed safe and indeed check that he was not going to have a tragedy such as the one which unfolded outside Mauritius?

MR NADEL: Yes.

DR KLATZOW: There's no reason is there?

MR NADEL: No.

DR KLATZOW: Yet he didn't do that?

MR NADEL: It appears not.

DR KLATZOW: Now, under those circumstances, do you not think that it is reasonable that he would have called up ZUR, or tried to call up ZUR?

MR NADEL: He probably would have tried yes.

DR KLATZOW: And he would have kept trying with the contingencies of the operation that he was dealing with but clearly it was, the aircraft was serviceable enough for him to make it from wherever he was at that time to just outside, one hundred and something nautical miles outside Mauritius, there would have been some opportunity for him to raise ZUR?

MR NADEL: If the communications were possible, yes.

DR KLATZOW: And it is the sort of thing that he would have told ZUR?

MR NADEL: Definitely. If he had got through to ZUR, he would have told ZUR that he had a problem and he needed to speak to somebody.

DR KLATZOW: And it is not far fetched that he would have made every effort to get through to ZUR?

MR NADEL: Absolutely. Not far fetched.

DR KLATZOW: Now what you are postulating is that for over three quarters of the flight of that aircraft the communications were so bad that no possibility existed that he could raise ZUR. Is that not far fetched?

MR NADEL: No. It's not far fetched, it has happened before.

DR KLATZOW: How often has that happened before?

MR NADEL: I would say many times.

DR KLATZOW: Was it a common occurrence?

MR NADEL: Not common, but not uncommon either.

DR KLATZOW: Now could you give me an explanation as to why Mr Du Toit says that it was a very uncommon experience, particularly on that sector?

MR NADEL: I cannot speak on behalf of Mr Du Toit, no.

DR KLATZOW: Do you think he's lying?

MR NADEL: I don't say he's lying but I cannot speak on his behalf.

DR KLATZOW: I'm not asking you, I asking you to think of a reason why he should say that to me?

MR NADEL: As I said, it's not common, but it's not uncommon either. So depending on the percentages, this could unfortunately have been one of the uncommon times when it didn't work.

DR KLATZOW: Mr Nadel if it's not common, it's common. So if it is not common then it must be uncommon?

MR NADEL: Correct.

DR KLATZOW: Now please. Make up your mind, one way or the other. Is it common or uncommon?

MR NADEL: It's not uncommon that communications sometimes don't get through.

DR KLATZOW: So in other words it's common?

MR NADEL: Yes.

DR KLATZOW: Give me a reasonable explanation why Mr Du Toit would want to come and lie to the Commission and say that it is in fact a very uncommon occurrence?

MR NADEL: I don't know.

DR KLATZOW: He gets nothing out of saying that.

MR NADEL: I don't know.

DR KLATZOW: You're aware that Margo found a number of things. Number 1, that Margo found that there was a proper procedure to be followed if there was no call.

MR NADEL: I believe there was speculation that there was a so-called standing orders, but there was no such a thing.

DR KLATZOW: Well Margo in fact, if you look at Margo, Margo found that there was indeed a procedure to be followed?

MR NADEL: It was mentioned at the hearing, yes.

DR KLATZOW: It was more than mentioned. That's what Margo established, that you had to do certain things?

MR NADEL: I don't believe that there is a standing order, no.

DR KLATZOW: Well is there or isn't there?

MR NADEL: No.

DR KLATZOW: Would you bear with me one moment Mr Commissioner, could we just take a three minute break while I find the relevant quotes?

CHAIRPERSON: Very well. We'll adjourn for five minutes.

Could we also take the time to make copies of the document that Mr Nadel was using.

COMMITTEE ADJOURNS

ON RESUMPTION

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Thank you Mr Chairman. You see at the Margo enquiry Mr Du Toit would have no reason to lie or to fabricate. He said certain things which you are contradicting flatly?

MR NADEL: Yes.

DR KLATZOW: Those things are incidentally the following. There is a procedure that is correct and this normally gets done and if that fails then we contact by any other international station like Speedbird, London and ask them to contact the aircraft. Is that not true?

MR NADEL: I am aware of that. That statement was made at the Margo Commission as well and I flatly refute that. There is no such a standing order.

DR KLATZOW: And if the aircraft in this particular instance does not call back then there's a duty on the officer to make contact on any other frequency and Du Toit says affirmative.

MR NADEL: That is correct. You try all the frequencies but there's no standing order.

DR KLATZOW: And if you couldn't get through you'd approach another airline to try and get hold of them?

MR NADEL: I know that's what he said but it's not true.

DR KLATZOW: It's not true?

MR NADEL: No.

DR KLATZOW: So in the eventuality of an aircraft ending up in the South Atlantic, I as a passenger have the happy prospect of waiting 'til I'm overdue before you people did anything about it?

MR NADEL: As I mentioned earlier on, I think there was two airlines in the world that had this facility, British Airways and South African Airways. No other airlines have this facility. It's not a legal requirement. The aircraft talks to air traffic control centres throughout and they are the people that normally initiate any search and rescue if there is a problem.

DR KLATZOW: And the period of non contact with a plane when it is due to contact you once every hour or hour and a half, four or five hours goes by and you can't pick them up however hard you try and this doesn't perturb you?

MR NADEL: No.

DR KLATZOW: It didn't perturb you at all?

MR NADEL: Because this is not a, as I said earlier on it's not a requirement by airlines. There's two airlines in the world that have

this facility. If you look at all the other mega carriers, they don't have this facility.

DR KLATZOW: With great respect Mr Nadel if the duty of the airline is to call you and if there are instructions to call that aircraft back if you can't raise or if they don't raise you and that fails to happen for five hours you are not perturbed by it?

MR NADEL: But those instructions do not exist. Where Mr Du Toit or Mr Dick got those from I don't know.

DR KLATZOW: Did you give evidence at the Margo Commission?

MR NADEL: Yes.

DR KLATZOW: Did you tell Judge Margo that those instructions don't exist?

MR NADEL: I believe I did yes.

DR KLATZOW: Were you cross examined on that?

MR NADEL: I believe so yes.

DR KLATZOW: Did Mr Southwood who was leading the evidence for the State ever say to you, Mr Nadel I believe you're making all this up?

MR NADEL: I believe he did say that yes.

DR KLATZOW: Why would he say that to you Mr Nadel?

MR NADEL: I don't know.

DR KLATZOW: I want to put it to you that he has the same feeling that I have as I am cross examining you now. That you are saying these things and that they did not occur.

MR NADEL: I actually have a briefing notice with me of the procedures to follow as far as making contact with aircraft and I would be happy to give you a copy.

DR KLATZOW: I would like a copy please. Mr Nadel, one of the things that has to be done is that the logbook has to be signed in. Is that not correct?

MR NADEL: Whoever hands over to the other person, the logbook is signed yes.

DR KLATZOW: Did you ever see the log book for the, have you ever had a look at that logbook?

MR NADEL: I have seen it at the enquiry I believe yes.

DR KLATZOW: Could you give me an explanation as to why, that logbook was never tampered with?

MR NADEL: I don't believe so, no.

DR KLATZOW: And it is an official document, an important document?

MR NADEL: I think it's an important document as far as keeping record of what actually transpired.

DR KLATZOW: And the signature of the man filling it in appears at the bottom of the page?

MR NADEL: I seem to recall yes.

DR KLATZOW: Can you give me an explanation why Mr Du Toit's signature appears on pages which he never filled in?

MR NADEL: Actually yes I can.

DR KLATZOW: Let me hear it.

MR NADEL: Mr Du Toit was actually a strange gentleman. And he would come on duty and sign three or four pages with the idea that we would be filling them in as he goes along. And that is the explanation that I can give you.

DR KLATZOW: Why would he do that?

MR NADEL: It was just his mannerism. He used to do it all the time.

DR KLATZOW: Was that ever crossed out?

MR NADEL: I don't know.

DR KLATZOW: You saw the document?

MR NADEL: I cannot recall.

DR KLATZOW: If you'd filled in those pages would you have crossed it out?

MR NADEL: I would probably have signed my name either over it or next to it or crossed it out, sure.

DR KLATZOW: Did you do that?

MR NADEL: I wasn't responsible for filling out the logbook.

DR KLATZOW: Who was?

MR NADEL: Mr Dick.

DR KLATZOW: We deal with another issue for the moment. How would you describe your job there. Would you describe it as a senior position in the airline, would you describe it as a fairly junior position at that time?

MR NADEL: I would say bordering on becoming more senior.

DR KLATZOW: More senior?

MR NADEL: Well bordering on becoming more senior.

DR KLATZOW: What does that mean in answer to my question. Were you or were you not a junior?

MR NADEL: I was a junior yes.

DR KLATZOW: And what is your position now?

MR NADEL: I am manager for South America.

DR KLATZOW: What was your position in Miami?

MR NADEL: I was manager for Miami.

DR KLATZOW: Area manager?

MR NADEL: Yes.

DR KLATZOW: Is that a senior position?

MR NADEL: Middle management.

DR KLATZOW: What was your salary at ZUR?

MR NADEL: I cannot recall.

DR KLATZOW: Roughly? Did you earn hundreds, thousands or millions?

MR NADEL: Thousands.

DR KLATZOW: How many thousands?

MR NADEL: I can't recall.

DR KLATZOW: What was your salary in Miami? Was it a substantial increase?

MR NADEL: Yes.

DR KLATZOW: How much increase?

MR NADEL: I can't.

DR KLATZOW: Double, treble?

MR NADEL: I wouldn't want to speculate no.

DR KLATZOW: Mr Nadel I want to put it to you, it's very strange.

CHAIRPERSON: You are not, with respect Mr, you are not being asked to speculate. I mean you are being asked to give an indication. I think there is a point here and I am sure you will appreciate in due course. Unless you have a very good reason why you should not give us an indication or an explanation but we are certainly not asking you to speculate what your salary is.

You know what your earnings are. You know what your earnings then were and as I say there is a point that he wants to converse with you. So if you could be frank about your earnings and the difference between your earnings between then and now, it might assist us to get over this point. I wouldn't like us to waste more time on the issue. So if you can give us any indication of what

your earnings were then and what your earnings are now, then we will quickly get over this point.

MR NADEL: Okay. If I can just go back a moment then. From my position at the time I moved through the ranks not very quickly. Reasonably slowly. It wasn't from one day to the next that I became manager for Miami. I became manager for Miami in 1992.

CHAIRPERSON: In fact that's the point I am sure that is going to be made, that you seem to have had a meteoric rise after the Helderberg incident and you see what then would be the basis for that.

MR NADEL: If I can give you a brief history of my career path I would be more than happy if you would like to hear it. After the Helderberg I was still in flight operations. I moved to what we call route clearance unit which was a sideways move, meaning that I didn't have to work weekends. I actually took a drop in salary because there was no Sunday time and overtime worked.

In 1990 they advertised in the national press as well as internally within the airline for trainee overseas managers. I applied for the job in 1990 along with 160 others from all walks of life, within the airline, from outside of the airline. I went through a process of psychometric testing. I did management courses and was eventually invited in January 1991 to be interviewed.

I got through the interview, there were ten of us left. Eventually two people decided on their own to step down from the training course and I then proceeded to go on a years training course as an overseas manager. I did various functional, non functional management courses. Functional courses within the airline, reservations, ticketing, sales, marketing.

The functional courses, and that's on record, it can be obtained, I didn't receive anything lower than 90+ percentage for the examinations. I was successful after the years training course and I was selected out of the eight. Five of us were eventually sent as trainee managers abroad. I spent nine months as a trainee manager before I was eventually promoted to manager in Miami.

I started Miami from zero ground base. We had one flight a week. We had no infrastructure at all. I set it up. After five years we were flying five times a week. Miami grew to be the most successful. The No. 1 route in our world-wide network in terms of revenue, load factors etc. So I'm a little concerned that the speculation is that I got this promotion because of what I know and what I'm not prepared to discuss with anybody else and I think I earned it through merit.

In actual fact my latest appointment to South America, Mr Nombeti approved himself.

DR KLATZOW: Mr Nadel we're not for one moment doubting your ability. We're merely saying that your rise in the light of what occurred and in the light of your original position is meteoric to say the least. Now whether it's meteoric because of what you know or meteoric because of your extraordinary abilities, I have not speculated on.

CHAIRPERSON: But then I think I must say, sitting from where I'm sitting, it will assist us in order to be either accept or dispel the speculation if we don't get the impression that you are evasive about your wage levels.

MR NADEL: No no.

CHAIRPERSON: I think in the confidentiality of this room and in this enquiry if a question is put to you, how much were you earning at the time, how much are you earning now, then we can be placed in a position where we are able to compare and see if we can make something out of it. That's my only concern you know that as you were saying you don't want to speculate about your wage, earning levels, I was slightly becoming uncomfortable because I knew that the same sort of questions were put for instance to one of your seniors and he was asked for a comment and I think in your own interest if you were candid about this and if you accepted that though it is a private matter but it will be confidentially treated, in your own interests.

MR NADEL: Mr Chairman thank you. Obviously an overseas manager's position is a highly sought after position in terms of your overseas posting, the environment you stay in, the added benefits that you get in terms of foreign currency, my salary in Miami was 50 000 US dollars. Now everybody is going to convert that to South African Rands and say, the guys a millionaire.

In actual fact that's not true. If you take the cost of living abroad, I think we can all do our maths. It's not a mega salary to be earning. My salary in South Africa was obviously South African Rand and I must be very honest with you, I cannot recall what my salary was but it took four years, four and a half years to get from the fateful day to Miami.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Thank you Mr Nadel. Now earlier on I dealt with the issue of standing orders with you and you said that if Mr Du Toit said that there were standing orders and that there was a standing instruction, that he was mistaken and that there was no such thing?

MR NADEL: Yes.

DR KLATZOW: Is it possible that both Mr Du Toit and Mr Dick could be wrong?

MR NADEL: Yes.

DR KLATZOW: On this issue?

MR NADEL: Yes.

DR KLATZOW: So they are both wrong and you are right?

MR NADEL: Yes.

DR KLATZOW: Let me read you what Mr Dick says. In response to a question from Mr Du Toit he says, Mr Dick says,

“I presume we all have our own way of working but the standing order is between one and a half and two hours, up to two hours is acceptable.

Where is this standing order? It is kept on file at ZUR Radio Station”

Is he lying?

MR NADEL: I don't believe that standing order has ever come to light.

DR KLATZOW: Please answer my question. Is Mr Dick lying?

MR NADEL: I believe he made a false statement, yes.

DR KLATZOW: Why would he want to do that?

MR NADEL: I don't know.

DR KLATZOW: Mr Dick went into the details of what needed to be done.

MR NADEL: I believe it's very similar to what Mr Du Toit said as well.

DR KLATZOW: That is correct. But they differ from you, both of them differ from you in saying that despite the fact that there are standing orders you say there are no such standing orders?

MR NADEL: Absolutely. The only standing orders I have is I believe I gave you the copy.

DR KLATZOW: Now I did not have the advantage at the Margo enquiry of seeing your demeanour in the witness box. But Mr Southwood did. Mr Southwood put it to you very bluntly that you were lying. He said you are making up what you are telling this commission. Why would he do that?

MR NADEL: I don't know.

DR KLATZOW: Could you give me a reason?

MR NADEL: No I can't because I was under oath as I am now and I stick by that I said no then and I'll say no now again.

DR KLATZOW: Let us go through the problem that we have with your evidence. And I want to deal with something else before I do that. Were there any other things, any other records made on that tape of problems experienced by aircraft that evening?

MR NADEL: I don't have a copy of the tape so I don't know.

DR KLATZOW: Do you remember anything?

MR NADEL: No.

DR KLATZOW: It's likely that you would have remembered?

MR NADEL: If there was something that was untoward I would believe I would've remembered.

DR KLATZOW: Let's assume for instance an aeroplane had an engine failure. It would be the sort of thing that they would phone back and say guys we've had an engine failure, do you think you could get a spare engine up here?

MR NADEL: They would try and call and/or send a fax, not a fax a telex.

DR KLATZOW: Correct, to you?

MR NADEL: To operations yes.

DR KLATZOW: Yes. And you would be aware of that?

MR NADEL: I should be aware of it yes.

DR KLATZOW: Were you aware of anything else that evening?

MR NADEL: Yes there was an aircraft on the ground in Sol Island.

DR KLATZOW: What was wrong with it?

MR NADEL: I believe they had to, they had some technical problem which they had to bring an aircraft engine I think from Europe somewhere, I'm not sure.

DR KLATZOW: Yes. Was that on the ZUR tape?

MR NADEL: I'm not sure either.

DR KLATZOW: Did they contact you?

MR NADEL: If you have a copy of the logbook possibly but if not I don't know. They could have telephoned or sent a telex.

DR KLATZOW: And you would have been aware of both?

MR NADEL: I would believe so yes.

DR KLATZOW: Let me tell you the problem that I have with your evidence Mr Nadel, is this. A fire occurs on board that aircraft. The available evidence strongly suggests that it occurred early in the flight. During the period of your tenure at ZUR or just before you've conceded and agreed with me that it is something which they would likely have spoken to ZUR if it had occurred then.

You've agreed with me that the correct thing for the pilot to do would have been to go down and have the aircraft checked. We accept and it's common cause that that never happened. You expect me to believe that the pilot would have made the decision to continue flying despite all airline regulations and all flying regulations and all common sense on his own bat?

MR NADEL: I don't say that at all, no.

DR KLATZOW: You're saying he never, you're saying he never contacted you? We know he went on flying. There is only one inference and that is that he made the decision without referral to base to go on flying after that fire?

MR NADEL: I can state categorically, as I have done before, that the aircraft did not speak to ZUR and/or to anybody else to my knowledge. And if it did and if there was something untoward I would believe Dick should have told me and if he didn't tell me, he

was keeping something from me, and as I say, from my side I can categorically state that the aircraft never called.

DR KLATZOW: Mr Nadel, you're missing the question. I want to put to you a series of improbabilities in your evidence. And it is very easy to categorically deny something but I want to put it to you that your denial rings hollow. And I want to tell you why it rings hollow. It rings hollow for a number of reasons which I have given to you, all of which are based on fact, not on speculation.

And I started to give you those. And those include the fact that the likelihood with which you've agreed is that the fire occurred early in the flight, if the dinner is there. You've agreed and you've read that Margo, official transcript has a record of the dinner on the flight. You've agreed and the Margo enquiry has accepted that the flight recorder stopped because of fire.

You've agreed that that is most unlikely that that could have been outside Mauritius. You've agreed that the most sensible thing to do and would have complied with the regulations was for Uys to have gone down and have the aircraft checked. You've agreed that he didn't do that. And if we are to believe your evidence we must believe that he did all of that off his own bat without checking with ZUR?

MR NADEL: It appears that could have happened.

DR KLATZOW: You have furthermore told us that everybody is lying but you. Gavin Dick is lying and Mr Du Toit is lying and that you are the only person at ZUR that night who is telling the truth?

MR NADEL: The issues about the standing orders?

DR KLATZOW: No, the issue is about whether there was a tape recording that night. And to cap it all, Mr Nadel, the vital tape recording that covers that specific period of time inexplicably finds its way out of ZUR, never to see the light of day again. And you wonder why there is rumour and speculation. You wonder why it is?

MR NADEL: No, I don't wonder why it is. That is obviously the reason for it.

DR KLATZOW: That is absolutely. And there is good reason for that speculation. And there is good reason for the negative inference. And yet you give us a version which is so inherently improbable that it is difficult to believe. And in addition you've given us a version which not only I find improbable but Mr Southwood at the original Margo enquiry found improbable to the extent that he accused you of lying.

You've given us a version relating to the conversation that you had with Mr Dick when you yourself have agreed that had he had that conversation with you, there would be no reason for him to ask you at the hearing what he needed to say. It was there for him

to tell the enquiry. The truth, the truth is I was told by my superior officer not to bother about it.

I want to put it to you Mr Nadel that your versions are so inherently improbable that they should be rejected. And I want to put it to you that your fencing over the years with people who genuinely wanted to find out. The referral to Mr X, your demand that people not take down a statement when ostensibly your reason was to prevent yourself from being misquoted. And you then did the very thing that would ensure that you were misquoted.

I want to put it to you that that is inherently improbable and I want to put it to you that everything that you've told me today is untrue.

MR NADEL: Well I'd like to refute that. Absolutely.

DR KLATZOW: Well, I would like you to do better than to simply say that it is true. I'd like you to give me a reason why the Commission should believe you. Because I've given you cogent arguments why it is that what you've told us is a tissue of lies.

MR NADEL: Well, the only thing that I can say is I know in my mind, in my heart that what I've told you is true. I know that.

DR KLATZOW: Mr Nadel the last person who said that, in this country at a commission were the people who later were found to be the perpetrators of the hit squad activities. That statement is not dissimilar from the statements made by Eugene De Kock and his

band of merry men. I am asking you for a reason to believe you. I'm not asking for a bald denial. I'm asking for a reason in the teeth of cogent argument why it is that this commission should believe what you've told us.

MR NADEL: Firstly, I don't want to be associated with the previous people you spoke about, I don't think this is a political issue at all. This is a very sensitive issue. It's an issue where a lot of people got hurt, a lot of people are still hurting. I for one have a lot of rumours thrown around that come back to me, a lot of speculation.

I haven't enjoyed this, reading about these things in the newspaper when I know full well that a lot of it is or most of it is pure speculation. The issues of the Gavin Dick and the Etienne Du Toit, I don't believe a copy of that so-called standing order that they are talking about has ever come to light. If it was available at the time, it could have been subpoenaed.

This came up in the Margo Commission enquiry and I'll stick with that. The document that I gave you is the only thing that was on file regarding making contact with aircraft. At the end of the day I know that I was not aware of any conversation between the aircraft and/or any senior member. There was no senior person in flight operations on the night. I personally went through that list calling people as you can see.

So, maybe the misquotes of the Margo then and the Southwoods and those issues are issues that have come up again and that's possibly why you're basing your accusation that you believe I'm not telling the truth.

DR KLATZOW: Now you've said to me that there was no standing order. And you said that under oath today. You know that you're under oath?

MR NADEL: Yes.

DR KLATZOW: Mr Southwood put a question to you and you were presumably under oath then?

MR NADEL: Yes.

DR KLATZOW: He said, you would just ignore the arrangement, you would ignore the standing order, why. I wouldn't say ignore it. I went by past experience as far as this route is concerned. Why didn't you tell Southwood? Why didn't you tell Margo that there was no standing order? Why did you accept that there was a standing order at the Margo enquiry?

MR NADEL: I believe that I said no, that there was no.

DR KLATZOW: No. Let me read it to you again. Southwood puts the following proposition to you. He says,

“You ignored the standing order, why? Well I wouldn't say that I ignored it.”

If there was no standing order Mr Nadel, you would have said to him, Judge, Lord, there is no standing order, there was nothing for me to ignore. Why didn't you say that? You said I didn't ignore it. I went by past experience.

MR NADEL: I believe somewhere in the documentation I said there is no standing order.

DR KLATZOW: It's almost time for lunch. May I invite you to read through your evidence at the Margo Commission and I will complete my questions to you after lunch. And if you can point that out to me I would be very grateful.

MR NADEL: I'm trying to recall, eleven years later.

DR KLATZOW: I'm not asking you to recall. There is a full transcript of the Margo enquiry here which I will make available to you during lunch. Would you like to find the point at where you said there are no standing instructions?

MR NADEL: If you say it's not there.

DR KLATZOW: I'm not saying it's not there. I'm inviting you.

MR NADEL: Then I would like to read it yes.

DR KLATZOW: I'm inviting you to read the Margo enquiry.

MR NADEL: Thank you.

DR KLATZOW: During the lunch period. Would this be a convenient place to adjourn Mr Chairman?

CHAIRPERSON: It would. We'll adjourn until 2 o'clock.

COMMITTEE ADJOURNSON RESUMPTION

CHAIRPERSON: I'm sorry ladies and gentlemen, I had a telephone call to take which couldn't wait. Dr Klatzow?

DR KLATZOW: Mr Nadel you've had an opportunity over lunch to have a look at your evidence to the Margo Commission?

MR NADEL: That is correct.

CHAIRPERSON: Mr Nadel you are reminded you are still under oath.

MR NADEL: Thank you.

DR KLATZOW: Would you like to comment about what you found?

MR NADEL: Regarding the issue of standing orders, there's no indication that I refuted that with the original board. I do however want to reiterate that throughout the time I was referring to the note or notification, briefing notice which I've given yourselves a copy of this morning and that is what I was referring to throughout and that is why I still maintain that the other issues of what Mr Dick and what Mr Du Toit said are totally untrue and that I still haven't seen a copy of that document.

DR KLATZOW: But Mr Nadel. Mr Dick and Mr Du Toit who have no reason to lie because it makes it worse for them to bring up this red herring, if it is a red herring. Both of them, in your presence and you sat in on that hearing, I know you did, both of them said in

your full hearing that there was standing instructions. You were at no time, during that hearing inhibited from approaching South African Airways' lawyer and at the time South African Airways were represented by an extremely able man, by the name of Mr Puckrin.

There was nothing stopping you going to Puckrin and saying to him, this is wrong because it was an important issue. Standing orders had been disobeyed. It had evoked the judge's wrath, there was a debate that had raged for some time in that court room about the standing orders. At no time Mr Nadel did you go to any one of the legal representatives of SAA and say to him there were never any standing orders.

And in fact during the hearing, I want to put it to you that when a question was posed to you by Mr Southwood relating to those standing orders your answer was a tacit acceptance of their existence. Why did you not tell the enquiry at the time that there were no standing order and that Dick and Du Toit were lying?

MR NADEL: I will go back to what I can recall that day or that time. I was always referring to the briefing notice which I've had a copy of since day 1 and I very briefly was able to read through Mr Puckrin's cross examination of myself and he does refer to the briefing notice and/or the guidelines.

DR KLATZOW: The briefing notice is quite distinct and you know that from what was meant at the time by the standing instructions

which were on file at ZUR. That statement was made in your hearing and yet you never crossed, the first time you've ever contradicted that is today when you've given evidence here under oath.

MR NADEL: I would still like to say that the standing orders that were on file in ZUR are the standing orders that you have a copy of. If I failed to do it then I do not understand why.

DR KLATZOW: You see I want to bring, I want to bring this line of questioning to it's full circle. We know that the aircraft fell in flames off the coast of Mauritius. We know that aircraft don't normally do this. We know that SAA was probably involved with assisting Armscor in the total onslaught. We know that they didn't hesitate to ship military equipment aboard civilian aircraft. There's ample evidence.

We know that that was a dark and dismal period in this country's history. We know that there is a strong likelihood on an overwhelming balance of probabilities that a fire occurred earlier. We know that Uys didn't go down to see about that, in total disregard of all instructions. We have a concession made willingly from you that it is a most unlikely thing for him to do on his bat.

And the overwhelming balance of probability is that he communicated that to ZUR and it would have been done during the tenure of your shift. We then have on top of the evidence which I

have given you, none of which, and please don't refer to it as speculation, these are facts, we know then that the tape goes missing under circumstances which neither you nor anybody else is willing to explain.

We know that there is a history of incriminating tapes going missing in this country. The only inference that can be drawn from this is that there was something untoward on that tape, that there was a discussion with ZUR which was in some way highly incriminating towards either Armscor or the aircraft handlers, that is South African Airways, that you were aware of that information and that you are part of a massive conspiracy and SAA to cover that up.

The tape was impounded shortly after the accident, as it should have been. Inexplicably it finds it's way back and inexplicably it gets lost. We also have a series of events which have occurred which make your story incredibly improbable. We have Judge Margo's enquiry deflecting the enquiry away from the talk of dinner, for reasons which are obvious now. We have Judge Margo stopping the cross examination of you just when it was about to produce fruit.

Shortly after Southwood accuses you of lying, that cross examination stopped and you remember that. We have Margo failing to ask an important witness, Jimmy Deel why he took the tape out and who he gave it to. And your evidence that you have led this

morning is so inherently improbable that it's with regret Mr Nadel that I tell you that I have difficulty believing a word of it.

I believe that there are elements in your evidence which are truthful. But the fact that there was nothing on the tape, the fact that you don't know what happened to the tape and the fact that you were never suborn to give evidence to deny the existence of the tape, I simply cannot believe. And you have not given me a probable version for any of the material facts which I have given to you today, other than a bare denial.

And I want to put it to you, that this enquiry is but the beginning. You are going to be called upon again if this enquiry re-opens in a proper judicial hearing to repeat what Margo did, this time on a more formal basis. You are going to have to give this evidence again. And I want to tell you that the evidence that you've given here under oath today is not going to be helpful to you at a subsequent enquiry because it is inherently improbable.

MR NADEL: Well I'd like to say that it's unfortunate you think this. If there is another enquiry and I'd be once again more than willing to appear. I will not change what I've said because I believe and I know, if things were hidden, if things were covered up I was not in a position or was aware of it. Obviously I can read between the lines as well and things do look rather strange.

I was never privy to sensitive information if something did happen, ever heard about, so as far as me changing my story I must be very honest and say that what I have said today is to the best of my knowledge what I know.

DR KLATZOW: Incidentally, there have been persistent statements made by crew members who are too frightened to make it under oath and to put their names to the statements but who have spoken to me, all of whom who have claimed that that tape was in existence, that the tape was listened to and that the tape was listened to by ZUR staff who knew the contents of that tape and that it was spoken about until they were upbraided by a senior official and they have never spoken of it again. Do you deny that that happened?

MR NADEL: I deny that absolutely. I have never heard the tape, the actual ZUR tape, I've heard transcripts of the tape from Mauritius tower, I've heard that tape, it was common knowledge, everybody heard it to the aircraft. I've heard transcripts of the cockpit voice recorder, in my opinion are almost impossible to understand.

DR KLATZOW: But you are not an expert, Colonel Jansen who did it is an expert.

MR NADEL: No absolutely, and I don't deny that. As far as actually listening to the ZUR tape I definitely deny that.

DR KLATZOW: You're a man of radio experience and you know that the CVR records the last half hour in the cockpit?

MR NADEL: Correct.

DR KLATZOW: The last half hour of that aircraft is recorded in a conversation with Plaisance Airport, isn't it?

MR NADEL: That is correct.

DR KLATZOW: Why is that not on the CVR?

MR NADEL: I don't know.

DR KLATZOW: Well could you advance an explanation?

MR NADEL: I'm not a radio expert as you pointed out. I'm familiar with black boxes and radio frequencies and that sort of thing but I'm not an expert as far as.

DR KLATZOW: But it's a simple piece of logic Mr Nadel. The last half hour is recorded for all to hear on the transcript from Plaisance Airport, isn't it? You've heard that? It starts with Springbok 269 we have a smoke problem.

MR NADEL: 295.

DR KLATZOW: 295, we have a smoke problem. You've heard that?

MR NADEL: I've heard that, yes.

DR KLATZOW: Now if that occupies the last half hour of the existence of that aircraft, why was that or part of that conversation

not on the cockpit voice recorder? Can you suggest any explanation?

MR NADEL: No I cannot.

DR KLATZOW: Other than that the cockpit voice recorder occurred some time before that?

MR NADEL: I'm not an expert on cockpit voice recorders.

DR KLATZOW: Well Mr Nadel it's a simple piece of logic and you're fencing with me. It's a simple piece of logic which I don't think you need to be anything of an expert more than you are to answer. Can you think of a simple explanation?

MR NADEL: No.

DR KLATZOW: Can you fault the explanation that I have given you?

MR NADEL: I would once again like to say that I am not an expert so there could be technicalities that I am not aware of and I may be incriminating myself, I don't know.

DR KLATZOW: Well Mr Nadel that's an interesting answer because that kind of attitude has pervaded your evidence. And the point is a very simple one, a more telling answer than your refusal answer that question would be hard to imagine.

MR NADEL: If you maybe put it in simpler terms I could answer it.

DR KLATZOW: Two radio transmissions, two tape recorders are taping the same period of time. Surely they should contain the same information?

MR NADEL: That's logical yes.

CHAIRPERSON: For my own understanding, Dr Klatzow, now what is a, can you give me which of these two, what are these two conversations? One is on what and one is on what?

DR KLATZOW: Right.

CHAIRPERSON: Just for a lay person.

DR KLATZOW: The last half hour of the Helderberg, starting with a conversation where the pilot identifies himself, he speaks to Plaisance Airports, says we have a smoke problem. That occupies about the last half hour of that aircraft's life. The cockpit voice recorder.

CHAIRPERSON: Where is that now? On the plane.

DR KLATZOW: The cockpit voice recorder is on the plane itself, should be taping the same conversation and yet not a word of the Plaisance conversation is found on the cockpit voice recorder and not a word of the cockpit voice recorder is found on the Plaisance conversation. And there is only one explanation that I have put to the witness and that is that the cockpit voice recorder is at a period prior to the last half hour of the aircraft and there's other evidence to support that.

MR NADEL: Dr Klatzow thank you very much for clarifying that. I was also, I must be very honest with you, a little confused about the cockpit voice recorder having two recordings. I actually didn't realise you were referring to the tower at Plaisance Airport.

DR KLATZOW: I'm sorry.

MR NADEL: I apologise.

DR KLATZOW: Now do you agree with that?

MR NADEL: I understand yes.

DR KLATZOW: Do you agree with the proposition that I've put to you?

MR NADEL: Absolutely.

DR KLATZOW: There is no other explanation is there Mr Nadel?

MR NADEL: No, I agree with that.

DR KLATZOW: Now, if that fire occurred earlier, you would have expected Uys to contact you?

MR NADEL: Possibly, but if there were no communications.

DR KLATZOW: But there were communications outside ZUR. You are trying to convince me and the Commission that that aircraft was incommunicado from the time that the first tape was changed 'til the time that it crashed and that is so unlikely as to be rejectable, out of hand.

MR NADEL: I'm not quite sure who changed the tape but I believe the tape was only changed after the Helderberg crashed.

DR KLATZOW: No, that is not correct Mr Nadel. There are three tapes that concern us. There is the tape which recorded the take-off from Taipei which came to an end, either shortly after you had come on duty or just before you had come on duty. There is a second tape which is the one that went missing and there is a third tape which records the events on the following day.

MR NADEL: Okay I understand.

DR KLATZOW: It is the one in the middle that has gone missing.

MR NADEL: I understand.

DR KLATZOW: And it is, the reason, the reason is that it's gone missing without explanation, it has gone missing under the most suspicious of circumstances during the period of your tenure at the station and the explanations that you've given, all of them ring hollow. Not one of them has the ring of truth about it.

MR NADEL: I just want to clarify as well that the radio station as I mentioned earlier is not part and parcel of the, it's part of the set up but it's not that everybody sits in the radio station. The radio station is an office that could be down the hall. It's not that I'm sitting in ZUR the whole time.

DR KLATZOW: But that's not the evidence that you've given. The evidence that you've given is that the radio station is separated by a door and is no more than twenty metres away from you.

MR NADEL: Correct. But as I'm saying I'm not necessarily in that office all the time.

DR KLATZOW: No but you see, the deeper you go into this the more problems you're going to have Mr Nadel because it was close enough for Mr Dick to come and have a conversation with you about something which was irrelevant according to your evidence anyway. He sidled over during a tea break according to your previous evidence and said well I can't raise them and you said well that's not a problem, just leave it there.

Now that whole conversation I want to put to you never occurred. Because if it did occur the subsequent behaviour of Mr Dick at the enquiry is utterly inexplicable and we're left with the uncomfortable proposition that in this mess we have only one person telling the truth and that is you. And we've examined the propositions that you've put in some detail today and you have not provided a satisfactory answer to any of the germane questions which have been put to you.

MR NADEL: I'm sorry you feel that way. As I mentioned earlier on I'm quite clear in my conscience that I'm not aware of any conversation between Captain Uys and anybody telling us of a problem. If that conversation took place and I could have been out of the office and it had gone through to Mr Dick I'm quite sure Mr

Dick would have told me that this is a problem, they have a massive problem.

CHAIRPERSON: Dr Klatzow I don't think you are likely to get any further concessions from Mr Nadel. He has given us what he considers to be his best recollection and I would suggest that we perhaps should move on if there are other new aspects that you would like to explore.

DR KLATZOW: Thank you Mr Chairman. I have in fact reached the end of my questions. Thank you very much.

MR NADEL: Thank you.

CHAIRPERSON: Any questions?

MS TERREBLANCHE: I would just like to ask one or two. To the best of your recollection, can you remember even though you say that it was quite unique for Jan Smuts to have a ZUR facility and were there any other such facilities in South Africa. For instance at the military?

MR NADEL: There could well have been at the military. It's possible. I'm not a military expert so I don't know.

MS TERREBLANCHE: I understand that today there is a Denel Control Tower at the airport?

MR NADEL: I think Denel is part of the old Atlas aircraft manufacturing company. It's possible, I don't know. I'm not aware of it.

MS TERREBLANCHE: But wouldn't you have known as a radio expert whether those signals would maybe interfere or whether you would communicate with each other or?

MR NADEL: Well firstly I'm not a radio expert, not at all. But it's unlikely that frequencies could interfere unless there's a blocking of a frequency and I'm not sure how that happens.

MS TERREBLANCHE: But were you aware of being in communication with any other nearby control tower?

MR NADEL: No. We're not a control tower as I mentioned earlier on. South African Airways had this facility purely as a means of communicating with the aircraft. It's never been a legal requirement for an airline to have this facility because air traffic control centres are there to control the aircraft. The aircraft have to call at compulsory reporting points throughout to the various countries' air traffic control centres.

And I am also convinced there, if there was a problem, the aircraft would have communicated to an air traffic control centre saying we do have a problem.

MS TERREBLANCHE: But would they have communicated with another one?

MR NADEL: With another air traffic control centre?

MS TERREBLANCHE: Were there any other ones, if they couldn't get hold of you, would there have been an alternative for them?

MR NADEL: Well air traffic control centres are civil aviation control centres, it's compulsory to call them. They control the actual flow of airlines in the skies. It's not compulsory to have called us. As I mentioned I think there were nine, what they call flight information regions. There are nine areas that are controlled by different countries air traffic control centres and it's compulsory for any aircraft flying across these regions to make contact with those flight information regions.

MS TERREBLANCHE: But apart from that, if they had called somebody else when they were in trouble, would you have expected that other tower or radio station or whatever it was to call you?

MR NADEL: Well I believe if it was a, excuse me but I'm not an expert either, but if they have a problem whichever country is involved I would imagine would try and contact not necessarily South African Airways in house radio station but at least an air traffic control facility in South Africa.

MS TERREBLANCHE: Then I just want to have one last question. A Mr Van Der Veer, when you had a problem earlier that day with a seized engine, did he ever come in earlier in the day, that you were aware of?

MR NADEL: No.

MS TERREBLANCHE: Dr Klatzow has one more.

DR KLATZOW: Sorry, one last question. Had there been contraband material, material of war which caused that plane to catch alight, it would be extremely unlikely I want to put it to you that the pilot would have phoned one of the air traffic controllers along the route and said we've got a fire problem because to do that would have been to invite all kinds of questions internationally which SAA could not afford.

So I just want to put it to you, for your comment, that it would have been extremely unlikely for them to contact anybody else at that stage but ZUR. They wouldn't have phoned up Bombay flight control and said we've got ammonium perchlorate aboard, can we come and land. And they wouldn't have gone there to land which is why they flew on to disaster.

MR NADEL: That is your comment, I cannot comment on that. I would like to say that's speculation I don't know.

DR KLATZOW: Can you see any obvious flaw or even subtle flaw in the argument?

MR NADEL: You know, once again, I'm not an expert in military matters or what is carried on board aircraft or whatnot, I'm purely in the airline industry for the love of aviation and for what the airline is there for, albeit any other airline.

CHAIRPERSON: I think what is sought to be obtained from you is, given those times and I mean Bombay, I do not consider that South

African Airways flew to Bombay or to India or to any of these places and you were told earlier on about how one of the reasons the ZUR was being used was because you were flying around the bulge by which I understand you were not landing anywhere in Africa.

MR NADEL: Except Cape Verde Islands.

CHAIRPERSON: Except Cape Verde Islands, yes. Now I think what the question seems to establish is whether or not you consider there would have been a likelihood for Uys to have, one, and I'll speed the question here, to have considered landing in Bombay given the times or to have been given permission by the South African authorities had he asked for one to land at Bombay. What are your thoughts around these issues, given the times.

MR NADEL: Well obviously as you quite rightly say, given the time, India was not very friendly with the South African Government at all. I would like to go back to what I said earlier on is I think if you're burning you should at least think about the people on board and say well I'm going to land in any case, the consequences we can try and sort out later. That is my view.

And then I'd also like to maybe go on and say, as was mentioned earlier on, the fire could have started two hours out of Taipei. Wouldn't it have been more logical for the aircraft to turn around and go back to Taipei than to fly many more hours through

the night knowing full well that they can't land anywhere else if the problem re-occurred.

CHAIRPERSON: Do you want to follow that up with the situation in Taipei?

DR KLATZOW: Yes Mr Chairman. The aircraft had a political problem wherever it landed with that cargo. They could not go back to Taipei, for exactly the reasons that they couldn't land at Bombay or anywhere else along the route and the moment that aircraft landed it was faced with the problem of a search as to what had caused the problem and that would have been a disaster for South African Airways.

For it to have become public knowledge that South Africa's national carrier was flying contraband military equipment on a highly dangerous nature over civilian territory with civilian people on board would have killed that airline stone dead. Nobody would have flown it and nobody would have given it landing rights. And I want to put it to you that that was what was at stake in this whole disaster.

That is why Uys, who was a responsible pilot took the awful decision to allow himself to be overruled by somebody to fly on because he would never have done it off his own bat.

MR NADEL: I understand.

CHAIRPERSON: And on that understanding note can we really move on. Thank you Mr Nadel. I would only say from the Commission's side you should understand that we are all doing something that we do not enjoy doing. We are trying to find the truth of what happened because we continue, this is one enquiry I thought that the Commission would not go into precisely because it has been done before. It is huge, it always results in more questions being asked than there are answers that we are able to elicit.

But the letters from the Friends of Victims of Helderberg and other material that has been sent to the Archbishop or to the investigative unit have been of a nature that we could not ignore and we have to thank people like you who have come, at what really is short notice and in your case I understand from abroad and one would hope that your assistance will be for having come and testified will assist us in getting to the bottom of this tragedy.

So I thank you very much and for the moment I think you are excused and should you at any stage have anything that you can remember which you consider would be of value and assistance to the Commission, please do not hesitate to contact us.

MR NADEL: Thank you Mr Chairman. Thank you members of the board.

MS TERREBLANCHE: Thank you Mr Nadel and thank you also for the documents you've given us and thank you for coming all this way from Argentina.

MR NADEL: Thank you. If there is anything I need to send through, do I fax it to the regular fax number or must I fax it to any particular number, to yourself?

MS TERREBLANCHE: Yes. To myself and to the regular fax number.

MR NADEL: Thank you.

MS TERREBLANCHE: We are closing down in two months.

MR NADEL: I hope it will be before then.

MS TERREBLANCHE: Thank you very much.

CHAIRPERSON: Ms Terreblanche are you calling any other witness?

MS TERREBLANCHE: Yes, our person from Mozambique cannot come again, he's got a number of problems so we are calling Mr Mickey Mitchell, our last witness for the day. I think that you will be able to get away to your meeting with the Minister.

WITNESS EXCUSED

CHAIRPERSON: Mr Mitchell, welcome once again. We have to apologise for having kept you for the best part of the day but as in any, and I'm sure you have been to inquiries of this nature, sometimes time logistics is not always a manageable commodity.

Without further ado, let me introduce the members of the panel. Commissioner Glenda Wildschut is a Commissioner in the Rehabilitations and Reparations Committee. I am a Commissioner in the Human Rights Violations Committee and Wilson Magadla to my right is head of Special Investigations in the Commission. To our right we have the person who has been investigating this case, Chrystelle Terreblanche and with her is Doctor David Klatzow who is contracted to the Commission on a consulting basis.

Evidence led here is of a confidential nature. It is not for public consumption. It is taken in camera, precisely because it is intended to be of an investigative nature. It's an inquiry seeking to probe but we do it under oath in terms of the Act, so that the evidence that we take is evidence by any legal yardstick.

Whatever you say here you commit yourself to a version under oath and what is more, it is not the sort of evidence that is going to be used by us in the panel in order for us to arrive at any finding because it is not a trial, it is not a hearing, it is not a disciplinary inquiry, it's is an investigative probe which is why therefore, only people who are in the Commission and people who are contracted by the Commission and those who have come to

depose to statements that they have or to lead evidence are permitted and are here.

Before you testify I will ask Commissioner Wildschut to swear you in, which is what I'm asking her now to do.

MS WILDSCHUT: Could you please state your full names for the record?

MICHAEL PETER MITCHELL: (sworn states)

CHAIRPERSON: Miss Terreblanche?

MS TERREBLANCHE: Thank you Mr Chair. I think Doctor Klatzow is ready with some questions.

CHAIRPERSON: Doctor Klatzow?

DR KLATZOW: Captain Mitchell, you are a long time employed of the South African Airways, a senior member of the flight crews, flight staff, is that correct?

MR MITCHELL: You just said Flite Star.

DR KLATZOW: Flight staff.

MR MITCHELL: Oh, I'm not hearing this very well.

DR KLATZOW: Sorry. You are a senior member of the flight crew at SAA, is that correct?

MR MITCHELL: Yes, thank you, I can hear you now.

DR KLATZOW: And you were at the time, in charge of the operations room, that is the time of the Helderberg accident in 1988, you were the most senior flight operational man present in the operations room in charge of the disaster, is that correct?

MR MITCHELL: Can you hear me?

DR KLATZOW: Yes.

MR MITCHELL: Mr Chairman, Mr Commissioner, yes, I was. I am retired now from the South African Airways. I was a senior member of South African Airways staff. At the time, and may I comment on your letter which you sent to me saying that I was Chief of Operations. That's not ...[intervention]

DR KLATZOW: No, that's not what I've put to you. Could we just go by the question because we've got limited time.

MR MITCHELL: Okay.

DR KLATZOW: You were the man in charge of running that operation that night, from a flight crew point of view. You weren't the Chief Executive Officer but as an operational man, a flying man, you were the most senior man there that night?

MR MITCHELL: No, I wasn't.

DR KLATZOW: Who was the more senior flying man?

MR MITCHELL: No, not, not flying, flying man yes, I was a flying man but not when you say, of the operations.

DR KLATZOW: Captain Mitchell, listen to the questions very carefully because we're going to save a lot of time.

MR MITCHELL: Okay.

DR KLATZOW: I said you were not the Chief Executive Officer, you were not the most senior man there that night but on the flying side you were the most senior man?

MR MITCHELL: That's correct.

DR KLATZOW: And there were various other people there that night who were there to do your bidding?

MR MITCHELL: Yes.

DR KLATZOW: What time were you notified of the loss of the Helderberg or the potential loss?

MR MITCHELL: I was at home in bed and I would guess around about 2 o'clock in the morning.

DR KLATZOW: And who phoned you?

MR MITCHELL: Operations.

DR KLATZOW: Can you remember the name?

MR MITCHELL: No.

DR KLATZOW: What did you do?

MR MITCHELL: I got up ...[indistinct] I then phoned Viv Lewis because in actual fact I have pointed this out to you right now, I had been put in the post of Chief Director Flight Operations by 27 days when this accident happened and being new in the post my immediate reporting, Viv Lewis was the Director Flight Operations, he'd just gone into ...[indistinct] at the beginning of the month, so I phoned Viv immediately because I took over his seat at the beginning of the month. So I phoned him immediately and said: "Viv, the aeroplane's crashed".

DR KLATZOW: The moment you were phoned?

MR MITCHELL: Oh immediately.

DR KLATZOW: Right. And your words if you remember correctly were: "The aeroplane's crashed"?

MR MITCHELL: That and: "the aircraft has crashed", words to that effect, I can't remember ...[intervention]

DR KLATZOW: But did the word: "crash" come into it?

MR MITCHELL: I can't remember doctor.

DR KLATZOW: Well it's likely that if those are the words you used now, that they were the words you used then because foremost in your mind was the aircraft was in the ocean?

MR MITCHELL: We didn't know that at the time, we had to sit down and work out. The very fact that I got a report from Operations saying that the aircraft is missing ...[intervention]

DR KLATZOW: Captain Mitchell, listen to the question very carefully.

MR MITCHELL: Okay.

DR KLATZOW: You were phoned just after 2 o'clock?

MR MITCHELL: About, yes.

DR KLATZOW: You immediately picked up the phone and phoned Viv Lewis?

MR MITCHELL: Correct.

DR KLATZOW: And you said to him: "We've lost an aircraft" or words to the effect that the aircraft had crashed?

MR MITCHELL: Words to that effect.

DR KLATZOW: That's what I wanted to know.

MR MITCHELL: Okay.

DR KLATZOW: Now what did you then do?

MR MITCHELL: I then got up and I got in my car and went to the airport.

DR KLATZOW: And you went to the operations control?

MR MITCHELL: Well that's on the 5th floor, yes.

DR KLATZOW: Is there a ...[intervention]

MR MITCHELL: It's called: "Ops".

DR KLATZOW: Sorry?

MR MITCHELL: That's "Ops".

DR KLATZOW: Correct. Is there a standard way of dealing with this situation in airlines in flying circles?

MR MITCHELL: Are you talking today or then?

DR KLATZOW: Then

DR KLATZOW: Just can I finish my line of questioning, and if there's anything which I have not traversed, you are most welcome to cover it, but please, there will be plenty of time for you to make whatever submissions you want to make. Are you aware that there is a lost tape? Whether it contained anything or not is not part of the question, are you aware that a tape went missing?

MR MITCHELL: I feel very strongly about a discussion on something that possibly didn't happen.

DR KLATZOW: So are you... (intervention).

CHAIRPERSON: No, no, no, I don't think that's the inquiry. I'm indebted to you for everything that you have said about the recent trip.

MR MITCHELL: Yes sir.

CHAIRPERSON: But we have had an enquiry and over and above an enquiry if one of the findings of which was that either the tape went missing or was overtaped, so we on our ...(indistinct) let's forget about those factors which we in fact are in, I mean it's on the record now, we have to consider it in our consideration of all the evidence that has been placed before us. I think let's give Dr Klatzow and all of us an opportunity to go step by step, one thing we are taking now into account what you have said, but maybe let's take it step by step and see what, I mean, I think here we're talking about something physical. Was there or was there not a tape that went missing, and all evidence that I've heard thus far including evidence from Gert van der Veer was that there is an acknowledgement that this happened. The previous witness, there is an acknowledgement that this happened. So, maybe let's take it step by step. Dr Klatzow?

DR KLATZOW: Thank you, Chairman. Now, Mr Mitchell, Captain Mitchell, undeniably a tape somehow got out of sequence and went missing. Do you have any explanation as to how that came to be?

MR MITCHELL: Dr, no, the handing of the tape is not part of - I had people working for me and so I don't know.

DR KLATZOW: Was the tape ever handed to you?

MR MITCHELL: I don't know when you say "the" tape, there were tapes handed to me, yes, and ...(intervention)

DR KLATZOW: The tape from ZUR and the logbook?

MR MITCHELL: The tape and the logbook were - not together, they didn't come together, we started collecting data in the morning when the sun came, the Administrative Director came and got the medical files and got the training files and ...(intervention)

DR KLATZOW: That is our information, that is correct.

MR MITCHELL: And started putting them together. There's a whole lot of things that came through, it included the log.

DR KLATZOW: And the tape?

MR MITCHELL: No, I don't think the tape came in then.

DR KLATZOW: Well, do you remember that Captain Jimmy Deal was there at that stage?

MR MITCHELL: No, I don't.

DR KLATZOW: Jimmy Deal has said that he was there at that stage and he was sent to fetch the tape, do you disagree with that?

MR MITCHELL: I'm not disagreeing ...(intervention)

DR KLATZOW: And would it be the sort of likely thing that would have happened?

MR MITCHELL: It's - Jimmy was then part of Management.

DR KLATZOW: Yes.

MR MITCHELL: Yes, I had that difficulty in the process, but who actually did it, you know, I would say ...(intervention)

DR KLATZOW: And Jimmy Deal's information is that he handed the tape to you.

MR MITCHELL: Yes.

DR KLATZOW: Is that true?

MR MITCHELL: Well, I got the tapes, yes ...(intervention) DR

KLATZOW: You got that tape?

MR MITCHELL: I don't know who brought them to me.

DR KLATZOW: Let's assume Jimmy Deal is right, Jimmy Deal says he handed you, Captain Mickey Mitchell the ZUR tape and the logbooks, not necessarily together, but you had them in your hands.

MR MITCHELL: Probably separately, but I had them in my hands.

DR KLATZOW: Correct, what did you do with them?

MR MITCHELL: We were collecting all the data, firstly the written stuff put together in the files and the Administrative Director, a man called Dicky Rouxcastle, put it in his office, was alongside mine, and we put them together and locked them up because we knew Rene van Zyl from DCA would be coming and when the tape came, Dr, when, I'm not sure when the tapes came, we took it and locked it up in that file - there was a lock-up file, not a file, a lock-up cabinet in the ...(intervention)

DR KLATZOW: That is correct. And who had the keys to that cabinet?

MR MITCHELL: Dicky Rouxcastle.

DR KLATZOW: Now, that tape,

MR MITCHELL: Yes?

DR KLATZOW: The last person to have had that tape was you in the official records of this enquiry.

MR MITCHELL: Okay.

DR KLATZOW: When the tape went missing, did anybody speak to you about that missing tape?

MR MITCHELL: Can we rephrase that?

DR KLATZOW: Yes.

MR MITCHELL: Alright, I was there when Dicky Rouxcastle put it into the steel cabinet.

DR KLATZOW: Correct.

MR MITCHELL: Then Civil Aviation came along and I believe in the form of Mr Rene van Zyl and one or two others, and I can't remember, I think a man called Piet de Klerk, I'm not sure of this Dr, I think so. When he came along we gave it to them all, and they signed for it. So, I'm saying one thing about you said that was the last written record of the event, that's not correct ... (intervention)

DR KLATZOW: I'll get to that.

MR MITCHELL: It was signed for.

DR KLATZOW: I'll get to that. Let me ask you about the tapes.

Describe the tape physically to the Commissioner, is it big, is it small? It's not a cassette player?

MR MITCHELL: No.

DR KLATZOW: It's a big tape and it has a plastic box
...(intervention)

MR MITCHELL: It's like a video, a video, that kind of size.

DR KLATZOW: It has a box that it lives in, is that correct?

MR MITCHELL: Yes, I think so.

DR KLATZOW: And on that box is written information about the tape, the date of the tape, is that correct?

MR MITCHELL: I know about it, I can't say ...(intervention)

DR KLATZOW: But you had it in your hand?

MR MITCHELL: Yes.

DR KLATZOW: And you would not just accept the tape, you would check to see that it was the right tape?

MR MITCHELL: No.

DR KLATZOW: You wouldn't?

MR MITCHELL: I handed it to Dicky Rouxcastle who wrote the date on his card and put it down there together in the cabinet.
No, I gave it to Dick.

DR KLATZOW: Subsequently it wasn't Rene van Zyl who came and asked, it was Roy Downs who came and asked for the tape.

MR MITCHELL: Okay.

DR KLATZOW: And he was told that the tape went missing.

Did you ever convey that to Mr van der Veer?

MR MITCHELL: Who told that the tape - I'm not aware of this.

DR KLATZOW: Well, accept for a moment that the tape was recognisably missing at the time that DCA made their enquiry, accept that, because that is what the evidence will be. Did you ever tell Mr Gert van der Veer that the tape was missing?

MR MITCHELL: I didn't know that.

DR KLATZOW: Did Mr van der Veer ever approach you and say, why is this tape missing?

MR MITCHELL: The next sequence round of this would have been, I know Rene van Zyl came to the office and spoke about it.

I'm not aware of Roy Downs, but there was somebody with Rene, they came to the office and said, what happened to the tapes - no, he came to the office to say it has been blanked over, there's nothing on it. So I said, Rene, I'm not aware of this, and he then said, no, just explain all that, so I said, Rene, I just really don't know.

DR KLATZOW: Did you ever get in front of Mr Gert van der Veer and explain to him why the tape had gone missing or was overtaped?

MR MITCHELL: I went further than that because Mr Lewis was sort of Head of Air Operations, then I said to him, Mr Lewis, this tape has got nothing on it and he had a work with me, what's going on here. And then Mr van der Veer, I did - I'm not

conscious of talking directly to him, but I do know Viv probably, I'm saying probably, Dr, would have told him, and I know Mr van der Veer said to me, that's not good enough.

DR KLATZOW: So here's a potentially vital piece of information which goes missing which has caused the airline untold trouble in the last 10 years, and you're aware of that trouble. It resulted in the Judge expressing his displeasure at the hearing, you were the man in control of that tape, it got lost in inexplicably out of your control and Mr van der Veer says to you, tst, tst, tst, this is just not good enough. Mr Mitchell, I have extreme difficulty in believing your version.

MR MITCHELL: Alright, let's go back to the beginning of - that's exactly where I came in, Dr. I said there was nothing on the tape in the beginning, hence the reason for the unimportance of it.

DR KLATZOW: Did you listen to it?

MR MITCHELL: No.

DR KLATZOW: How did you know there was nothing on it?

MR MITCHELL: There was nothing on the log.

DR KLATZOW: Did you listen to the tape, Mr Mitchell, answer my question?

MR MITCHELL: I did answer, I said no.

DR KLATZOW: How could you then say that there was nothing on the tape?

MR MITCHELL: Because there was nothing in the log.

DR KLATZOW: Well, that could have been that the communication on the tape was never written into the log.

MR MITCHELL: That's highly unlikely, Dr.

DR KLATZOW: It isn't highly unlikely, particularly ... (intervention)

MR MITCHELL: It is unlikely.

DR KLATZOW: Well, we'll deal with that in due course as well.

MR MITCHELL: So therefore I come back to my original premise, the premise is that if we knew there was evidence of the tape because of the log I can assure you that everything would have been done, exactly done, but because there was no HF communication, which I've explained to the Commissioner, there was nothing on the tape from the aircraft. Hence the reason of the low priority of the tape.

DR KLATZOW: Right, there was nothing about the Helderberg on the tape, or there was nothing at all on the log?

MR MITCHELL: No, there was log and aeroplanes, other little aeroplanes.

DR KLATZOW: What else was on the log?

MR MITCHELL: I can't tell you, I don't know.

DR KLATZOW: Was there information that an aircraft had lost an engine at Seoul I think it was?

MR MITCHELL: I really can't remember, Dr. If I look at the log, I'd tell you.

DR KLATZOW: Yes, so you say that the reason that you placed no store by the tape is that there was nothing on the log?

MR MITCHELL: With respect this aeroplane, yes.

DR KLATZOW: Right, at the Margo Enquiry, Mr Mitchell, there was a brouhaha about the missing tape, do you remember that?

MR MITCHELL: Yes.

DR KLATZOW: There was extensive cross-examination of Mr Nadel.

MR MITCHELL: Yes.

DR KLATZOW: You remember that?

MR MITCHELL: Yes.

DR KLATZOW: The conversation between the Judge, between the Prosecutor, Mr Nadel became quite nasty, do you remember that, where Mr Southwood accused Mr Nadel of lying. It's in the record, he said, "You are making all of this up, aren't you?" Do you remember that?

MR MITCHELL: You're reminding me of it, I read it, yes.

DR KLATZOW: Yes. You were sitting in the audience when that was there, weren't you?

MR MITCHELL: Yes.

DR KLATZOW: You heard the full conversation between the Judge and between everybody else. Did you ever see fit to advise Mr Puckrin, who was acting for the legal advisors of SAA that you had been the last person and that you had locked it up in the

safe, and to offer an explanation as to how that tape went missing?

MR MITCHELL: Yes, ...(intervention)

DR KLATZOW: Did you ever tell Mr Puckrin that?

MR MITCHELL: I'm gonna think now whether ...(intervention)

DR KLATZOW: It's an important thing, it's not something that would escape your memory.

MR MITCHELL: It can quite easily, it's 10 years ago. The lawyers came down from Barlow, Lyde and London and were with Mr Puckrin and the lawyers and they - I know I was asked about the tape and Dr, I would rather not give you inaccurate information than half a story, I am sure that Cedric Puckrin knew about the tape and the process of the tape and that the tape had come from ZUR to be locked up to go to DCA and then go - I'm sure he knew that.

DR KLATZOW: Well then, if that is the case, Captain Mitchell, can you give me one explanation why he kept that vital piece of evidence from His Lordship, Mr Justice Margo? Because that is a vital piece of evidence I want to put to you, and that was never raised.

MR MITCHELL: But you're exactly right, Dr, exactly right, because the Judge and the five pilots who were on that Commission knew quite clearly that there was nothing on that tape because there was no call from the aircraft. Hence the

reason the low priority of the tape. I say again, it's a very low priority factor.

DR KLATZOW: With great respect to you, Mr Margo was there to evaluate the evidence, not to pre-judge it. The word prejudice means to pre-judge,

MR MITCHELL: Right.

DR KLATZOW: And Mr Margo was there to hear whatever evidence there was, he expressed annoyance, Mr Mitchell, that the tape had gone missing. Why do you think that he would express annoyance at the Commission for a tape which had no value? Why would he say, I want to get to the bottom of this, who lost the tape?

MR MITCHELL: It was not a good way of processing the process, I accept that.

DR KLATZOW: So he was expressing annoyance not at the loss of the tape, but at the slack administration?

MR MITCHELL: I will accept that.

DR KLATZOW: Why did you never stand up at the Commission having heard the debate about the missing tape and say, I had that, I locked it in the safe, Judge, why don't you ask the next man where it went to. Why did you never say that?

MR MITCHELL: I come back again, that was passed on to Mr van der Veer, to Viv Lewis, to DCA to Rene van Zyl. Rene van Zyl as the investigator asked that of me, and exactly what I said to him, and I presume as the investigator, that's exactly what he

knew, and he's the investigator, Rene van Zyl never investigated, it was the DCA who investigated.

DR KLATZOW: Rene van Zyl made enquiries about that tape only three weeks after the accident.

MR MITCHELL: Okay.

DR KLATZOW: That tape was taken out the night of the accident and placed in your hand, and by your evidence placed in a safe place.

MR MITCHELL: I - can you tell me, I'm not sure whether it was that night, I'm not sure at all.

DR KLATZOW: It was that night.

MR MITCHELL: Now how do we know that?

DR KLATZOW: Because Captain Deal told me he took it out and gave it to you and I can't imagine you walking around SAA with that under your arm or in your pocket for 24, 48 or 72 hours.

MR MITCHELL: I accept - unfortunately Captain Deal can't answer you.

DR KLATZOW: Unfortunately he can't, but unfortunately I have a tape recording of him telling me that.

MR MITCHELL: That's wonderful, but the point about it, he can't corroborate it, and I don't know it was that night or the next morning or the following morning.

DR KLATZOW: If it was the next morning, does it make a difference?

MR MITCHELL: It does.

DR KLATZOW: What is the difference?

MR MITCHELL: It's what you made, the difference.

DR KLATZOW: What is the difference?

MR MITCHELL: You just said it now.

DR KLATZOW: The tape was in your hands, sorry the panel wishes to ask a question.

MR MAGADHLA: When was it, Mr Mitchell, that it was discovered that the tape had nothing on it, was it before it was locked up in that cupboard or was it when?

MR MITCHELL: Mr Magadhla, the tape was brought, to answer your question directly, probably sometime later, because it went to Civil Aviation, they took the tape and they played it. Then they came back and said there was nothing on the tape. As far as I know, nobody in South African Airways played the tape.

MR MAGADHLA: When you had the tape locked up then, was it after it had been discovered that it had nothing?

MR MITCHELL: No, no, the tape, sir, came from ZUR, whoever went to go and get it, go and get the tape, and I remembered this as an afterthought, it wasn't part of my priorities at all, in fact, it didn't fit very high on the whole discussion as I mentioned, I don't want to labour the point, that HF transmission didn't happen, so it didn't mean a thing in my life. And I stand on that point, and when we locked it up, and I really don't know when, it could have been - I don't think it was the next morning, but I

know we got the log and it got locked up. When DCA came, Mr DCA, it could have been a person from or persons from DCA to come and get all the information, then we gave it to them, and then they came back to us a time later, I'm sorry I'm not accurate with the time, sir, it's a time later, then they came back and said there's nothing on there. And this wasn't that night, it wasn't a week later, probably even a month later, am I right, yes, it's about that.

DR KLATZOW: That is absolutely correct, DCA came to you a month later, but they were not given a tape that was taped over, they were given a tape of the wrong day, Captain Mitchell.

MR MITCHELL: I'm aware of that now.

DR KLATZOW: Yes, now, that's the issue I want to get to.

MR MITCHELL: Alright.

DR KLATZOW: No 1, the tapes are clearly marked,

MR MITCHELL: Yes.

DR KLATZOW: No 2, that tape was in and under your control.

MR MITCHELL: Dicky Rouxcastle actually.

DR KLATZOW: You were the man who was at the Head of the ... (intervention)

MR MITCHELL: I have many people who work for me, Dr Klatzow, I can assure you I had a good deal more that to worry about locking up a tape, I have a highly responsible Director Administration, of very very ... (indistinct) experience. He locked

it up there, I knew it was there and I was quite happy that he did it.

DR KLATZOW: Did you ever go to Mr Rouxcastle and say to him, what happened to the tape?

MR MITCHELL: I can - I was with him when DCA came to fetch all the documents because he signed for it, and also, the tape wasn't lost, can we correct that, you've just said it was another tape.

DR KLATZOW: Yes, well tell me.

MR MITCHELL: If anything, it was taped over again.

DR KLATZOW: Right.

MR MITCHELL: So we can establish that as a more accurate process.

DR KLATZOW: Well, we're going to deal with that, because if that were the case, Margo was never informed of that.

MR MITCHELL: I don't know that.

DR KLATZOW: Well, his finding made the following conclusion, "The tape was either taped over inadvertently or lost". Now, if the tape had been inadvertently taped over, it was perfectly possible for you, Captain Mitchell or one of the other people who along the line of tape, to address the Judge through your legal advisor and said, Judge, the tape has been taped over, there was an administrative error, here is the tape. Why did you never do that?

MR MITCHELL: Will you say that again.

DR KLATZOW: If the tape - the Judge's findings were quite unequivocal, they were to the effect that the tape had either been taped over or lost.

MR MITCHELL: Okay.

DR KLATZOW: If the tape, as you have unequivocally stated under oath now, had been taped over, what stopped you from going to the Judge through your legal advisor and saying, Judge, there is the tape, there is the markings on it which identifies the tape of that day, we have blued and taped it over. What would stop you doing that?

MR MITCHELL: Let me just correct you there, Dr Klatzow. You said that I've just said unequivocally under oath that the tape was taped over, I did not say that.

DR KLATZOW: What did you say?

MR MITCHELL: I said that is a possibility that it was taped over, I gave the indication, I did not say it was taped over.

DR KLATZOW: Captain Mitchell, I would like to have the record played back, but that is not what you said.

CHAIRPERSON: What you said actually, Captain Mitchell, was that the correct position is not that the tape was lost, but that it was taped over. It was not stated as a possibility. It was in fact stated as fact as an effort to correct an impression that it is either/or ...(intervention)

MR MITCHELL: Either lost.

CHAIRPERSON: Yes. You were very emphatic about that, that's what we wanted to say by being stated unequivocally. It is your considered opinion, not opinion, statement or fact actually that it was not lost, it was taped over. If you want to revise that opinion ...(intervention)

MR MITCHELL: No, I think probably you said it better than I have, yes. No, I accept that, you said it better than I have, but to answer the question for Dr Klatzow, he said why didn't I tell the Judge, sir, that's what the investigator's job is, he had the tape and he knew that, and it was his job as the investigator to tell the Judge, not my job.

DR KLATZOW: Captain Mitchell, you were the man in the hot seat, you were the man who had the tape in your hands, you were the man who could have provided an explanation whilst the hot debate was raging in court. You never did that.

MR MITCHELL: Sorry, I don't agree with you. The tape was with the investigator.

DR KLATZOW: No, the tape got to the investigator from your hands.

MR MITCHELL: Yes, but the tape was in the hands of the investigator ...(intervention)

DR KLATZOW: It was the wrong tape, Captain Mitchell.

MR MITCHELL: The tape was in the hands of the investigator who knew ...(intervention)

DR KLATZOW: It was the wrong tape.

MR MITCHELL: I'm sorry, I don't see the point.

DR KLATZOW: You gave the DCA investigators the wrong tape. You didn't give them a taped over tape, you gave them a tape of the next day.

MR MITCHELL: I'm not aware, I'm not aware of that.

DR KLATZOW: Well, that is ...(intervention)

CHAIRPERSON: That was put to you just - I think you must be - okay, Captain Mitchell it may be at the end of a long day, but I think you must allow yourself to listen to what is being put to you because some of it may escape you if you are not listening. Dr Klatzow did say to you that that was the wrong tape because, I think he said it was the tape of the previous day, or the next day, and then you seemed to accept that because you didn't contest it. I think he's putting it to you now, that what you gave to DCA ...(intervention)

MR MITCHELL: Yes.

CHAIRPERSON: Was the wrong tape in that it did not pertain to the day and issue, and you seem to be confirming that by saying that the tape in fact that was relevant is the one that was run over. Do you understand what I'm saying?

MR MITCHELL: Then you're saying there were two tapes?

CHAIRPERSON: There were two tapes, the one you gave DCA, which is why they returned it to say, look there's nothing on this tape, it was because it was not the tape in issue. If you want to place that in contest, if you are contesting that, then maybe do so

as you answer questions that are being put to you. I think there are two propositions now, when you continue to say the tape was returned and it was returned by DCA on the basis that it contained nothing, he is in the in the clause of putting questions to you, saying it was the wrong tape which is why it was being returned to you, and that is why the tape that was in issue became an issue because people then began to say, look you have given us a wrong tape because it is not relevant to the day in question, give us the correct tape, and then was the occasion for you to say, by the way that tape has been run over. That's where the controversies has lied all along, but then let's take it step by step, Dr Klatzow, I don't want to break your trend of trying to build up to whatever points you want to build up, but I just wanted to say to Mr Mitchell, maybe you should give yourself time to listen what he's asking, and not anticipate where he's trying to get to because once you begin to anticipate you'll find that you are answering questions that are anticipated and the you reply to questions that have not been put. And I think what is troubling you is that you preceded in the whole enquiry by proposing a theory that says there was an open decision, because on the basis of what - of the experience that you are talking about. Disabuse your mind for the moment of anything that you have ...(indistinct) of a type of theory and try and see if, you know, in the course of, you know, a controlled conversation of this nature, you are going

to be able to concede or still take the views that put, but don't anticipate questions.

MR MITCHELL: Thank you, Chairman.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Back where we were. Captain Mitchell, there was a hot debate in Margo's court about the disappearing tape. You could provide that court with at least one step of the path of that tape. You did not do so, is there a reason?

MR MITCHELL: No.

DR KLATZOW: Furthermore, will you concede that your version that the tape was accidentally overtaped is highly unlikely, because Cedric Puckrin is well-known to me. Had he been provided with that evidence he would have said, bring me the tape, I'll show it to the Judge and that would have been put to the Judge that it had been overtaped.

MR MITCHELL: I'm not aware of what Mr Puckrin would have done.

DR KLATZOW: I am aware that he would have done that, because it is the obvious thing to have and only a fool wouldn't have done it, and Puckrin is no fool. That is the thing to have done, and yet Margo was left with the impression that it was either overtaped or mysteriously disappeared. Why did you never correct that?

MR MITCHELL: Probably because what the Commissioner said, I had a preconception, that I know from my experience, that there was nothing ...(intervention)

DR KLATZOW: So are we to believe that you gave Margo evidence based on your preconceptions?

MR MITCHELL: On my experience.

DR KLATZOW: On your preconceptions are the words you used, you had a preconceived notion that there was nothing on that tape, having never listened to it.

MR MITCHELL: And also having read the log.

DR KLATZOW: Only read the log?

MR MITCHELL: Yes, correct.

DR KLATZOW: Now, Captain Mitchell,

MR MITCHELL: Yes, sir?

DR KLATZOW: Were you ever phoned by me in my capacity as an investigator for the Sunday Star, in Mauritius?

MR MITCHELL: You mean in Mauritius?

DR KLATZOW: Yes.

MR MITCHELL: Yes, we spoke ...(intervention)

DR KLATZOW: Have you had a conversation with me?

MR MITCHELL: Yes.

DR KLATZOW: Did I raise the issue of a tape with you before?

MR MITCHELL: Did you phone once or twice?

DR KLATZOW: I phoned you twice.

MR MITCHELL: One in Jo'burg here?

DR KLATZOW: No, in Mauritius. Did you ever - do you remember that I raised the issue to you relating to the tape with you? If you can't remember, I'll provide you the transcript of the conversation, because I tape-recorded it.

MR MITCHELL: Really?

DR KLATZOW: Yes.

MR MITCHELL: Okay.

DR KLATZOW: Do you remember ...(intervention)

MR MITCHELL: ...(inaudible)

DR KLATZOW: Do you remember that I said to you, what did you tell the Margo Enquiry, and you said to me at the time, and I'm going to quote you closely, you said,

"What I say now is exactly what I told the Margo
Commission."

What did you tell the Margo Commission about that tape?

MR MITCHELL: Well, when you say the Margo Commission, I probably ...(intervention)

DR KLATZOW: The Margo Enquiry, under oath in court, what did you tell them?

MR MITCHELL: I don't think they asked me about that in court, Dr.

DR KLATZOW: You told them nothing, Mr Mitchell, absolutely nothing.

MR MITCHELL: That's just what I'm agreeing with you.

DR KLATZOW: Why did you then tell me in my previous conversation with you that you would say exactly the same before? Did you mean to me that you would say nothing?

MR MITCHELL: I put Rene van Zyl and the enquiry in the same discussion as the whole process of looking into the accident.

DR KLATZOW: Yes.

MR MITCHELL: So I would have seen that as one.

DR KLATZOW: Yes.

MR MITCHELL: Rene wasn't South African Airways, he was doing the duty of the State, and that's Judge Margo too, so those are together, that's not part of South African Airways.

DR KLATZOW: Now Jimmy Deal had something else very interesting to say,

MR MITCHELL: Yes, sir.

DR KLATZOW: He said to me that he handed the tape into your hand and that you were in the company of Gert van der Veer and Malherbe, their legal advisor. Do you deny that?

MR MITCHELL: I don't - I very clearly - had they been standing - no, Dicky Rouxcastle was with me, no. Rouxcastle was with me when ...(intervention)

DR KLATZOW: And you never gave it to Van der Veer?

MR MITCHELL: No, definitely not, categorically not.

DR KLATZOW: Let me canvass another point with you, does the name Jimmy Mouton mean anything in your life?

MR MITCHELL: Yes, he went to school with me.

DR KLATZOW: What was his function at the Airways?

MR MITCHELL: Flight Engineer.

DR KLATZOW: Did he fly with you?

MR MITCHELL: Oh, lots.

DR KLATZOW: Did you know him well?

MR MITCHELL: Very well.

DR KLATZOW: Was he a good man?

MR MITCHELL: Yes, Jimmy's a good chap.

DR KLATZOW: Was he a fool?

MR MITCHELL: Well, you know, I've known Jimmy a long time and he's a good man.

DR KLATZOW: He's a good man? Did he have extensive cockpit experience?

MR MITCHELL: Yes.

DR KLATZOW: Was he an irrational man?

MR MITCHELL: Did you say irrational?

DR KLATZOW: Irrational.

MR MITCHELL: He's not irrational, he's ...(intervention)

DR KLATZOW: He's a man who ...(intervention)

MR MITCHELL: He's excitable.

DR KLATZOW: I understand that. Did you know a man called Judge Bredas?

MR MITCHELL: Yes.

DR KLATZOW: Did you know Peter de Beer?

MR MITCHELL: Yes, that's all the Union.

DR KLATZOW: Did you know Ray Scott?

MR MITCHELL: They all of the Union, yes.

DR KLATZOW: Correct. Were they fools?

MR MITCHELL: No, they were normal Flight Engineers.

DR KLATZOW: They were good Flight Engineers, they were men with whom the safety of passengers was entrusted, almost to the same extent as a pilot on an aircraft.

MR MITCHELL: Probably that's taking it a bit far.

DR KLATZOW: Well, they were men who bore a responsible job, and they knew the functionings of a cockpit, is that not correct?

MR MITCHELL: They're Flight Engineers.

DR KLATZOW: Sorry?

MR MITCHELL: They're Flight Engineers.

DR KLATZOW: Well, they may be a lower species, Captain Mitchell, than you are, but they were men who spent a lot of time in the cockpit and would have known what went on in the cockpit, is that not correct?

MR MITCHELL: Those are your words, a lower species.

MR MITCHELL: I'm suggesting what you're implying.

MR MITCHELL: I didn't imply that at all.

DR KLATZOW: Well, let's get to the question, is it likely that they would know what went on in the cockpit?

MR MITCHELL: Oh yes.

DR KLATZOW: And that whatever they had to say about the interpretation of what went on in the cockpit was something to be taken seriously, not the ravings of a fool?

MR MITCHELL: I would always listen to them.

DR KLATZOW: Yes. Are you aware that that group of men prepared a report,

MR MITCHELL: On the electrical systems?

DR KLATZOW: On the events as they went on in the cockpit and they placed a different interpretation on those events to that which was coming out on the Margo Enquiry.

MR MITCHELL: I've never seen this - in the back of my head I think I may know about it, but I definitely haven't seen this.

DR KLATZOW: Were you ever in Margo's chambers when Ray Scott, Judge Bredas and Jimmy Mitten were called into Judge Margo's chambers?

MR MITCHELL: I'm not aware where Judge Margo's chambers are, I think they're in the Supreme Court, I'm not aware,

DR KLATZOW: Yes, they were in the Supreme Court.

MR MITCHELL: I'm not aware of where they are, sir, I can't say yes. In fact I don't know where ...(intervention)

DR KLATZOW: Can you deny that you were present when Judge Margo called them in?

MR MITCHELL: I met - Dr, I remember going to being called to Judge Margo's house,

DR KLATZOW: Yes.

MR MITCHELL: And I've been trying to think why I was called there and I do believe now, I mean, believing, because I can't remember the actual - there was somebody else or two people came out their motorcar, because they had been to see Judge Margo, and they were from the Airline and I think, I just think, sir, I think it was Jimmy Mouton plus, plus one, I'm not sure of that.

DR KLATZOW: Right, well, Jimmy Mouton tells me that he was called to Judge Margo's chambers. Now, I don't want to debate with you whether it's his house or his chambers, because that could very well be the vagaries of memory, but they were summoned to Margo's presence, and you were present, and you've confirmed that.

MR MITCHELL: I remember that, I can't, you know.

DR KLATZOW: Do you remember what Margo said to them?

MR MITCHELL: No, I really would tell you if I knew, I've got nothing to hide.

DR KLATZOW: Well I'm going to tell you what Ray Scott says that Margo said to them.

MR MITCHELL: Alright, you tell me, because I ...(intervention)

DR KLATZOW: I'm going to read it to you, Mr Mitchell,
Peter de Beer the Chairman of the Flight Engineers Association,
he had family in London"
he now flies for Pheonix Air, this was some years ago, '95, he
plus Mouton plus Judge Bredas plus Ray Scott were called into

Margo's chambers and told to drop the enquiry that the were pursuing.

MR MITCHELL: No, I'm not aware of this.

DR KLATZOW: They were told that it could cost the country R400 million rand, which co-incidentally is the cost of a Boeing at that time, they were told that it was causing tension, they were told that they did not have the expertise and that national security was at risk. Present were, Mickey Mitchell, Margo, the Airline lawyer and he thinks the DCA was there,

MR MITCHELL: And he thinks?

DR KLATZOW: The DCA, he was quite emphatic that you were there and you've confirmed that.

MR MITCHELL: I've been - no, I was by myself when I went to Judge Margo. That's - I remember going into his house.

DR KLATZOW: But you told me that Mittens was there.

MR MITCHELL: No, I think it was Mittens - when I drove into there and Dr, I am battling to find why I was there, I can't remember why ...(intervention)

DR KLATZOW: Well I want to suggest to you, you were there, ...(intervention)

MR MITCHELL: Can I finish?

DR KLATZOW: Yes.

MR MITCHELL: Thank you. When I drove in and I remember his house next to King Edwards and these people - and I remember them as Flight Engineers, I think Jimmy Mittens was

there - I can't - I don't think I was ever in a meeting with the four of them or, who did the other one you say?

DR KLATZOW: Well do you think Ray Scott is lying?

MR MITCHELL: I don't think so, just mistaken, but I don't remember that at all.

DR KLATZOW: Do you think that Jimmy Mittens is lying?

MR MITCHELL: No, I ...(intervention)

DR KLATZOW: So he's also mistaken?

MR MITCHELL: Yes.

DR KLATZOW: The same mistake?

MR MITCHELL: Probably.

DR KLATZOW: Right.

MR MITCHELL: I don't remember that - all those - I don't remember R400 million, I don't remember security, I don't remember State security, I don't remember - had it been there, I certainly would have remembered.

DR KLATZOW: Who was Joe Bellagada?

MR MITCHELL: Joe Bellagada was the Flight Engineer on the aeroplane.

DR KLATZOW: Did he have a wife?

MR MITCHELL: Yes.

DR KLATZOW: What was her name?

MR MITCHELL: I don't know.

DR KLATZOW: Her name was Yvonne Bellagada.

MR MITCHELL: Yes, I do know now.

DR KLATZOW: Right. She remembers you meeting Jimmy Mittens ...(intervention)

MR MITCHELL: At her house.

DR KLATZOW: Outside the court.

MR MITCHELL: Yes.

DR KLATZOW: Do you remember that meeting?

MR MITCHELL: Gee, I was there for a week, so I don't ...(intervention)

DR KLATZOW: They also remembered that you told Mitten to drop it, the enquiry.

MR MITCHELL: No, I'm not aware of the Enquiry, Dr, I'm not aware of this.

DR KLATZOW: Well, see this is very convenient, because I have the most interesting scenario before me. I have you with every reason not to tell me the truth on this issue, and I have four other people who've confirmed that this even occurred, who implicate you in an event of an extremely serious nature in this investigation.

MR MITCHELL: I agree it's very serious.

DR KLATZOW: I have your ball denial, I have statements inter alia under oath from four other people who maintain you were involved in getting this enquiry dropped.

MR MITCHELL: No, not at all. I support fully that the enquiry is re-opened, if there are new things that have come in completely

to find out whether this happened, Commissioner, I will be the first to ...(intervention)

DR KLATZOW: You've ducked the question, Captain Mitchell.

MR MITCHELL: No I haven't, I said ...(intervention)

DR KLATZOW: The question was, that enquiry by the Flight Engineers, they allege that you wanted that enquiry dropped together with Margo.

MR MITCHELL: I'm not even aware of the Flight Engineer's enquiry.

DR KLATZOW: Did you follow the enquiries of the entire Helderberg enquiry, were you aware of the goings-on?

MR MITCHELL: No, I was only a witness there, you know, I ...(intervention)

DR KLATZOW: But you were part of the Airline?

MR MITCHELL: Yes.

DR KLATZOW: You realised that an aircraft had gone down?

MR MITCHELL: Yes.

DR KLATZOW: You must have had a professional interest in finding out what went wrong?

MR MITCHELL: It was a very hectic time, Dr, I can assure you, it was hectic, hectic, there was no logical ...(intervention)

DR KLATZOW: We'll get to that in due course. Are you aware that there's a thing in the aircraft called a cockpit voice recorder?

MR MITCHELL: Yes.

DR KLATZOW: You're aware too that it records the last half hour of conversation in the aircraft?

MR MITCHELL: Depending on your aeroplane.

DR KLATZOW: Correct. But in that aircraft it recorded the last half hour,

MR MITCHELL: Yes.

DR KLATZOW: You're aware that that cockpit voice recording was recovered from Mauritius?

MR MITCHELL: Yes.

DR KLATZOW: You're aware that that cockpit voice recording was transcribed at great expense by Colonel Leonard Jansen, are you aware of that?

MR MITCHELL: Yes.

DR KLATZOW: You're aware that an official version of that cockpit voice recording exists?

MR MITCHELL: Yes.

DR KLATZOW: And was accepted by the Margo Commission?

MR MITCHELL: Yes.

DR KLATZOW: You're aware that on that recording there was a discussion involving dinner being served in the cockpit, are you aware of that?

MR MITCHELL: Yes.

DR KLATZOW: When is dinner served aboard SAA flights out of Taipei?

MR MITCHELL: You mean for passengers?

DR KLATZOW: To the passengers and to the cockpit crew.

MR MITCHELL: It's not the same time.

DR KLATZOW: When is it served to the passengers? Let's do it peace meal.

MR MITCHELL: Nice word peace meal. I would be - what time did the aeroplane get airborne?

DR KLATZOW: About just after 1 o'clock our time.

MR MITCHELL: Dr, I would be wrong to tell you what the plan - what they gave people on the aeroplane, because I don't know.

DR KLATZOW: Captain Mitchell,

MR MITCHELL: Yes,- I'll come back to - by the crew, I'll tell you about ...(intervention)

DR KLATZOW: How long have you being flying?

MR MITCHELL: 40 years.

DR KLATZOW: How many meals have you been served as a proper meal at the top of descent, or just before the top of descent?

MR MITCHELL: A fair number.

DR KLATZOW: Well this is very interesting evidence, because everybody that I have spoken to, including people who should know,

MR MITCHELL: Who?

DR KLATZOW: Gert van der Veer.

MR MITCHELL: He's a pilot?

DR KLATZOW: No, but he flies a lot, and he's a man who should know what goes on, many other pilots, and I can give you their names,

MR MITCHELL: Yes, I'd like that.

DR KLATZOW: I will in due course.

MR MITCHELL: Go ahead.

DR KLATZOW: I'm not going to do it now, but many people have told me that it is extremely unlikely that a meal be served in the cockpit just outside Mauritius.

MR MITCHELL: May I give you another point of view if I may, Commissioner, you're suggesting that just prior to going down somebody asked for his meal.

DR KLATZOW: No, that's not what I suggested, Captain Mitchell, listen to the question. A meal was being served to the cockpit crew, not somebody asked for a meal, a meal was being served to everybody in the cockpit. Now you've read that tape-recording,

MR MITCHELL: Ages ago.

MR MITCHELL: Well I want to put it to you prevaricating, because it's quite clear from that tape-recording that a meal was being served to everybody in the cockpit.

MR MITCHELL: You had things to eat on the way down if you wanted to you, can I - will you let me just talk a little bit and tell you about this?

DR KLATZOW: Yes, let me hear.

MR MITCHELL: If you had a crew coming out of Taipei, you have a double crew and what would happen is that probably the first part of the crew - no, let's talk, the first part of the crew would sleep in the afternoon and the second crew would operate the aeroplane to about halfway. Now, that means that they would fly 4/5 hours, then the crew would change over. Now, the decision was that at that stage there, Dr, is that when you - they would have been feeding passengers, but as crew you would eat meals, your own meal, the hot/cold meals whatever you felt like, you'd call for it yourself. You don't have to eat with everybody else, because your time frame's out, you're in Taipei time, you're not in South African time, you'd eat at all the wrong times of the day, so when you're hungry, you call for your meal. And that's what happens, so probably a crew flew halfway and then they changed over, so that man or men, they went into the bunks and the next crew got into the operating, and then they and just before ...(indistinct) and it's 25 minutes for a descent or probably 5 or 10 minutes before then, the people would be woken up, they're going to go down and say, bring me my meal and he'd have his meal, and that is quite normal, I have done this hundreds of times.

DR KLATZOW: Who was the pilot on-board that aircraft?

MR MITCHELL: Dawie Uys.

DR KLATZOW: Who would have flown it out of Taipei?

MR MITCHELL: I have no idea.

DR KLATZOW: Well, is it not likely that the captain would have done so?

MR MITCHELL: No, why, there's three pilots.

DR KLATZOW: Who was the main engineer aboard that?

MR MITCHELL: I don't know.

DR KLATZOW: Joe Bellagada.

MR MITCHELL: No, that doesn't follow - we changed all the time.

DR KLATZOW: He was the main engineer aboard that aircraft, he was the senior man.

DR KLATZOW: Your point is?

DR KLATZOW: Joe Bellagada, Dawie Uys and other members of the crew were being served a meal and every indication was that it was part of the normal meal service, it was not something which happened in an unusual way such as you described, and inter alia, let me just finish, inter alia Jimmy Mouton and the Flight Engineers Association interpreted that meal in exactly the same way as I've interpreted it, namely that it was a meal served in the normal course of events and would have been served shortly after that aircraft reached its cruising altitude.

MR MITCHELL: For the crew that were there, yes, the operating crew, but not for the crew who had gone to the bunks already.

DR KLATZOW: It wasn't the crew in the bunks, it was in the cockpit.

MR MITCHELL: No, sorry, the bunker is next to the cockpit.

DR KLATZOW: It was in the cockpit, it was recorded in the cockpit.

MR MITCHELL: But I have no difficulty with that, I'm agreeing with you, I'm agreeing with you. The crew in the cockpit, those three would have got their meal, but they would have eaten and flown.

DR KLATZOW: Well are you suggesting that that meal was served half way between Taipei and Johannesburg?

MR MITCHELL: That could at ...(indistinct) or anywhere. You eat when you want to, you're not - there's no mealtimes, Dr. When you're flying, you eat when you want to eat. I personally don't eat probably for the first six hours when I'm flying, for a reason ...(intervention)

DR KLATZOW: Captain Mitchell,

MR MITCHELL: Yes sir?

DR KLATZOW: I don't want to be unpleasant, but I'm going to put it to you that you're lying.

MR MITCHELL: No, I'm not lying ...(intervention)

DR KLATZOW: I want to put it to you that you're the only person who put that interpretation on this event ...(intervention)

MR MITCHELL: Well, I'm the - I have the experience here and I really object to that, I want to take note of this, I object to that. I do not lie, I can tell you I've been flying for 42 years and I've got dozens of people who will do exactly the same as I will, dozens, in this Airline where I'm flying dozens, they do not eat at one

time, they eat when they feel like it, they change when they like, my stomach is not the same as yours, so I object to that, Dr ... (intervention)

DR KLATZOW: Precisely.

MR MITCHELL: Please, sir, I object to that.

DR KLATZOW: Have you lodged your objection Captain Mitchell?

MR MITCHELL: Yes.

DR KLATZOW: Precisely the point that your stomachs are not the same would be most unlikely for everybody whose stomachs are not the same to be being served a meal somewhere in the middle of this flight just at top of descent as you would have this Commission believe.

MR MITCHELL: Not unreasonable, ... (intervention)

DR KLATZOW: It is totally unreasonable.

DR KLATZOW: Sir, you are not a pilot.

DR KLATZOW: Is that your answer Captain Mitchell?

MR MITCHELL: ... (indistinct)

DR KLATZOW: Right, now, are you - will you accept that at least one interpretation that can be put on the fact that a meal was being served was that that flight recorder stopped functioning nearer Taipei than to Mauritius, will you accept that that is one possibility?

MR MITCHELL: One of the others too.

DR KLATZOW: Would you accept that it is one possibility?

MR MITCHELL: It's unlikely.

DR KLATZOW: I've not asked you whether it's likely or not, would you accept that it is one possibility?

MR MITCHELL: A highly unlikely possibility.

DR KLATZOW: Tell me why it is so unlikely.

MR MITCHELL: I don't know what your point is that you're making.

DR KLATZOW: Just tell me why it is an unlikely possibility.

MR MITCHELL: That a meal would be served and the cockpit voice recorder stopped there, that's highly unlikely, its ... (intervention)

DR KLATZOW: Well the cockpit voice ... (intervention)

MR MITCHELL: ... (inaudible)

DR KLATZOW: We know that the cockpit voice ... (intervention)

MR MITCHELL: You're a Scientist, you should know this.

DR KLATZOW: We know the cockpit voice recorder stopped as a result of fire.

MR MITCHELL: Correct.

DR KLATZOW: We know that it records the last ½ hour of conversation in the cockpit,

MR MITCHELL: Okay.

DR KLATZOW: We know that there is a discussion about a dinner on that tape-recording.

MR MITCHELL: Which fits my descent.

DR KLATZOW: You say it fits the descent? We'll get to that in a minute. Can you give me one reason why Jimmy Mouton's interpretation is so unreasonable that it should be disregarded?

MR MITCHELL: I think it would be unreasonable to disregard it at all, I think it's one of the possibilities, but certainly isn't the only one.

DR KLATZOW: Why was it disregarded?

MR MITCHELL: I don't know.

DR KLATZOW: I want to put it to you that you were present when Margo persuaded them not to put that on, and that they were threatened, and today, Captain Mitchell, they are still, all four of them, are still extremely intimidated, their families were threatened.

MR MITCHELL: No, I'm not aware of this.

DR KLATZOW: I want to put it to you that you were aware of it.

MR MITCHELL: Sorry, you're wrong.

DR KLATZOW: Right.

CHAIRPERSON: Can I just ask, before you get on with it. You said you were not in Judge Margo's chambers when he is supposed to have put these threats, I mean these indications that, look your family and national security an all that, but in the course of replying that, you said you visited him at his place, at his home.

MR MITCHELL: Yes.

CHAIRPERSON: What was that all about?

MR MITCHELL: Sir, that exactly - I was scratching my head to find a reason as to - I know I was there because I know how to get to his house, I hadn't been there before, and I've been thing of what is the reason I went there. I'm not a friend of Judge Margo at all, so I was never a visiting friend or anything like that, so I went there for a purpose.

CHAIRPERSON: Was it at his invitation?

MR MITCHELL: Yes, definitely, I wouldn't go there otherwise, oh, definitely.

CHAIRPERSON: Do you think you might find it possible to recall what it was all about? I say so because, you know, there is another proposition that is being put,

MR MITCHELL: Yes.

CHAIRPERSON: And it's a very serious proposition, it comes from more than one witness who state that the whole enquiry was sought to be derailed by a Judge who for good or for bad reasons had felt that it was in the national interest, no less, that certain evidence should be suppressed, that, you know, the enquiry should be led in a different direction that that which the evidence might point, and that certain people were being persuaded to take certain position which ...(indistinct) would not liked to have taken. Now, and therefor you are one of the people who is indicated to as having been present when this was made, and where you deny that, and I can live with your denying, but where

in the process of denying that particular meeting you say, no, the only time that I ever visited Margo was when I went to his home.

And why I'm asking is because I'm quite concerned that a Judge who is presiding in any enquiry of that nature should actually be visited, at his own invitation, at his home in circumstances where it might suggest that he was placing himself in a very invidious position.

MR MITCHELL: An invidious position?

CHAIRPERSON: Yes.

MR MITCHELL: I take note of that Commissioner.

CHAIRPERSON: Dr Klatzow? I'm just saying maybe it will be in all our interest for you to remember exactly what it was, you see, that you ...(inaudible)

MR MITCHELL: I give you my word, if I get it there, I'm here, I've got nothing to hide, I'm at your behest, sir, but I - there's just something that I remember driving in and I can't put my finger on it what we were there for, I'd rather not say it was that or this, because I actually - is it possible to approach the Judge and ask him?

CHAIRPERSON: We can explore that, but from all accounts it looks like the Judge is a bit on the old side now, he's very senile.

Anyway, you said it was you, who else was there, you said when "we"?

MR MITCHELL: I was by myself when I - I went there by myself. And when I got out my car I remember a car drove out,

to my memory, I think it was ...(indistinct), but again, I don't want to point fingers at somebody and I'm not sure who it was, but I know I went there.

CHAIRPERSON: But you recall also that as you went in some people were leaving and it is your considered opinion, though doubtful that it must have been Flight Engineers.

MR MITCHELL: I think.

CHAIRPERSON: You see, again, in the light of what is being put, you see ...(intervention)

MR MITCHELL: I get your point.

CHAIRPERSON: In the light of what is being put, it's again quite something that is very worrisome, that a Judge was who was presiding should - and if it was at his invitation that you and those Flight Engineers obviously were at his invitation at the place, and I want to put the other proposition, and this what I put to Gert yesterday, that we must take into account what the times were at which we were living in those days. It is not far- fetched, it may, in 1998, appear to be far-fetched for a suggestion to be made that a Judge could have made a proposition of that nature, but when you take into account what happened in this country, when evidence was placed by an advocate of a Senior Counsel, for instance in the case of the Harms Commission, before the Harms Commission, evidence that was placed over a long period - against the bedrock of public confessions that had been made by certain individuals about the prevalence of hit squads, evidence

which was rejected as being false, but which has not been proved in every single event by the perpetrators coming forward, and many others, to show that it was not just an act of a few bad apples, it was a prevalence, the nature of which we deal in this particular chamber, day in and day out in an expression by way of amnesty applications. So those sort of things are not far-fetched, and that a Judge could have made a proposition like that is not far-fetched, and it is our experience from what has been put before us in the course of this enquiry that people were frightened then, and still are frightened now because of the sort of environment that was created by suggestions which, it is our view, made by this Judge that it is not in the national interest for certain information to be made available for that Commission.

So, it is absolutely and critically important that you should endeavour to recall why it was that you went to see Judge Margo at his house, at his invitation, at a crucial time when the presiding officer should have stayed away from private conversations of any nature whatsoever which involves people who were potentially witnesses before you.

MR MITCHELL: Thank you, Chair, for explaining it, I've not been up to speed on the Truth Commission processes living in Mauritius, so I would thank you for that background. I certainly would endeavour every single bit to scratch my head during the next discussion that come and if something recalls there, I give - I'm under oath, I give you my solemn word that I will tell you,

I've got nothing to hide, I've got nothing to pretend, I didn't do anything wrong, and believe me, if there's anything at all I can help, I will.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Captain Mitchell, if a conversation about the Engineers Report was had with you, it would be something that you would remember?

MR MITCHELL: There were two reports, you know? There was a very serious report about the Boeing, about the problems on the electrical systems and how to de-activate the electrical systems.

DR KLATZOW: Please answer my question. Had the Flight Engineers given you a report about a meal being served at a different interpretation on board the aircraft, you would have remembered that?

MR MITCHELL: Probably, Dr.

DR KLATZOW: Had the Flight Engineers had an altercation with you or had you been in any way heated about this report, you would have remembered that?

MR MITCHELL: I had a fairly good number of arguments with the Flight Engineers Association because I represented SAA, so I ... (intervention)

DR KLATZOW: I'm talking about the report relating to the Margo Commission.

MR MITCHELL: I'm not aware of this one, Dr.

DR KLATZOW: Is there any reason why the Flight Engineers would wish to incriminate you or to get you involved unnecessarily or to falsely accuse you?

MR MITCHELL: I can't see why they should

DR KLATZOW: Of course they couldn't. I now want to read to you what Jimmy Mittens says,

"A teams comprising my brother and Andre Halt, both Flight Engineers, helped me analyse. We unanimously said the investigation went down the wrong track, we believe to this day that there were two fires aboard that plane and at that stage we did not know that the ZUR tapes went missing. We submitted our report and immediately realised we were standing on toes. We summoned to SAA, Mickey Mitchell, Chief Pilot from the SAA Safety Officer asked us if we were accusing him of saying that the pilot, Captain Uys was told to fly on despite the fire. We hadn't even thought of it at that stage."

Do you remember that conversation?

MR MITCHELL: No.

DR KLATZOW: Is there any reason why Mittens would lie?

MR MITCHELL: I don't want to call people liars, Dr, but inaccuracy probably.

DR KLATZOW: I don't think so, I think that they would confirm that under oath.

MR MITCHELL: Yes, but inaccurate.

MS WILDSCHUT: Excuse me, I just want to say that he said this to me - this is something he said to me very recently and he was very passionate about it and said he would do that under oath.

MR MITCHELL: I have no difficulty, maam, but I don't recall this, I really don't.

DR KLATZOW: I want to put it to you, Captain Mitchell, that the reason that you cannot recall that is not because your memory is fading, because you have quite a clear memory of many of the things which you've testified to today, I want to put it to you that the reason that you disavow any knowledge of this, is because there are extremely sinister implications which could very well involve you.

MR MITCHELL: I'm sorry, I don't agree.

DR KLATZOW: And that one of the implications is that a vital tape, which you claim nothing was on, despite the fact that you hadn't listened to it, went missing after it was in your care, and you'd passed it on to somebody else, and that you never informed the Margo Commission of the steps of this tape.

MR MITCHELL: Sorry, sir, I did, via Rene van Zyl.

DR KLATZOW: You were in the witness box, you had heard the conversation, you had every opportunity to say to the Judge, Judge - you were discussing the tape immediately before my

presentation, I had that tape, it was locked in the safe, and this man had the keys and he's the man you should ask about it.

MR MITCHELL: Don't you think Rene van Zyl would have done that?

DR KLATZOW: I'm not asking what Rene van Zyl would have done. I want to know why you didn't do it.

MR MITCHELL: Sorry, sir, that's not my job, that's his job.

CHAIRPERSON: I differ, I differ, I differ, I differ, Mr Mitchell.

In a Commission nobody has a job like there is a job description. In a Commission, especially in a Commission, more than in fact in a court of law, in a commission you endeavour to bring information to the attention of the Commission that might be germane to the issues being thrashed out, and that might assist the Commission to arrive at a fair and a balanced verdict.

MR MITCHELL: Yes.

CHAIRPERSON: And I'm sure you now appreciate, if you had brought that information to the attention of the Commission then we would certainly not be here.

MR MITCHELL: Yes, you're right.

DR KLATZOW: Well, why didn't you?

MR MITCHELL: As I say, in my ignorance, Dr, I'm not aware of Commissions or acts, this is the first one I've ever been to, is that I assume that the investigator has sent a lot of time with the Judge explaining things.

DR KLATZOW: Well, I want to put something else to you, Captain Mitchell,

MR MITCHELL: Yes.

DR KLATZOW: When we started this discussion over an hour ago, you attempted to convince the Commission that the tape had been taped over, you put it as a fact, and remember, you are under oath, that the tape had been taped over, not that it had been lost. You went out of your way to correct me in my statement to you.

MR MITCHELL: I don't think we'll ...(indistinct) I'll say again ...(intervention)

DR KLATZOW: So you think it was taped over?

MR MITCHELL: I think so.

DR KLATZOW: Then please tell the Commissioner why it is that you didn't show the remains of the tape, and I'm going to give you a very logical reason why you didn't.

MR MITCHELL: ...(indistinct)

DR KLATZOW: You answer my question first, I'm asking the questions, Captain Mitchell.

MR MITCHELL: You asked two now.

DR KLATZOW: Why is it that you did not give the empty tape to the Commissioner at the time, Margo, if that is what you said?

Tell me why you didn't give that tape to him, and if the tape was lost, why did you try to convince this Commission that it had been taped over?

MR MITCHELL: Can I just come back to your first question.

DR KLATZOW: Yes.

MR MITCHELL: Your first question is, why didn't I give the tape to the Commission. Now, when Rene van Zyl came back and said there's nothing on the tape, I can't remember that we accepted the tape back into SAA. In fact, I'm pretty sure that tape is locked up in Pretoria.

CHAIRPERSON: But that wouldn't be the reason for you not producing the tape, whether it was in Pretoria or anywhere else. And in any event, we've dealt with the question of the tape that was brought back by the DCA people. That tape was brought back on the basis that it was the tape relevant to a date other than the one in question.

I think the question is relevant to the tape which you, under oath, have sought to say to us was taped over, why was that tape not produced by you at the Enquiry?

MR MITCHELL: But sir ...(intervention)

CHAIRPERSON: As proof of the fact that it was taped over, it was an inadvertence, but there it was, end of the story.

MR MITCHELL: Yes, Commissioner, the point I make is that came back, Rene van Zyl said there's nothing on this tape, about the Helderberg ...(intervention)

CHAIRPERSON: But you are not answering the question, Mr Mitchell,

MR MITCHELL: I'm missing the point, yes.

CHAIRPERSON: Let's deal with one question first.

MR MITCHELL: Okay.

CHAIRPERSON: On the basis of your own evidence today, namely that that tape, the crucial tape, the ZU tape, whatever it is called, had been taped over. Now that tape about which all of us are in agreement, I'm talking about the tape that was claimed to have been lost when in fact it had not been lost, but had been taped over, the question is, why did you not make that tape available to the Commission as evidence of the fact that there should be no issue as to what happened to the tape, it was not lost, it's here, it's physically here, except that it won't contain anything, even if the anything is nothing. It is here, we taped over it, here is that tape, why didn't you do that, that's the question?

MR MITCHELL: Commissioner, I do not think that tape is in the hands of SAA at all, it remains in the hands of the investigator who is Mr Rene van Zyl.

CHAIRPERSON: That still doesn't answer the question, why didn't you when you gave evidence say, look the tape is available,

MR MITCHELL: Yes.

CHAIRPERSON: It was taped over.

MR MITCHELL: Yes.

CHAIRPERSON: Why didn't you?

DR KLATZOW: Captain Mitchell, I'm going to advance a suggestion to you,

MR MITCHELL: Yes?

DR KLATZOW: If the tape had been taped over and you'd given it to the Commissioner, you may remember that there was a small unpleasantness called Watergate, which resulted in the impeachment of President Nixon, and part of the reason that Nixon was impeached, was that they were able to uncover information from tapes that had been re-taped over.

MR MITCHELL: Yes.

DR KLATZOW: Now, if the tape had been taped over, which I find inexplicable,

MR MITCHELL: It can happen.

DR KLATZOW: Of course it can. Why didn't you give it to Margo?

MR MITCHELL: But I didn't have it.

DR KLATZOW: Neither did DCA.

MR MITCHELL: But DCA did.

DR KLATZOW: Let me ask you this question, because let's deal with that point, what did Rene van Zyl say to you when he came back with the tapes?

MR MITCHELL: In round words, the tape there had nothing on it to do with the Helderberg.

DR KLATZOW: Well let me tell you what Rene van Zyl said.

MR MITCHELL: Okay.

DR KLATZOW: And this is out of the horse's mouth. He came back and you were told that it was not the correct tape.

MR MITCHELL: Yes.

DR KLATZOW: "We were then told that the tape was taped over" and his comment is, "I find this really weird". Now which is true, Captain Mitchell, you're under oath and you've not got a ...(indistinct) of versions.

MR MITCHELL: No, no, that isn't the same thing, that's exactly what we're saying.

DR KLATZOW: No, it's not.

MR MITCHELL: I see it as the same thing, I'm very sorry.

DR KLATZOW: Well then why did you never produce the taped-over taped?

MR MITCHELL: Because he kept.

DR KLATZOW: He didn't, it was never given to him.

MR MITCHELL: No, no, no, we're talking at cross-purposes here.

DR KLATZOW: No, we're not talking cross-purposes.

MR MITCHELL: No, no, I see what - the tape that went to Rene van Zyl was thought to be the one that was the Helderberg.

DR KLATZOW: Yes.

MR MITCHELL: And it went there, but it had been taped over.

DR KLATZOW: But it was the wrong tape.

DR KLATZOW: But it had been taped over and another day was on this tape.

DR KLATZOW: Yes?

MR MITCHELL: So when it came over that the information on that tape pertained to another day,

DR KLATZOW: Yes?

MR MITCHELL: So when he brought the tape back and said, this is the wrong tape,

DR KLATZOW: Yes?

MR MITCHELL: But we said it's not the wrong tape, we gave that to you, that's the one we got.

DR KLATZOW: It was the wrong tape.

MR MITCHELL: That's right.

DR KLATZOW: And the explanation as to where the right tape was proffered was, is the explanation that you've given us today, that it was taped over.

MR MITCHELL: And that's the one that he took with him.

DR KLATZOW: No it is not the one.

MR MITCHELL: No, sorry, sir.

DR KLATZOW: There are two tapes.

MR MITCHELL: Sorry, sir.

DR KLATZOW: There is a tape which was the tape of the following day, which was given to Rene van Zyl.

MR MITCHELL: Sorry, sir, I don't see it like that.

CHAIRPERSON: We canvassed this point earlier on, and I think you were, in fact, I'm sure you were in agreement that we're talking about two tapes,

MR MITCHELL: Yes.

CHAIRPERSON: The one tape that was given to the Flight Engineers, I think, is that what Mr van Zyl is? That tape was the one which was returned to you, it had nothing on it, precisely because it was a tape relevant to a day other than the day in question. That tape was then returned ...(intervention)

MS TERREBLANCHE: Sorry to intervene, but I think there is a confusion. There are a number of things, there is the Mauritius conversation, no, there's the CVR ...(intervention)

CHAIRPERSON: There's no confusion in the way the evidence was led. The evidence I understood to be that was when we come to the issue of the tapes that were taken away, there is a tape that was given to Flight Engineers ...(intervention)

MR MITCHELL: DCA.

CHAIRPERSON: I mean DCA, that's - DCA was given a tape,

MR MITCHELL: Yes.

CHAIRPERSON: And that tape is the one that was returned on the basis that there was nothing on it. And earlier on, I think we will agree, that it had nothing on it precisely because it related to a day other than the date in question. And it is then that earlier on, it was your considered opinion that the tape in fact that had remained, is the tape that had been taped over. And that is the tape that we're talking about, there are two tapes. Certainly by way of earlier evidence it was clear that there are two tapes. Now, as I understand it, you are seeking to say the tape that was

taped over is in fact the tape that was given through to Van Zyl and he brought it back.

MR MITCHELL: That's my impression.

CHAIRPERSON: Well, then there's one tape and then I don't know what I do with your earlier evidence which you seemed to be emphatic in trying to ...(inaudible) between the tape that went away and then was returned, and the tape that ought to have remained, except that it had been taped over, which is why you were saying it actually never got lost.

MR MITCHELL: We never had a lost tape at all.

CHAIRPERSON: Dr Klatzow?

DR KLATZOW: Well, Mr Commissioner, the evidence gets more and more confusing as we go along, ...(intervention)

CHAIRPERSON: Yes, I agree with that.

DR KLATZOW: Because, no 1, Margo found, as a fact, that there had been a lost tape, or that it had been transcribed over, sorry, taped over. He made that as a factual finding, and he made it because you, who was one of the people who could have shed light on it, never said a word about it at the Commission.

MR MITCHELL: Then I stand corrected, because if you tell me, I should have, but, my assumption is - then again I come back to the mistake that I thought that DCA would have told the Judge or the problem, so I assumed that.

DR KLATZOW: And you were quite happy to sit in court and watch the Judge being misled and going down a wrong alley without saying a word.

MR MITCHELL: You think the Judge was misled?

DR KLATZOW: Answer the question.

MR MITCHELL: I didn't see the Judge being misled.

DR KLATZOW: Right, now, you see the difficulty I have with your evidence is as follows, Mr Mitchell, I'm going to tell you from the word go.

MR MITCHELL: Okay.

DR KLATZOW: There are a number of murky issues that arrived on our doorstep as a result of the loss of that aircraft, and your name is central to several of them. There was a tape-recording, made of ZUR, which is placed in your hands, which goes missing. You then give no proper explanation. In fact, your explanation has been like treading on quicksand, during even this enquiry, you have shifted from one explanation to another, faster than my plodding thoughts can follow you.

MR MITCHELL: Hardly plodding.

DR KLATZOW: That's the first thing. The second, thank you, the second thing is this, that there is a series of statements which implicate you, Captain Mitchell, in something grossly improper in this enquiry, and all you can do is to deny that they occurred, and yet four people will propose under oath that you were somehow involved in suppressing that report ...(intervention)

MR MITCHELL: I'm sorry, this is dying.

CHAIRPERSON: Yes, I think there is a grave problem with the sound system and I don't know - we must get it right. Do you need time ...(intervention)

DR KLATZOW: Sorry, my microphone was off.

CHAIRPERSON: Can you hear me?

MR MITCHELL: I can hear now, that's fine.

DR KLATZOW: Sorry, my microphone was off. We have a conversation that Jimmy Mouton claims to have had with you, which has had to be wrung out of him, he didn't rush to me or to anybody else and volunteer this. It had to be squeezed out of him, painfully and at great anguish to all concerned, which says that you met him and you accused him of the second fire, and you had a fit about the report, that you were upset out the report, and you've conveniently developed an amnesia for that.

MR MITCHELL: ...[inaudible]

DR KLATZOW: No, he said to you: "Here's the report" and you called him in and said: "Are you suggesting that the pilot flew on despite the fire", that's what you said to him and you've forgotten that?

MR MITCHELL: Ja.

DR KLATZOW: So Mitchell is right, Mittens is a liar?

MR MITCHELL: No, Mitchell does not remember.

DR KLATZOW: So you can't gain say that?

MR MITCHELL: What does that mean?

DR KLATZOW: Well, it never ...[intervention]

CHAIRPERSON: You can't say it never happened, it's just that you do not remember it happening.

DR KLATZOW: So in other words, if Jimmy Mittens says it happened, you can't deny that it happened?

MR MITCHELL: I would be wrong to because I'd be calling him a liar and I don't, I just don't remember.

DR KLATZOW: Well, so it could have happened?

MR MITCHELL: If he said so, it could have happened but I don't remember that.

DR KLATZOW: Well, give me a reason why Mittens would say it happened if it never happened?

MR MITCHELL: You know Doctor, I don't know. If - probably if we sat down and talked about it through with Jerry Mittens and he told me all about it and so forth, I would understand that but ...[intervention]

DR KLATZOW: Yes, yes. Well, let's go further Captain Mitchell, there was a report which the Margo Commission never heard, that's fact. The Margo Commission was never in possession of the Flight Engineer's report.

MR MITCHELL: Really? Why didn't they give it to him?

DR KLATZOW: Because you and Margo suppressed it, I want to put it to you.

MR MITCHELL: Oh nonsense. They could go direct to ...[intervention]

DR KLATZOW: Well, let's just look at the logic of the whole thing ...[intervention]

MR MITCHELL: No, no, no, it's nonsense.

DR KLATZOW: They did go directly to him.

MR MITCHELL: They could go anywhere, they could go to you.

DR KLATZOW: Captain Mitchell, they went directly to Margo and they were intimidated. That will be will their evidence. And you have come with a version that you don't remember it but they will say this, four different people will say this.

MR MITCHELL: Well, I don't remember Judge Margo meeting with him, I don't, I know I went to his house. I know I that but I, that's important ...[intervention]

DR KLATZOW: Captain Mitchell, you're getting deeper by the moment.

MR MITCHELL: Yes.

DR KLATZOW: Because your evidence under oath, not half an hour ago, was that you went to Margo's house for reasons that you cannot remember, that at his house you remember Mittens and the flight engineers having been there.

MR MITCHELL: I think so.

DR KLATZOW: Yes. Now which is true, what you said to me three minutes ago or what you said earlier?

MR MITCHELL: Sorry Sir, I have not conflicted it.

DR KLATZOW: The record - Captain Mitchell, the record will be the judge of that.

MR MITCHELL: Incorrect.

DR KLATZOW: And I am telling you that you contradicted yourself under oath, which is the true version Captain Mitchell?

MR MITCHELL: I don't see any difference in the versions, I've got no versions. I'm not here to lie, I'm here to assist and I want to do as best as I can and if I can't remember, I'm just very sorry, I just can't remember and I take note of the very important issue that the Commissioner said about why was I at Judge Margo's house. Now I take note of that, that's very important.

The other issue of talking to the flight engineers and so forth like that, I regularly spoke to flight engineers, that was my job, they came to me about feedback. I regularly spoke to flight engineers on many, many issues, money, the whole lot and I don't remember this one as a specific one nor do I definitely not remember them being threatened and harassed and things like that, I really don't ...[intervention]

DR KLATZOW: I want to put it to you that that is a very convenient amnesia.

MR MITCHELL: I'm very sorry Sir, as much as I'd like to try, I'd like to help you. I want to know what happened as much as you do and believe me I have not, I would like to, I'm doing my best as I can to help you down the, I've help you down the load on three things today that I can remember quite clearly of the eating, the meal thing and ...[intervention]

DR KLATZOW: No, I want to get to the meal.

MR MITCHELL: And I'm clear about that and I'm correct, I know I am.

DR KLATZOW: Yes.

MR MITCHELL: And I'm also correct about the HF tape and so forth and on that basis, you put your whole discussion on this tape because you've had your basis, your basis wrong.

DR KLATZOW: No, no, my basis is not wrong and there is much, much more to the propositions that I'm putting to you than the facts that I've just put to you. But about the tape recording regarding dinner, you have put to us and to this Commission a version about how you eat your meals in a highly idiosyncratic fashion.

MR MITCHELL: Sorry Sir, ...[indistinct] many, many, I ...[intervention]

DR KLATZOW: Can I finish my questions, we both can't talk at the same time. May I finish my question? You have attempted to explain to this Commission that everybody on SAA and the Pilot's Association and whoever, eat their meals at top of descent, when in fact the true issue is that the meal is primarily served shortly after takeoff and you have not been seen fit to accord proper recognition to the possibility that that tape recorder could have stopped functioning earlier in the day. And I want to put it to you, there's a reason that you don't want to accept that version because the moment you accept that version, the entire Margo finding goes out of the window Captain Mitchell. It would be

untenable to Margo's finding, that a pilot of Captain Uys' standing experience would fly on from a fire which occurred outside Taipei, only to have it reoccur outside Mauritius.

MR MITCHELL: I agree with that 100%, no pilot in South African Airways, and no pilot having had a fire like that would fly on, that's categoric.

DR KLATZOW: That's perfectly right.

CHAIRPERSON: Except that if you were to land in hostile territory, then there would be a problem for that pilot wouldn't it or certainly it would have been a problem for South African authorities? For instance, you couldn't land in India or Bombay or anywhere else?

MR MITCHELL: Sir, when you're on fire you land anywhere Sir, believe me.

CHAIRPERSON: Of course there is the proposition that could be made, when you are ordered not to land anywhere but to fly on then you won't land anywhere.

MR MITCHELL: No, not at all. A Captain is a Captain, he's not ordered, you don't tell Captains what to do. Captains by the law of the land, will fly the aeroplane and they are in total command.

If he doesn't want to fly that he won't fly it, he is in command. Nobody tells Captains what to do.

DR KLATZOW: I want to put to you a version Captain Mitchell, that Captain Uys had a fire, that he had fought the fire and probably got it out, that he had then asked, because the rule and

regulations suggest that the moment you've got the fire out you land at the nearest suitable airfield. And I want to suggest that he radioed in for permission to do that and he was asked - listen to the proposition ...[intervention]

MR MITCHELL: I'm listening.

DR KLATZOW: Before you prejudge it. He asked ZUR permission to land and landing under those conditions would invoke a search of his cargo and a full inquiry and SAA could not afford to have its hold searched when it was carrying military contraband and that is the reason that Uys flew on.

MR MITCHELL: Sir, that's a reasonable proposition and I accept it as one of the possibilities but at the same time I know, I knew South African Airways pilots. One, if you have a fire you are going to go and land, sorry, you are going to go and land, that's it, you ...[intervention]

DR KLATZOW: I don't want to interrupt you but I'm going to. There are so many incidents of people having various types of fires and not doing that, that it makes a mockery of your statement, that's number one. Number two, we are suggesting to you that there was a serious fire aboard that aircraft and that Uys did not land, and the one interpretation that you can put on the meal on the tape recorder, you are incredibly reluctant to accept.

MR MITCHELL: 100% I do not accept, I really do not accept this one. There was no fire, the fire came later.

DR KLATZOW: How do you know that Captain Mitchell?

MR MITCHELL: They would have landed Doctor, they would have landed.

DR KLATZOW: They would have landed unless ...[intervention]

MR MITCHELL: With a fire of that kind of quality.

DR KLATZOW: They would have landed unless they had thought they had it out and had been ordered to go on. What do you think the results would have been if Bombay officials had searched the hold of that aircraft and found military ordinance aboard?

MR MITCHELL: You'd probably go to jail with the Captain.

DR KLATZOW: And what else do you think would have happened? What do you think would have happened to SAA?

MR MITCHELL: Well, ...[intervention]

DR KLATZOW: This country stank in the eyes of the world, to ...[indistinct] a metaphor.

MR MITCHELL: I was only thinking of the Captain, please not.

DR KLATZOW: Sorry?

MR MITCHELL: I was only talking about, thinking about the Captain.

DR KLATZOW: I'm talking about SAA.

MR MITCHELL: There would have been problems.

DR KLATZOW: What sort of problems Captain?

MR MITCHELL: I'm not a politician.

DR KLATZOW: But do you not think that it is highly likely that civilised countries would have said: "Who are these fools carrying military ordinance over our countries in civilian aircraft?"

MR MITCHELL: Sir, again I am not part of that process, I am not a politician, I am a pilot, I don't get involved in these kinds of issues, it's not my interest.

DR KLATZOW: Well I'm assuming you're a man of ordinary intelligence or possibly above ordinary intelligence.

MR MITCHELL: Thank you.

DR KLATZOW: Captain Mitchell, what do you think would have happened to the passengers who learnt that they are about to enter, overseas passengers or for that matter any passengers because it would have been world news, do you think that passengers would have been queuing up to fly aboard SAA aircrafts that were carrying rocket fuel all over the place?

MR MITCHELL: I don't know ...[indistinct] rocket fuel or anything.

DR KLATZOW: Just answer the question please.

MR MITCHELL: The passengers would have definitely been most unhappy with SAA.

DR KLATZOW: Yes.

MR MITCHELL: Absolutely.

DR KLATZOW: I want to put it to you Captain Mitchell, that had that information come out, it would have sunk SAA deeper than the Helderberg.

MR MITCHELL: Probably, probably, but let's get back to the first one please doctor. That Captain, no Captain will fly with that kind of fire, no Captain.

DR KLATZOW: He thought he had it out.

MR MITCHELL: Sorry Sir, sorry.

DR KLATZOW: He thought he had it out.

MR MITCHELL: Sorry, I'm emphatic about that. Furthermore, if there was any kind of fire - look you're quite right about a cushion catching light and they put it out with a fire extinguisher and they sit with it, if there was a fire on board that aeroplane earlier in the day, which you are suggesting, I can guarantee you that any Captain would - you'd have a man sitting there until you landed at that emergency place. I mean, you must be stupid to fly, I mean you're putting your neck on the line.

That doesn't work like that doctor, it really doesn't. Please accept my word. I am a pilot, I've got lots of experience, I know what pilots think.

DR KLATZOW: And you have, despite your experience, you have a deep dark secret to cover up?

MR MITCHELL: No Sir, I can give you my word, really I haven't. Stupid I may be but I'm not covering anything up, sorry.

DR KLATZOW: You have every reason to cover up.

MR MITCHELL: No, no.

DR KLATZOW: Because you were at the centre of it.

MR MITCHELL: Oh no.

DR KLATZOW: You have every reason to prevaricate and to lie about it.

MR MITCHELL: I'm not lying.

DR KLATZOW: Whereas the people who have made these statements have no reason whatsoever to lie.

MR MITCHELL: No, sorry.

DR KLATZOW: You have not given us one adequate explanation for any of the things that I've put to you.

MR MITCHELL: I've disagreed with you on them, yes.

DR KLATZOW: Of course you have but you haven't given one adequate explanation.

MR MITCHELL: I'm sorry, I've told you about the HF which is a very, very valid process and I hope you take note of it because your whole case falls apart when you look at that. Secondly, when you look at the eating process of which men eat in the aeroplanes, that certainly is a most logical process and I can give you evidence on many Captains like that Sir, many.

Furthermore, the process of a Captain and a fire, Captains will land doctor, Captains will land, they will not fly. When you've got a fire and your necks is at stake, believe me there is one thing that we taught our Captains and that is why they are Captains, they will land.

DR KLATZOW: Why didn't he?

MR MITCHELL: Because he got the fire much later.

DR KLATZOW: One last question Captain Mitchell, the cockpit voice recorder records the last half hour in the aircraft, is that correct?

MR MITCHELL: Yes.

DR KLATZOW: The last conversation immediately before that aircraft plunged into the sea some 130 odd nautical miles outside Mauritius was a conversation with Plaisance Airport?

MR MITCHELL: Yes.

DR KLATZOW: Do you remember that?

MR MITCHELL: Yes.

DR KLATZOW: It started with: "This is Springbok 295, we have a smoke problem".

MR MITCHELL: Right.

DR KLATZOW: Have you heard that tape?

MR MITCHELL: Yes.

DR KLATZOW: That was the last half hour's conversation aboard that aircraft was it not?

MR MITCHELL: Yes.

DR KLATZOW: Sorry?

MR MITCHELL: Recorded, yes.

DR KLATZOW: Correct. Can you give me - and that was a smoke problem, Captain Uys said: "We have a smoke problem", not: "We have a fire problem or anything else: "We have a smoke problem", okay?

MR MITCHELL: Yes.

DR KLATZOW: And you pilots are taught to be accurate in your communications, so if he had a smoke problem he had a smoke problem. Can you give one - have you read the tape recording transcript of the CVR?

MR MITCHELL: Yes.

DR KLATZOW: Is there one word of that conversation on that CVR?

MR MITCHELL: Is there one word?

DR KLATZOW: Is there one word of the Plaisance conversation on the cockpit voice recorder?

MR MITCHELL: Sorry?

DR KLATZOW: Is any of the conversation between Uys and Plaisance present on the cockpit voice recorder?

MR MITCHELL: Yes.

DR KLATZOW: Show me where please.

MR MITCHELL: Didn't it say land runway 14 ...[intervention]

DR KLATZOW: Show me where the conversation on the CVR corresponds in any way with the Plaisance tape recording, which is a good quality tape recording.

MR MITCHELL: Isn't it there they say runway 14 at Plaisance ...[intervention]

DR KLATZOW: Don't say: "Isn't it". Are you telling me that there is an overlap, that the words spoken by Uys on the cockpit voice recorder are mirrored in the conversation with Plaisance,

and if you are telling me that I am going to invite you to show me, I have both conversations here.

MR MITCHELL: Sorry, can I give to you what I understand you're asking me?

DR KLATZOW: Yes.

MR MITCHELL: They were coming in to land and Dawie Uys says: "Plaisance, Springbok 294"

DR KLATZOW: Correct.

MR MITCHELL: "We started the descent on the way down. We're down to 140. We've got smoke problems", that's the tape I'm talking about.

DR KLATZOW: Yes.

MR MITCHELL: And then Plaisance comes back and says: "What is your height, what are you doing" ...[intervention]

DR KLATZOW: That's correct.

MR MITCHELL: Then he says: "Cleared under 5000 feet ...[intervention]

DR KLATZOW: That's correct.

MR MITCHELL: And he says: "Runway 32 and 14" and he, that's the tape ...[intervention]

DR KLATZOW: Your memory is astounding, it is good and it is accurate.

MR MITCHELL: Yes.

DR KLATZOW: And I'm not being sarcastic.

MR MITCHELL: No, I've got the ...[intervention]

DR KLATZOW: Yes. Show me one word of that conversation on the cockpit voice recorder.

MR MITCHELL: But isn't that the cockpit voice recorder tape?

DR KLATZOW: No, it isn't, it is the tape taken from the airport control tower at Plaisance.

MR MITCHELL: Well there you are, I didn't know that.

DR KLATZOW: Well now you do, now show me one word of that conversation of the last half hour of that aircraft ...[intervention]

MR MITCHELL: I get your point, I get your point.

DR KLATZOW: Can you explain that?

MR MITCHELL: No.

DR KLATZOW: I will explain it to you.

MR MITCHELL: Okay.

DR KLATZOW: That the cockpit voice recorder ceased functioning before that last half hour.

MR MITCHELL: That's feasible.

DR KLATZOW: Now, in the light of that your denials are even more hollow about the fact that that cockpit voice recorder ceased functioning earlier.

MR MITCHELL: I've haven't denied it and I'm not anti what you're saying, so I ...[intervention]

DR KLATZOW: Well, you could have fooled me Captain Mitchell.

MR MITCHELL: No I'm not, they're not hollow, I'm just trying to ...[indistinct] together there so that we can link this together, that the cockpit voice recorder as well as the Plaisance tape don't match and so forth. So you're saying that it could have been further back down there and hence the reason why it wasn't ...[intervention]

DR KLATZOW: Correct.

MR MITCHELL: I hear you. I haven't heard that concept before.

DR KLATZOW: Well, for a man who was at the centre of the investigation and a man of your experience ...[intervention]

MR MITCHELL: No, no, hang on, I'm not at the centre of the investigation, sorry.

DR KLATZOW: You were a key figure in the early stages, you lost friends and colleagues aboard that aircraft, you are a professional man and not only that, I happen to know that there are regular briefings about aircraft accidents and this one would have been particularly important, which and pilots undergo and you often present Captain Mitchell.

MR MITCHELL: Not really, but that's another thought. I haven't thought down that line, so I take note of what you're saying.

DR KLATZOW: Yes. And I want to put it to you that the reason the Jimmy Mittens report never got before Margo is that he and the rest of his crew were intimidated because you've

conceded to this Commission that his interpretation was a reasonable interpretation. You disagree with it but it an interpretation.

MR MITCHELL: Certainly.

DR KLATZOW: And furthermore, that in some inexplicable way you were summoned by Margo to his house in the middle of the night at the same time as the flight engineers ...[intervention]

MR MITCHELL: No, no, no, I didn't say the middle, that's dramatic.

DR KLATZOW: Some time at night.

MR MITCHELL: No, it was daytime.

DR KLATZOW: Whatever.

MR MITCHELL: No, that's important.

DR KLATZOW: No, it's not important.

MR MITCHELL: It is.

DR KLATZOW: The fact is ...[intervention]

MR MITCHELL: We must report accurately.

DR KLATZOW: Well, let's record it accurately. You were summoned to Margo's house outside the proper sitting of the hearing, together with the flight engineers, which corresponds with what they have told us despite the fact that you deny everything else that they have told us. And incidentally that version had to be wrung out of you with some difficulty.

MR MITCHELL: Sorry, I've got a bad memory but I was as helpful as I can be.

DR KLATZOW: Well, Captain Mitchell, a lot of the help that you've given us, I must tell you has been inadvertent.

MR MITCHELL: Well, I'm sorry, I would have like to have been more direct.

DR KLATZOW: I have no further questions.

MR MAGADLA: Mr Mitchell, when you were summoned to Justice Margo's house, did you have a personal lawyer or did you have a lawyer for the company, for SAA at that time? A lawyer who represented the SAA in the Commission?

MR MITCHELL: Present with me at that visit Mr Magadla?

MR MAGADLA: No, no, no, not with you but did you have your own personal lawyer at the time, not going there with him, just a lawyer looking after your own affairs, personal affairs.

MR MITCHELL: My personal affairs?

MR MAGADLA: Mm.

MR MITCHELL: Is that my personal or South African Airways affairs?

MR MAGADLA: Both, let's say both.

MR MITCHELL: Alright. The lawyers of South African Airways were the men from Transnet, the people from Barlow and Clyde in London and Mr Puckrin.

MR MAGADLA: Okay. Now, did you inform at any one of them or did you inform Mr Puckrin that we you were being summoned by Justice Margo to go to this house at night?

MR MITCHELL: No, it wasn't at night Sir.

MR MAGADLA: Or whatever time.

MR MITCHELL: No, it sounds dramatic at night but it wasn't ...[intervention]

MR MAGADLA: Well, let's leave the drama, but did you inform them that you had been summoned by Justice Margo to go to his house, which you knew was very irregular, highly irregular for him to have done that?

MR MITCHELL: Sir with respect, I did not know it was irregular. It might sound dumb but believe me, I did not know it was irregular. If a Judge says to me to come to his house, don't argue, I'm going.

MR MAGADLA: But then knowing that he's investigating that matter and he's presiding on that Commission and that you were a likely witness in that matter, did you not see it fit to inform the lawyer that represented the company SAA, that: "Look, I'm being called by that Judge, I don't know what questions he wants to ask me, I just thought I should let you know or tell me what to say when I get to him"?

MR MITCHELL: No, I didn't do that because I'm not aware of the legal process. It's exactly the same as I've come here today, with an open mind and open statement here. I've got no lawyer with me now.

MR MAGADLA: Are you saying you did not know that there was a lawyer looking after the interests of SAA?

MR MITCHELL: No, I've said there was, the whole system was in place but I was not, I really was not aware that what the Judge, he was interfering with the process.

MR MAGADLA: After you had seen the Judge, did you go to, did you inform the lawyer as to what the Judge had said to you? I mean, the company was preparing their own version into what happened to the Helderberg, now that's done in conjunction with all the role players, the main role players like yourself. Now you are being called by a Judge somewhere privately or otherwise and you go there, what about informing these other people, the people who were actually in charge of the interests of the company?

MR MITCHELL: I wonder whether the other people who went to the Judge also informed the company's lawyers of the process.

MR MAGADLA: No, I'm talking about yourself Mr Mitchell.

MR MITCHELL: Sir, I didn't inform anybody because I didn't think it was relevant.

MR MAGADLA: Did you inform them as to what the Judge had said to you?

MR MITCHELL: Well, I don't know what the Judge said to me Sir, I'm trying to remember what it was about. I ...[intervention]

MR MAGADLA: No, at that time. You forget now, it's a long time now but after you had been to the Judge, did you go to the other members and say to them: "What did he call you for, he called me for this, this is what he said to me"?

MR MITCHELL: I get the point ...[intervention]

MR MAGADLA: Or: "Have we been saying the same thing to the Judge or not"?

MR MITCHELL: No, we didn't compare notes with anybody, I really didn't. I can't ...[intervention]

MR MAGADLA: Did you tell your family that you had been called by the Judge and he had this to say to you?

MR MITCHELL: Probably. If I look at my diary, no, it's 10 years ago, you won't find it. It will be in my diary that I went there. Probably I would have told my wife I've been or my secretary, that I would have gone. I'm sounding particularly dull, I'm very sorry.

MR MAGADLA: Maybe finally just in a nutshell, what did you seek to clarify with the documents that you have before you now?

MR MITCHELL: These ones here Sir? What I wanted to clarify is that the basis, and I'll try and make it a simple straight sentence without repeating myself.

The purpose of the big discussion on the tapes is based on the fact that there was communication between the aeroplane and ZUR. Now in the evidence the people who were there before, the Mr Dick and Mr Naudè, they stood up for the system and said it's a wonderful radio system and it's in actually fact a very relevant system. You could to ZUR all the time. Well, in actual fact they were wrong. They gave wrong evidence to the Court, they were incorrect. And the point that I make is right. Now why I brought that evidence from this last flight and also in addition to this,

when Mauritius radio called ZUR 3 times x four frequencies the following day and didn't get them, the point I'm making about it is that HF Communications is not a telephone. That is the first thing. The probability we had over six hours no contact a matter of a week ago, and this is just an example because it happens every second night. It's not every night, it depends on the ...[indistinct] sphere and I've brought documents to give to the Commission to show that the base line of saying that communications did take place Sir, it did not take place. If they did transmit there it skipped distance over the top, on top of the world, through the ...[indistinct] sphere and there was none there.

Doctor Klatzow is a scientist and I'm very happy to give him all these documents. I've got documents from Aikaho, from Iata, from Afri Region, the whole lot of them, to show that HF radio is not a good means of communication. So the simplest assumption that you can say, I spoke to ZUR or was suggested by a lady who came to see me in Mauritius, she said: "You telephoned", I said: "No, Madam it's not a telephone, you're lucky if you get it", so ...[intervention]

MR MAGADLA: Does that seek to confirm that there was nothing on the tape?

MR MITCHELL: That seeks to confirm that the probability that there was no transmission between the aeroplane and ZUR. And then my next link to this is, if that is the case and the man had

heard it, he would have written it down but he didn't
...[intervention]

MR MAGADLA: Would that kind of evidence not have helped Justice Margo then in coming to an informed decision in his inquiry?

MR MITCHELL: But he did. He said there are five pilots on this Commission and he has come to the conclusion that there's no point in going down that particular road, that's exactly what he said.

MR MAGADLA: So it was the basis of your evidence or your information that Justice Margo came to the kind of finding that he came to?

MR MITCHELL: No, Sir. Mr Germishuys, Mr Thomkins, all the other people were pilots there. I was not part of the discussion with anything with the Commission or the Judge. I only went there once Sir, for this meeting and then I was a witness.

MR MAGADLA: But if you were so clear in your mind about helping Justice Margo, how is it that you have this kind of difficulty about informing about the tape that had been taped over or producing that tape?

MR MITCHELL: It was so irrelevant Sir.

MR MAGADLA: Irrelevant?

MR MITCHELL: Yes, yes. If I know that there was no communication and my man didn't write anything then, I know what radios can do and I know what radios can't do and they

didn't call. So if it didn't come through them, I just disregarded it, it was very low priority.

MR MAGADLA: But hearing that, I think it has been said quite often here that he was furious about this issue of the tape and you were there then to say: "Judge it is relevant because I know there was nothing on that tape"?

MR MITCHELL: It was said Mr Commissioner, it was said. It was said that what was written down was on, Mr Nadel handled all of that. I didn't handle any of the ZUR processes, the other four people, I think it's four, spoke to Judge Margo and handled the whole process. At the end of it he said: "That's enough of that".

So, I don't run ZUR, they were one of the many things that were there but I certainly didn't run ZUR and hence the reason, when I knew there was nothing on the tape and nothing on the sheet, it's a very low priority process.

MR MAGADLA: But finally, there has been talk of a delay in this plane taking off from Taipei.

MR MITCHELL: Yes, Sir.

MR MAGADLA: Now what about that delay, what was the reason and how was it explained?

MR MITCHELL: No, I don't know.

MR MAGADLA: Was there no delay?

MR MITCHELL: I don't know.

MR MAGADLA: Are you hearing it for the first time now?

MR MITCHELL: At the back of my mind I think there was a delay. There was a 20 minute or, there was an incoming aeroplane for moving cargo or something. An incoming aeroplane had ...[intervention]

MR MAGADLA: Was that on the ZUR?

MR MITCHELL: No, no, no, I read that there was an incoming aeroplane and there was cargo to be transferred from A to B.

MR MAGADLA: Cargo to be transferred from A to B?

MR MITCHELL: Yes.

MR MAGADLA: What sort of cargo?

MR MITCHELL: I don't know. Pilots don't know what's the cargo and that is quite important too. A pilot doesn't know what the cargo is, he merely signs the load sheet and that sort of thing.

MS TERREBLANCHE: Excuse me to interrupt, I would just like to know if there is anything to be photocopied to save time?

MR MITCHELL: I've brought the photocopies with me, so I've got a double to give to you.

MS TERREBLANCHE: Wonderful, thank you.

MR MITCHELL: It's very important what I tell you.

MS TERREBLANCHE: I would just like to ask one question quickly, you were quoted very recently in the Saturday Star of 23rd of May 1998 and in it you are to have said: "The truth about the event leading to the Helderberg crash will probably exceed even the wildest fantasies of any ...[indistinct] fiction writer.

MR MITCHELL: Commissioner ...[intervention]

DR KLATZOW: Could I answer that for you, because the quote emanates from a reporter who listened to the conversation which I had with you and misquoted you and the quote about that is incorrect.

MR MITCHELL: Sir, you're on my side for once.

DR KLATZOW: No, I'm on your side all the time Captain Mitchell, when you're on the side of truth.

MR MITCHELL: Ja. Commissioner I brought this in to say the first thing that I want to take about, is that, I got this on Saturday morning when I got to South Africa and clearly, I don't have to go any further, that's wrong.

DR KLATZOW: That particular quote is wrong. What you did say to me when I put these versions to you at the original tape recorded conversations I had with you, was that: "You could believe these stories about the tape recordings and what have you if you believed or if you read James Hadley Chase". That is what you said, quote. And that was taken out of context and misquoted to give the quote which is in the paper, which I must apologise for although it was not my fault.

MR MITCHELL: Where did she get the tapes?

DR KLATZOW: What tapes?

MR MITCHELL: The ones, how did she manage to get that?

DR KLATZOW: Because I played it to her in my study.

MR MITCHELL: Really?

DR KLATZOW: Yes.

MR MITCHELL: Oh dear me.

DR KLATZOW: Not: "dear me".

MR MITCHELL: Dear me.

MS WILDSCHUT: Okay, are there any more questions that you'd like to put?

DR KLATZOW: Just one last question Madam Commissioner.

MS TERREBLANCHE: Yes, Doctor Klatzow?

DR KLATZOW: It must have been very - you must have been very curious as to what happened to the Helderberg?

MR MITCHELL: I think the company went such a way to find this out there, it's one of the reasons that amaze me. I'm not part of intrigue and politics or anything like that at all but why when aeroplanes crash and people get killed, that's my line, I'm a pilot.

We went to incredible depths, four kilometres to pull this out there and we did it. The purpose of that was to find out why the aeroplane crashed. We fought with Boeing, we fought with Renè van Zyl to find out why the aeroplane went and we worked together on the process and to this day we still don't know.

DR KLATZOW: Did you in that process of your insatiable curiosity ever bother to listen to the ZUR tape or did you simply accept the assurance that it was irrelevant because nobody had written anything in the log?

MR MITCHELL: Sir, you might call me dumb but I just accepted it on face value that there was nothing there, so you probably think me dumb, I ...[intervention]

DR KLATZOW: I just want to tell you one last thing, do you know a man called du Toit, Captain Charl du Toit?

MR MITCHELL: Yes.

DR KLATZOW: He told Renè van Zyl a different version, so we've got enough versions here to really make a Hobson's choice.

He told Renè van Zyl that he'd listened to the tape and there was nothing on it.

MR MITCHELL: Did he?

DR KLATZOW: Yes.

MR MITCHELL: I don't know that.

DR KLATZOW: Well I'm telling you that's what he said.

MR MITCHELL: I don't know that.

DR KLATZOW: So we have a whole series of versions about what happened to this tape but the one thing is certain.

MR MITCHELL: Yes.

DR KLATZOW: It disappeared shortly after leaving your hands, never to reappear.

MR MITCHELL: Really? I don't see it like that. It went to DCA.

DR KLATZOW: It didn't go to DCA Captain Mitchell, we've been through that ad nauseam but thank you for your participation.

MS WILDSCHUT: Captain Mitchell, it remains for me to thank you too. It's probably been a harrowing day for you. We would like to conclude if no-one else has anymore questions. Thank you very much for coming.

MR MITCHELL: Thank you. I'm sorry ...[inaudible] I'm sorry that I seem to have got tongue tied and got things crossed over. My pure intent is to get the exact truth right over to you because I am as keen as everybody if this inquiry comes open I'm the first to be in line to assist you. So, thank you and I hope it was helpful. I hope you can make use of this important statement that I made on the baseline of your assumption that the ZUR tapes had something because this is ...[indistinct]

MS WILDSCHUT: Okay.

Miss Terreblanche, do you have more witnesses for today?

MS TERREBLANCHE: No more witnesses for today.

MS WILDSCHUT: Thank you.

MS TERREBLANCHE: We'd just like to suggest that before Mr Mitchell goes - I'm also tired, that he just hands over the evidence to the Chairperson.

MS WILDSCHUT: Is that in order Mr Mitchell?

MR MITCHELL: No, certainly. With your permission, may I show Doctor Klatzow the process that I've gone through so that he can see my logic that I've put in there or is that not in order?

MS WILDSCHUT: Well that will be done off the record then.

MR MITCHELL: Yes, okay. It's just so that he sees the logics, the way I put it in, so when he phones me again on tape then I can tell him what I'm talking about.

MS WILDSCHUT: We just want to put it on the record that it is the Commission's file.

MR MITCHELL: Okay.

MS WILDSCHUT: We will then resume tomorrow morning at 09H30, thank you.

MR MITCHELL: Madam, a question, are you finished with me or do I come back tomorrow morning at 09H30?

MS WILDSCHUT: Thank you, we're finished with you, you can go and have a good sleep.

MR MITCHELL: Thank you.

WITNESS EXCUSED

HEARING ADJOURNS

ON RESUMPTION ON 3 JUNE 1998 - DAY 3

CHAIRPERSON: Shall I formally welcome you, Mr Braizblatt, let me formally welcome you to this enquiry. It's an investigative enquiry, it's not a disciplinary enquiry, it's not a trial, it's not a hearing and it is intended to gather information around the issues which I hope were mentioned in your invitation for you to attend.

We are thankful that you are here and we have to apologise that we have had to cause you to wait whilst we were taking other testimony in relation to something else. Before you testify I would like to swear you in.

MR BRAIZBLATT: (Duly sworn in, states)

CHAIRPERSON: Mr Terreblanche?

MS TERREBLANCHE: Thank you very much for coming so far, you still live in Israel?

MR BRAIZBLATT: I do.

MS TERREBLANCHE: We have been in need to question you about a number of things. Can you just briefly tell us when you started your career in SAA?

MR BRAIZBLATT: In 1969.

MS TERREBLANCHE: And you have been Cargo Manager in Tel Aviv since then, and you still are?

MR BRAIZBLATT: Correct.

MS PATTA: Mr Braizblatt, we have heard a number of witnesses telling us that during the mid 1980's there was an SAA flight that went over Portugal and Italy and then landed in Tel Aviv?

MR BRAIZBLATT: A passenger flight.

MS PATTA: Was that a weekly flight?

MR BRAIZBLATT: A weekly flight.

MS PATTA: According to some of the pilots and crew who were on that route, you as Manager was aware of some military cargo that was off-loaded in Tel Aviv, is that correct?

MR BRAIZBLATT: I don't think that they've got it correct, no. I think that what they're referring to are boxes, large boxed that were freighted on board the aircraft. I doubt very very much if it was military cargo. I have my doubts. Once again we can't know what type of cargo it is, there's no way we can know, we can only go according to what's written on the airway ...(indistinct) manifest.

MS PATTA: Right, so you have no knowledge of the cargo that you off-load for SAA?

MR BRAIZBLATT: Well, there's no way we can know what we off-load, I mean, we don't off-load it physically, Israel airport authorities off-loads the cargo. The cargo is then taken to the customs warehouse. We're not even allowed to look into the cargo, by international regulation, it's not our job to do so.

MS PATTA: Even if it's then re-loaded on another flight?

MR BRAIZBLATT: Customs.

MS PATTA: Right. Mr Braizblatt, let me take you back to 1985, the 4th of June. A South African flight was standing over

waiting and they were off-loading and one of these crates apparently fell out.

MR BRAIZBLATT: I know of that, I know of that incident, yes.

I was called out to the aircraft once they'd already got the crate onto her belly.

MS PATTA: And did you see the contents?

MR BRAIZBLATT: I saw something there, I didn't see the actual contents because I only saw the part that was facing towards me when I came to look at what was happening down there.

MS PATTA: So what did you see?

MR BRAIZBLATT: What I saw was a metal object. I can't tell you what it was, because I - to be quite honest with you, at the time it didn't even interest me what it was. What interested me was getting the cargo off-loaded the aircraft and getting everything out as soon as possible so as we could re-load and go back.

MS PATTA: Now, as I understand, the pilot on this flight, Mr Flippie Loog ...(intervention)

MR BRAIZBLATT: It's possible that they saw things, - that, yes, because I wasn't on the ground or I wasn't at the aircraft belly at the time of off-loading.

MS PATTA: Well, Mr Loog told me that he went to you and asked you what - if you can confirm that this was a missile, and he wanted to know whether it was with or without fuel. You said

that you did not know, but that they should not make such, let me just read to you this,

"I asked Jossie whether the missile contained fuel, and if so solid or liquid, after all, I was flying with it.

He said he did not know. Jossie admitted that this was off-loaded every week. It was loaded at Jan Smuts and flown on the route Portugal-Italy-Tel Aviv and is destined for the military missile programme with Israel."

MR BRAIZBLATT: Definitely incorrect, I think that's very malicious to say a thing like that. Two things, no 1, as I said to you, we had large boxes, it's not my duty to look into these boxes and see what's inside these boxes, definitely not, I'm not even allowed to do it, that's no 1. No 2, to say that missiles were on board an aircraft, I would never say a thing like that, and I doubt very, very much whether the Israeli authorities would allow any dangerous missiles or anything like that to land at Tel Aviv Airport on board a passenger aircraft, knowingly, because of the implications involved should a thing like that happen. Just think for one minute, if an aircraft should have an explosion or a mid-air disaster, whatever, the first thing the Israeli's would say is, this is a sabotage attempt against a company flying into Israel with Jewish passengers on board. Do you understand the ramifications, therefor the Israeli's would never ever, as far as I know agree, to any cargo like that been placed on board the

aircraft. There might have been military shipments on board the aircraft, but not of a dangerous category, they certainly wouldn't allow it. Another thing which, I mean, just living in Israel, I know, the Israeli authorities would never allow anything military to come into Israel by a 2nd or 3rd country because this would be already a breach of their own security.

MS PATTA: Mr Braizblatt, but let's remember the time, it was 1985, Israel was good friends with South Africa.

MR BRAIZBLATT: That doesn't matter.

MS PATTA: And it was a time when we were - we now know with hindsight we were defying the arms embargo, we have information about front companies having been used. It seems remarkable that Flippie Loog would lie about something like this, something he was reluctant to talk about initially anyway.

MR BRAIZBLATT: Miss Patta, first of all, it's highly likely that there was movement of whatever there was in between the two countries. It's likely, I don't know anything about it. If there was, I doubt very much if it would have been on board a civil aircraft because of the ramifications involved in whatever aspect there could be. Now I certainly don't know of any missiles, armed, fuelled or not fuelled.

MS PATTA: So Flippie Loog is lying?

MR BRAIZBLATT: I don't know. I am certainly not lying because I certainly don't know of any missiles that - look I'm also explaining to you the ramifications involved.

MS PATTA: Let me just ask it to you ...(intervention)

MR BRAIZBLATT: Just think for one moment of a passenger aircraft coming into Israel and something happening to that aircraft. In 1985 when we had plenty of enemies looking for Israeli aircraft all around the world and found a lot of aircraft bound for Israel around the world - the Swiss Air, the Swiss aircraft that went down over Switzerland, the first thing the Israeli's would have said, there's a sabotage against a civilian air-flight into our country.

CHAIRPERSON: Let's imagine, Mr Braizblatt, that the South Africans and the Israeli's were embarking on a joint nuclear programme, a programme that they didn't want the Americans to know about, a programme they didn't want anyone to know about, not if there were ingredients which they have to get, let's say uranium and all sorts of stuff like that, and even rock fuel, these would not be things that they would want anybody to know about ...(intervention)

MR BRAIZBLATT: Exactly.

CHAIRPERSON: But then wouldn't it be the perfect situation for them to say, let us use a normal passenger flight which is not going to attract attention, let's take a risk, after all this is something that we are never going to be able to do without taking a risk, if we are to prevent the international community of the eyes of the entire world knowing about it. Now, are you saying it

is beyond the realm of possibility that a gamble like that could have been taken?

MR BRAIZBLATT: Look, I'm not professional enough to say it's beyond the realm, but what I think is - you're having said that, I think it would be stupid of them to take it via two points in Europe. That would be a suicide gamble in case the aircraft stays there for whatever technical reason there may be. It stands to reason that there may have been things, but I would think that they probably had them on cargo flights direct backwards and forwards, or by sea. But if you're asking me, does the possibility exist, the possibility exists. It's a very doubtful and highly improbable proposition. There were things like aircraft parts, but nothing - I personally never saw a missile and I certainly wasn't asked whether it was fuelled or unfuelled, and how could I possibly tell that it was fuelled or unfuelled?

MS PATTA: Right, now, you were Cargo Agent, and you've been that for a long time ...(intervention)

MR BRAIZBLATT: That's correct.

MS PATTA: And you are, I presume, responsible for the safe loading and off-loading of cargo on planes?

MR BRAIZBLATT: To a certain extent, but you must understand, we have handling agents that do the work for us, they get paid to do it. We also have airport authority, they actually load and unload the aircraft. They're professionals at it, it's their job.

MS PATTA: Right, but now I want to just put this to you, a week after this happened on the flight with Mr Loog, the flight of Captain Deon Storm came in and the same thing happened, a crate broke open revealing a long metal object looking like a missile. Now I just find it very difficult to understand why you never knew about it or saw it, being the Cargo Agent.

MR BRAIZBLATT: Yes. Okay, now no 1, I did tell you that I was called to the aircraft after the things had fallen down, because I'm not at - look, my job isn't only cargo, my job is passenger, cargo and operations, therefor I'm not at the aircraft all the time, I'm at the aircraft the moment it lands and the moment it takes off. In between those two times I'm situated in the arrivals hall dealing with passengers that have come in, problems with lost suitcases, whatever, and I also alternate in between the departure hall where we have problems with passengers that are there ...(indistinct). That is why we have a handling agent, to take care of all these matters. And quite right, metal object, I told her I don't know what it was. I got to the aircraft after the crates had been off-loaded because I was asked to come out, but I couldn't see anything, I could only see the profile of it, and only a slight profile of it.

MS PATTA: How often were these crates, the similar crates, off-loaded?

MR BRAIZBLATT: We're speaking about 1985, I think maybe - I tried remembering this myself because I thought that would be one of your questions, four maybe five times.

MS PATTA: During mid 1985?

MR BRAIZBLATT: Yes.

MS PATTA: And later one, before that?

MR BRAIZBLATT: Look, we've even had big crates today.

MS PATTA: But we're talking about a particular ... (intervention)

MR BRAIZBLATT: I can't know what was in those crates.

MS PATTA: But we've looking at a particular kind of crate.

MR BRAIZBLATT: It's incorrect to say that, I'll tell you why. We, for instance, forward irrigation equipment. Now irrigation equipment as you well know, sometimes they have to forward them in pipes that can be 4 - 5 metres long, because this goes with a whole computer system and they're in very very similar crates. And at the same time one of the freight - one of the companies that was forwarding out to an irrigation company here in South Africa, he was forwarding these irrigation modules in small packets and they were coming back from South Africa for repair as well. We had one case where it came back from South Africa for repair, they couldn't disassemble the damn thing and it came back to the Kibbutz for repair. So, not necessarily, we've had this, we've had an occasion of a crate, but who can tell what's inside it? You know, we've had occasions where we've had crates

that are, what, 1 metre 20 by 2 metres by 3 metres and then, you can't know what's inside them. These are boxes, they are computer equipment and things like that inside, telecommunications equipment that has to go standing upright, because you can't fold a telephonic switchboard in any other way.

MS PATTA: If something dangerous would have been placed on a flight to South Africa, I suppose ...(intervention)

MR BRAIZBLATT: To South Africa ...(intervention)

MS PATTA: Can you just listen to the question. If something dangerous, but packed according to Iata and Icao standards, would you know about it when such a parcel goes on a flight to South Africa?

MR BRAIZBLATT: If the Shipper would have declared it as being a DGR, dangerous goods, yes, we would have known about it.

MS PATTA: How?

MR BRAIZBLATT: That's why there's a Shipper's declaration. We would have known about it and the goods would have been checked thoroughly.

MS PATTA: How often did that happen?

MR BRAIZBLATT: During that period it didn't happen at all, but basically very little, because at that period our cargo capacity from Tel Aviv to Johannesburg was virtually nil. Now, why was it virtually nil? The flight as you were saying yourself, was going via Europe. We weren't given allowances for a cargo out of Tel

Aviv at that period. Very small allowances were given for us, because our yield on cargo from Tel Aviv was a lot less than what the yield would have been from Rome or from Portugal, don't forget, Rome, Portugal is further away from Israel and therefore they were charging higher rates. We were trying to compete with our first competitor LL, who was charging rock-bottom rates. So basically, what we were carrying at the time was very small items of irrigation equipment, we had perishable food products, we had swimwear, ladies swimming costumes, that's what our basic cargo was during the 80's. We could have had a lot more, but we didn't have the space to have it.

MR MAGADHLA: Were you summoned to the spot where you saw the object which you say you only saw the profile of?

MR BRAIZBLATT: Yes.

MR MAGADHLA: Now what was the purpose of summoning you to the spot, to inspect, to say what the object was, or to do what?

MR BRAIZBLATT: No, the airport authority asked me to come out and see these long objects, these long boxes that we knew nothing about, that they were going to be on board the aircraft. They said, look, here's a very long object that couldn't be off-loaded manually, you just can't off-load it from a 747, very difficult. Once again, I'm speaking about something that's about 3½ - 4 metres in length.

MR MAGADHLA: Was there no interest in knowing what the object was?

MR BRAIZBLATT: On whose part?

MR MAGADHLA: Your part and on the part of the people who called you to see the object.

MR BRAIZBLATT: They obviously didn't think it was anything of any important nature, or else they would have asked me, but once again, I've said to you before, and I clarify this again, in my capacity of being out at the airport, I'm interested in three things, first customer satisfaction, on time performance, and getting the aircraft out as soon as I possibly can, getting it away from me so as it can start back on its roundward journey. We have got cargo handling agents, they're being paid to do this job, it's their job to see what is the matter, what goes on. If there would have been - this is where the whole thing lies, if there would have been something abnormal it would have been written up.

MR MAGADHLA: The thing is they called you. You say it's their job and why would they have called you if it was not important for you to see the object and also to say whatever you had to say about the object?

MR BRAIZBLATT: Once again, I clarify myself of what told you before, Mr Magadhla, the airport authority called me to show me the long object, why wasn't I informed or why didn't I inform them to have special equipment ready to off-load this object?

MR MAGADHLA: Okay. Now, you are aware that after that air crash there was an investigation by aviation people?

MR BRAIZBLATT: After the Helderberg?

MR MAGADHLA: Yes.

MR BRAIZBLATT: Yes, I'm aware.

MR MAGADHLA: Were you one of the people who were approached to give whatever version you had to give with regards to the handling of whatever objects that went into that plane.

MR BRAIZBLATT: Into which plane?

MR MAGADHLA: Into the Helderberg.

MR BRAIZBLATT: I had nothing to do with the Helderberg, I was in Tel Aviv. Helderberg was from Australia to Mauritius.

MR MAGADHLA: The other object that we're talking about is not an object that had to do with the Helderberg, okay.

MR BRAIZBLATT: I don't understand the - I had nothing to do with the Helderberg.

MR MAGADHLA: No, it's okay ...(inaudible)

MS PATTA: Mr Braizblatt, why did they need special equipment, was it particularly heavy, or was it particularly long?

MR BRAIZBLATT: Particularly long. Now also, it doesn't matter, once you have a long piece, it's difficult to manoeuvre it around and take it off, because the high-loaders that we have at the airport servicing passenger aircraft are used for pellets, ordinary pellets, as opposed to cargo aircraft that would have a doubt pellet loader, that would be easier to remove from the belly of an aircraft.

MS PATTA: But you also said it couldn't be done manually.

MR BRAIZBLATT: It can't be done manually because we don't have 15 or 20 airport porters to pick it up.

MS PATTA: So it is heavy?

MR BRAIZBLATT: Anything that's over 200kg - 300kg, you're not going to get 2 or 3 people picking it up, you're going to need a lot more than 2 or 3 people. You see, what they used was a bar of a series of bars and they were manoeuvring it around, pushing it around on the series of bars to get it off sideways onto the high-loader, and from there using a fork-lift to take it down.

MS PATTA: I think you've answered.

MR BRAIZBLATT: Okay, I hope that's helped you, I don't know.

MS PATTA: Very much so, thank you.

MR MAGADHLA: This object that you say according to you was unknown, you didn't know what it was, what if it was a dangerous object?

MR BRAIZBLATT: I shudder to think of it, I don't even want to think of it, what if it was, I don't even want to think of it.

MR MAGADHLA: I hear there was an object which you were not made to prepare for it, and there it is and you are called to come and have a look at it and you are satisfied with ... (intervention)

MR BRAIZBLATT: Don't forget this is an object that's come from our head office, from Johannesburg. This is an object that was supposedly had gone through security and everything else.

This was for me safe cargo, it wasn't anything else, it was safe cargo. Had it not been safe cargo I should have been advised. What you're asking me, do I question the authority of the people that sent me things.

MR MAGADHLA: No, I'm not saying that, I'm saying, if you had this abnormally heavy object that needed some kind of machine to lift it and you did not know what it was, knowing that dangerous objects are not allowed in the area of the planes, didn't it occur in your mind that, but what is this object?

MR BRAIZBLATT: No it didn't because ...(intervention)

MR MAGADHLA: Is it a dangerous or a safe object?

MR BRAIZBLATT: No, because once again, had we have known, we have to rely on two things, or I have to rely on three things basically. I have to rely on information that's sent to me, that information that is sent to me has to rely on Shipper's declaration, dangerous goods, what I told Mrs Terreblanche, we rely on this things because if we have to start checking every single piece of cargo, heavy or not heavy, that falls off a gully or falls off a trolley or whatever, we'd be there all day and all night.

We have heavy objects, we have objects that are 2 metres in length weighing 1½ tons, these are dyes, these are dyes or moulds for making things.

MR MAGADHLA: I'm was just asking because you are talking about the agricultural modules that came from South Africa for repairs or something, and that those, because they were modules

they were not dangerous to anything or suspected to be dangerous, you have had occasion to know what they were exactly. But here's this one where you are called to come and see and you don't bother - remember we have said that those times leaving the story that you say that you had other authorities, other people dealing with that stuff, but you're also aware that those times were embargo times and things may not have been told to everybody. Now here's this thing all of a sudden, showing itself that there's something that is here and you don't know about, this is the context in which these questions are being asked.

MR BRAIZBLATT: Okay, Mr Magadhla, let me clarify my statement in regarding irrigation equipment. For me irrigation equipment was very important, it was important because we were selling the space for this equipment. We were selling space from Tel Aviv for this equipment. This was equipment where we had a local shipper in Israel, using SA services. So for me his stuff was very important and needed to be taken care of. I didn't want to loose a client, so when I knew that he was getting stuff back I was doubly sure to make - it was in our promotional interest to make double sure, whereas the shipments you're speaking about, there was not way that any of us could know the nature or the illegal nature if you wish to call it, if it was illegal, of what was inside. And it wasn't something that I could worry myself with to start checking what's going on, because once again, if the

manifest would have said aircraft parts for example, or wings or things like that, or it would have said, let's say, commercial shipment or consolidated shipment or tractor part, or whatever, that's what I would have to rely on. That's what I would have to rely on, you see. If later a claim would come against us for anything damaged it would have been a claim for a damaged part.

MR MAGADHLA: Thank you.

MR BRAIZBLATT: Okay.

MS PATTA: Were you aware of a frequent number, a significant number of misdeclarations of SAA planes that you say, for example, you say you had to rely on the cargo manifest, but the cargo manifest may say computer parts where in fact it was actually something that was misdeclared, it was something else. Were you aware of that at all?

MR BRAIZBLATT: From Johannesburg to Tel Aviv or from Tel Aviv to Johannesburg?

MS PATTA: From both directions.

MR BRAIZBLATT: I can vouch there were nothing from Tel Aviv at that time because I've explained to already.

MS PATTA: You know what was in the cargo going from Tel Aviv?

MR BRAIZBLATT: I can - I didn't inspect the cargo, I didn't open up the cargo or the cargo boxes, but our clients, I mean I know who I was in touch with, I was in touch with the irrigation company ...(indistinct) and there's another company that did a lot

of work here with South African, I was in touch with Gottex who at the time were forwarding a lot of swimwear and general ladies wear, and I was in touch Aggrexco who was forwarding processed meat products into South Africa. Don't forget, we had a limited space, we weren't allowed to forward a lot.

MS PATTA: But you seem to have a remarkable knowledge of every other item that was on the plane, excepting this particular one which you ...(intervention)

MR BRAIZBLATT: No, I'm referring to cargo from Tel Aviv.

MS PATTA: I'm saying in both directions. You never knew what came from Jo'burg?

MR BRAIZBLATT: From South Africa, no.

MS PATTA: You never knew of anything?

MR BRAIZBLATT: Now, I had to go according the cargo manifest and it didn't basically it didn't even interest me, because, once again, we had a handling agent who was in touch directly with the agents and with the customers. We didn't even see who was couriering the things.

MS PATTA: As Cargo Manager, is not security one, and safety of passengers also one of your concerns?

MR BRAIZBLATT: Definitely.

MS PATTA: So were you not concerned that there was an object that might endanger the passengers, were you not even vaguely concerned?

MR BRAIZBLATT: From where, from Johannesburg
...(intervention)

MS PATTA: I'm talking about the specific incident that Flippie
Loog mentioned.

MR BRAIZBLATT: From Johannesburg to Tel Aviv?

MS PATTA: Yes, you weren't concerned?

MR BRAIZBLATT: I don't know what you've saying by I wasn't
concerned, I mean in which respect could I - I've got to rely, in
other words what you're saying to me is, why didn't you tell
Johannesburg that you had a dangerous article on board and why
did they put it on board. That's what you're asking me.

MS PATTA: I'm asking why you didn't even bother to find out,
your told Mr Magadhla you weren't interested.

MR BRAIZBLATT: No, because once again, we have our
handling agents, and our customs agents. Had there been
something of a peculiar nature they would have straight away told
me.

MS PATTA: Let's assume they wouldn't have.

CHAIRPERSON: I think what we want to establish from you,
Mr Braizblatt, is whether you had a process to deal with
misdeclared objects.

MR BRAIZBLATT: From Johannesburg to Tel Aviv or from
...(intervention)

CHAIRPERSON: From anywhere. Particularly now, because
there is an incident. You see, the problem is that all these

questions are asked against a background of a statement that has been made by somebody who says, who gives a sinister interpretation to the events of that day. You are giving it an innocent interpretation, you say, well, an object fell, I didn't know what it was, it was a missile, I don't know if it was a missile. The person says you were specifically asked if it had needed fuel or stuff like that, it makes it dangerous. I know that you said that it's a malicious statement, but it's a statement that is there and for us, therefor to test whether it is that statement or your statement or evidence that must be relied on, we must test your responses, and I find it remarkable to say nothing else, that weren't you were concerned about the safety of passengers when an object drops out which may or may not be a missile, which may or may not have contained fuel. All you tell us is that your attitude was that, well, I didn't know what it was, I came there having been asked, summoned to come and look at it, firstly not telling us why it was necessary for you to be summonsed, but having gone there, when you get there, what do you do. You look at it, you said, fold it right back on, did it fall out and what is it, I don't know, nobody knows it, and you put it back. Now you must appreciate, therefor, that our problem is, there is a sinister interpretation that has been given on the events of that day. So you have to satisfy us that you did conduct yourself in a way that must make us reject the version that has been given to us.

MR BRAIZBLATT: Okay, let me try and clarify that, and I want you to understand this. The set-up and an airport is such, any airport, any aircraft that's handled by anybody, we have airport authority porters, we have our handling agents. Now, we as airline representatives unfortunately don't have enough of our own staff to be everywhere all the time. That's why we rely very heavily upon our handling agents. When I was called out to the aircraft, if you remember I said to you, they called me out to say, hey look at these long objects that were on board your aircraft. Nobody told me that something had fallen out that was damaged, the crate was damaged. I told you I saw it on the profile. Now at the same time what I'm saying to you is, everything is then taken on the dollies to the cargo acceptance centre. At the cargo acceptance centre it is then stored in accordance to size and aircraft and date that it arrived on. Now, if you're asking me, then why didn't you check in, it's a dangerous goods, for me it wasn't a dangerous goods because I didn't receive any pre-advise that I had dangerous goods on board. Now, once again, I rely on our handling agents, on our cargo handling agents, LL in this case, to tell me if something was bad or wrong, if something was cleared incorrectly, damaged. That's why we are paying them the money to do this. It didn't even dawn on me to think that maybe this object was a missile, the thought would not even have occurred to me, I mean, to think of a thing like that. Now to ask me, just think for yourselves for a moment, to ask me, Jossie,

does this contain rocket fuel. How can I know if it contains rocket fuel, how can I possibly know, just think for a moment. I mean we've got to try and be a bit fair here.

CHAIRPERSON: Let me answer that question. Why would a person who was not running after us to give us that information, who was solicited to give an account of a story that has apparently been told over and over, a story that you also do not deny, only to the extent that it implicates you ...(inaudible) Is there any reason why the person, quite apart from being malicious, knowing how serious the ramification and the implications of that statement is, why would he say something like that if that a conversation never took place in the form in which it took place, according to him?

MR BRAIZBLATT: I found I'm now speaking as a person that doesn't live in South Africa and has got nothing to do with your present future situation, and I found, I don't even know how to express this, I found all sorts of stories going around about all sorts of things in order to do all sorts of harm to all sorts of people at all sorts of walks of life. Now, I would have remembered had I been asked if a missile had rocket fuel in it ...(intervention)

CHAIRPERSON: You see, the problem is that ...(intervention)

MR BRAIZBLATT: And at the same time, just like I'm answering you, it could be, I would have said, look, how can I know if the thing had missile fuel, I didn't even know it was a

missile. I mean, people are trying to, it's beyond me, why, I've got my personal opinions why, it's my own personal opinions.

MS PATTA: These particular two captains were both former South African Airways ...(intervention)

MR BRAIZBLATT: Former.

MS PATTA: Pilots, yes, so they knew what a missile looked like. They were also highly concerned and ...(indistinct), so I would just find it very difficult if they did not enquire on the ground, was it with you or somebody else, to clarify what it was that they were seeing.

MR BRAIZBLATT: Did they clarify this when they returned to Johannesburg, did they ask as soon as they came back to Johannesburg what it was?

MS PATTA: Yes, they did. They also did so because they could get no clarification on the ground.

MR BRAIZBLATT: We certainly didn't know. Once again I say, look, we didn't know. If we would have know, we didn't know, there's no way we can know. I mean, look, with all due respect, I can't tell from looking at a profile and a box that's partly damaged if it's a missile, I really can't tell. I don't know whether anyone of us here can tell, I certainly can't.

CHAIRPERSON: Are there any further questions for this witness? Thank you, Mr Braizblatt, thank you for having come.

MR BRAIZBLATT: Thank you for having me.

CHAIRPERSON: And you should appreciate that we have a job to do and we're trying to it.

MR BRAIZBLATT: I most certainly do.

CHAIRPERSON: Otherwise you are excused for the moment.

MR BRAIZBLATT: Thank you.

CHAIRPERSON: I do not know whether you have any witnesses to call.

MR BRAIZBLATT: Sorry, I'm on my way if you don't need me any further. Thank you very much.

CHAIRPERSON: We'll adjourn for ten minutes which would mean we should re-assemble at 11h50. I'm sure the tea has gone cold.

WITNESS EXCUSED

HEARING ADJOURNS

ON RESUMPTION

MS TERREBLANCHE: Mr Chairman, we've got at court Dr J L Steyn, the former Managing Director of Altec and his attorney. Mr Peyaga who is now the Armscor Company Secretary wishes to sit in, do you have an objection to that?

CHAIRPERSON: Has he been subpoenaed. We have a big problem with that. Unfortunately the law is very clear, it's only witnesses who have been subpoenaed and members of the staff or the Commission who can and should be present at a section 29 enquiry. It's not a public hearing.

MS TERREBLANCHE: Mr Peyaga is however here as the lawyer to the next witness who is Mr Steyl from Armscor.

CHAIRPERSON: Ms Terreblanche, I don't understand. Is the person who you are talking about a lawyer? Are you a lawyer?

...(inaudible)

No it's not, it's a Commission, but you are not representing any of the people who are going to be testifying.

MR PEYAGA: ...(inaudible)

CHAIRPERSON: Does he have any objections to you being here, because if he had, then,

MR PEYAGA: ...(inaudible)

CHAIRPERSON: Are you adopting Mr Peyaga as part of your legal team.

MR PEYAGA: No, I'm not as part of Dr Steyl's legal team, but obviously because of the position that I have in Armscor and the

fact that I have consulted with Dr Steyl, I am his lawyer, I feel that there would not be much of a detriment either to this case or the Commission's secrecy provisions if I am here.

CHAIRPERSON: I'm just constrained about the legal provisions, they seem to be parametery. I will err on the side of relaxing what I consider to be an irregularity, and I will not take it further on that.

This is a section 29 enquiry, it is an enquiry that is intended to be an investigation into the issues in relation to which who have been called or subpoenaed or invited to give evidence must provide us with information. So it is an investigation and an information gathering exercise. The law, section 29 and particularly sub-section 5 of act 34 of 1995 provides that all information gathered at such an enquiry remains confidential until it has been released by the Commission, subject to the requirements of the act. So none of the information gathered at this part of the proceedings will be made available to the public because of the provisions of section 29. It is for that reason that only members of the Commission's staff and Commissioners are present and need to be present at this enquiry, and it is also our placing that only witnesses who have been subpoenaed and/or their legal representatives are permitted to be present. I must state for the record that I am not satisfied that sufficient reason has been given for the presence of the other legal representative who is going to be representing a client who has not yet been

called, but I hear his submission that he has consulted Dr Steyn, I also take note that Dr Steyn and his legal representative do not have any objection to him being here. I do not know if it is a matter in relation to it. I have a discretion, but having said that, I will play it by the ear for the moment. Let me just emphasise again that every person who is in these proceedings is sworn to confidentiality and it is for that reason the law is strict about who should be present.

The members of this panel, starting with myself, Ntsebeza, a Commissioner in the Human Rights Violation Committee. To my right is Mr Wilson Magadhla, Head of Special Investigations. And to the right is Ms Chrystelle Terreblanche, who has investigated all issues that are sought to be explored in this matter. And with me is Ms Debra Patta who has been contacted to the Commission and is going to assist Ms Terreblanche in putting questions relevant to issues that are going to be dealt with in this enquiry. There is also Ms Glenda Wildschut who is a Commissioner in the Reparations and Rehabilitations Committee, she's not here today, but we're hoping to be joined by her in the afternoon.

Before Dr Steyn gives evidence, I will have to swear him in.

CHAIRPERSON: May I just indicate that if it is in Afrikaans that you feel you can best express yourself, there is provision for simultaneous translation and if it is your wish that you should either respond in Afrikaans then you can make use of these

listening devices. I don't know - we have translators there and I don't know in what channel Afrikaans is - channel 1. So if you are more comfortable with Afrikaans than otherwise, please feel free at any stage to deal with it.

I do not know how you propose to deal with the issues, Ms Terreblanche, I don't know whether there's a proposed statement that should be read into the record or whether the witness will respond to questions, otherwise the ball is in your court.

MR J L STEYN: (Duly sworn in, states):

MS TERREBLANCHE: Thank you, Mr Chair. I have invited Mr Steyn here to clear up a number of issues, the invitation read that he should answer questions pertaining to the relationship between Armscor and the Altech during the latter half of the 1980's and to provide details and answer questions about Altec's trade with foreign countries during the latter half of the 1980's. I do not know whether you have prepared anything in writing or whether you wish to just answer questions.

MR STEYN: Chair, I have not prepared anything in writing.

MS TERREBLANCHE: Thank you. Can you just as a matter of introduction please tell us how you came to be the Managing Director of Altech, where your career started, what your expertise is in?

MR STEYN: Chair, I am a Physicist by training and I have been working with Armscor for about 18 years, until, I guess, about 1990. At the end of that period I was asked to join Altech and I

was not the Managing Director of Altech, I was asked to join as a Group Executive Director of a number of companies in Altech, and I did. After Altec I then also went on and joined Telkom, our telecommunications operator where I have been until last year. I am now no longer in the service of Telkom either.

CHAIRPERSON: You are not on the record.

MS TERREBLANCHE: The first question that we would like you to clear up, is the relationship that existed all along between Armscor and Altech?

MR STEYN: Chair, as far as I know, this relationship between Altech and Armscor was a normal procurement business relationship, I have to say as far as I know, because I was not directly involved in the procurement line, I was at the time in charge of research and development. So to the best of my knowledge it was just a normal relationship between our procurement divisions and a private sector company.

MS TERREBLANCHE: Would you then describe Altech as a private sector company that did the bulk of its work for Armscor?

MR STEYN: No, Chair, Altech is a holding company of a number of operating companies, quite a big number of operating companies. Some of these companies are in telecommunications, other are in information technology, other in defence work. So it was a conglomerate of companies, still is.

MS TERREBLANCHE: I now understand that you were not with Altech at the time of the Helderberg disaster, which is the subject of our enquiry.

MR STEYN: That's correct, Chair, I was still with Armscor at the time, if I remember, 1987. I left Armscor in 1990/1989 and went to Altech.

MS TERREBLANCHE: However, you said that even after you joined you had no knowledge that there was cargo destined for Altech on the Helderberg?

MR STEYN: I had no knowledge of that. I still have no knowledge of that.

MS TERREBLANCHE: Our problem is this, that at the time the Margo Board of Enquiry wrote to Armscor and asked Armscor whether they or any of their subsidiary companies or companies that did procurement work for them had an cargo on the plane. They made an emphatic denial. We now know that there was a number of cargoes destined for Barlow Rand, which was then not known also as an Armscor related company, and then two cargo which were from a specific pallet that were destined for Altech. It came from Japan, the assignment was set to be or labelled as fax machines, the other one measuring instruments. This cargo was never searched in Taipei where it was re-loaded and unfortunately none of this was recovered during the search operation. From most other consignments one or two pieces were recovered. There has been a lot of speculation over the years

that some of the cargo that came from Japan could have caused - with something illegal destined for Armscor, I'm sure you're aware of that. Perhaps you can just help us how to establish, or to clear this matter up, how to establish what was really on that cargo and why it was not owned up to by Armscor or Altech.

MR STEYN: Chair, I couldn't speculate at all on this issue. I am aware of the fact that Armscor made declarations on this score at the time and I couldn't possibly add anything to that.

MS TERREBLANCHE: But you must understand that there is a possibility, quite a high probability now that that was a false statement from Armscor.

MR STEYN: I have no way of saying whether that could be so or not, as far as I am concerned, I cannot add anything to that.

MS TERREBLANCHE: Did you work under Mr Bill Venter?

MR STEYN: Yes, I did work under Dr Bill Venter, although my reporting line was not directly to Dr Venter, I reported to the Chairman of Altech, who in turn reported to Dr Venter.

MS TERREBLANCHE: Dr Venter, you are aware, was also President of the CSIR?

MR STEYN: No, Chair, Dr Venter I know is the Chairman of the Board.

MS TERREBLANCHE: Yes, I'm sorry, yes, incorrect. Unfortunately, you know, our problem is also that they did the tests, the CSIR did the tests to find out what kind of substance -

or were one of the companies that did the official test, so there might have also been a conflict of interests.

MS PATTA: Since I have spoken to you, have you done anything to try and find out whether there was a consignment on the Helderberg?

MR STEYN: I have, Chair, had a discussion with Mr Wiehahn to inform him that I was invited to give testimony and I have of course searched my memory as clearly as I could. It is a period of 10 years ago, maybe 11 years ago if I'm not mistaken. There is nothing that I can find in my memory that would suggest that there was dangerous substances on that cargo. If I had known, even at the time - excuse me, let me put that right, I was not in a direct position to be involved in those matters in my responsibilities and there is nothing now that I could have found in my recollection that would add to that.

MS PATTA: But we now know that Armscor was in fact sanctions busting and that a lot of things were probably and most likely from what we have now found out, cargoed on passenger planes for Armscor.

MR STEYN: Chair, I certainly knew nothing of that and I certainly know nothing of that now.

MS PATTA: Have you found out what Altec was importing from Japan at the time?

MR STEYN: Chair, the business of Altech is a very wide electronics business. There is always components, electronic

component systems being imported into the company or into the range of companies. I couldn't possibly say at a specific moment what they were importing and what they were not importing, but when you say that it was fax machines and measuring equipment, it certainly does not sound to me as if that is out of the ordinary for that business. That would be rather typical for that matter.

MS PATTA: Dr Steyn, presumably if Altech, according to the cargo manifest Altech had this stuff on the plane, presumably Altech would have claimed insurance, do you if Altech claimed insurance for the stuff that was lost that went down with the plane, it was expensive, it lost the company money, and could you find those records for us?

MR STEYN: Chairman, I have no idea what the answer to that question is, and no, I could not, as explained, I've left the service of Altech some four years ago, and I think the recourse would be to the company itself directly.

MS PATTA: Can you help us clear up the fact that, or to understand whether there was a specific relationship between Somchem and Altech at any particular time?

MR STEYN: Chair, if there was, I would be surprised. The businesses are completely different. I'm sure that in the South African industry most industrialists know each other, but I am not aware of a specific relationship, business relationship between Somchem and Altech in the latter half of the 1980's.

MS PATTA: Why are you saying in the latter half of the 1980's?

MR STEYN: There might have been before that, I don't know.

MS PATTA: I would similarly like to ask you, was there any specific relation between Altec and the Maritime Institute?

MR STEYN: Chair, there the relationship might have been more natural. The Institute for Maritime Technology was Armscor's research and development facility for maritime matters, and many of the equipment that they used and many of the technologies that they used were of an electronic nature, so that would have been more understandable. If you ask me, do I recall specific contracts or relationships, no I don't.

MS PATTA: During your time at Armscor did you know a procurement person by the name of Mr Oslo?

MR STEYN: No, could you be more specific in terms of the first name?

MS PATTA: I'm sorry, I've lost it - Barry.

MR STEYN: Barry Oslo, no, I'm afraid I don't. I don't recall someone like that.

MS PATTA: He died on the plane after having a very strange trip and Armscor has, until yesterday, denied that he was an agent for them. Mr Chair, I don't have any further question.

MR TERREBLANCHE: Maybe, seeing as you were a member where you were working for Armscor in 1987, you could just explain, the way Armscor would bring materials into the country, it was a time of sanctions busting, there was an arms embargo against South Africa, we now know with the benefit of hindsight

that Armscor did contravene international relations, regulations and brought material in. Could you just give us a picture of the kind of practices that Armscor was involved in at the time and how they would link up with South African Airways.

MR STEYN: Chair, as explained earlier on here, my job was at the time, the research and development, and although I was aware of the procurement activity of Armscor, I was not involved. I would propose that you ask those questions to the people who know far better than I do, I'm sorry to be - I do not mean not to co-operate, I'd like to co-operate as far as I can, but certainly there are just people that know this better than I do.

CHAIRPERSON: And who would those be?

MR STEYN: Chair, my understanding is that, for example, you have Mr Richard Steyl here next, and I would say that Mr Steyl certainly is in a much better position to answer.

MS TERREBLANCHE: Dr Steyn, just one more question, I mean certainly as a person in charge of research and development you would rely very heavily on certain procurements in terms of reverse engineering which was a kind of speciality?

MR STEYN: We were at the time - I'm sorry, Chair, yes, obviously, but self-sufficiency was for us a very important aspect at the time so to be as independent as we could be.

MS PATTA: Dr Steyn, say for example you needed something for the research and development programme, but you could not get through self-sufficiency, it had to be brought here from

abroad, how would you go about doing that, who would you go to and say, I need this stuff and, you know, what was the procedure?

MR STEYN: If something like that occurred, we would have specialist divisions for procurement in Armscor and I would ask my colleagues to assist me in the procurement.

MS PATTA: You would go to them and say I need X and they would do what, I mean, when would the stuff come, if you could just give us a little bit more detail?

MR STEYN: I would raise the requirement to my procurement colleagues and they would devise the plan and they would try and procure the equipment or whatever for us.

MS TERREBLANCHE: As a Physicist, can you perhaps tell us what you know about Ammonium Perchlorate?

MR STEYN: Yes, let me be clear that I'm a Physicist and therefor my training is not in the chemist, but I know that Ammonium Perchlorate is an oxydite, that's why I know.

MS TERREBLANCHE: Was it ever to you knowledge as a Physicist, used in a South African rocket programme?

MR STEYN: Ammonium Perchlorate was used in propellants, yes.

MS TERREBLANCHE: And what was the nature of research around that, or would you not have been involved in that?

MR STEYN: I am sorry, Chair, I am not aware of the detail of that because I was overall accountable for these matters, but I

expect that with Somchem people would be able to answer that in much more detail than I can.

MS TERREBLANCHE: But as a person who was in charge of the kind of development, you would have known what the kind of priorities overall?

MR STEYN: Yes, Chair.

MS TERREBLANCHE: Can you just tell us, in the mid 80's what they were?

MR STEYN: The priorities for research and development, I'm afraid that that would take quite a lot of reflection, can I maybe take a bit of time to do that, I frankly don't remember.

CHAIRPERSON: Now when you say some time, do you mean - how long a time.

MR STEYN: Chair, I'm going to have to reconstruct in my mind as far as I can remember the priorities. I can give you a speculative answer now, if that's what you want, but I'm under oath and I do not wish to state speculation for fact.

CHAIRPERSON: I think that's fair enough. Now, I didn't get the evidence on where you were at the time of the disaster. Were you in Armscor?

MR STEYN: Yes, I was in Armscor, Chair.

CHAIRPERSON: You were in Armscor. Now, you will be aware that the Star Newspaper carried a number of articles around the Helderberg disaster.

MR STEYN: I'm aware of it.

CHAIRPERSON: Some of them were of a nature that protect in a great deal Armscor, you recall that?

MR STEYN: I do, sir.

CHAIRPERSON: Although there was legal recourse, it would appear against the Star Newspaper, Armscor pressured as I understand, to take the Star Newspaper to the Press Counsel. I'm not criticising, but is that your recollection of events?

MR STEYN: It is indeed, sir, yes.

CHAIRPERSON: Now one of the claims that were made, and I just want to know whether you are aware of this, was that after the crash, South African Airways and the Military immediately dispatched aircraft to Mauritius and in that aircraft some - quite a number of Armscor personnel were on board. Do you know if this is so, and they stayed at the Meridian Hotel in Mauritius?

MR STEYN: I don't know all the facts that you say. What I do know is that Armscor sent a small team of scientists from the Institute for Maritime Technology to help in the official search. Armscor was requested by the South African Airways.

CHAIRPERSON: Why was this so, why was this necessary, it had nothing to do with the Armscor, there was no official link as far as could be seen between Armscor and SAA?

MR STEYN: Chair, the Institute for Maritime Technology had a capability, I'm sure they still have, I haven't been there for a long time, to do the mathematics of search. If one searches for

something at sea one needs quite sophisticated mathematics to do so.

CHAIRPERSON: Are you saying, are you suggesting that South African Airways didn't have their own capability?

MR STEYN: I wouldn't know, Chair. I know about the IMT capability and about their underwater detection capability, that part I know, yes.

CHAIRPERSON: Would you know why it was speculated, I want to put it at that lowest level, that the job of the Armscor people was to search for drums?

MR STEYN: I don't, sir.

CHAIRPERSON: Do you know that that was the instruction?

MR STEYN: Definitely not, I don't know that that was the instruction.

CHAIRPERSON: Now, APC, I do not know off-hand what it is, but it's the team that you referred to by Ms Terreblanche, the Ammonium Perchlorate. Now, would that be a dangerous substance in your expert opinion?

MR STEYN: I'm not an expert on the chemicals of propulsion, but I would say, yes, it is a repellent or it is one of the composition parts of a propellant.

CHAIRPERSON: Is it some sort of fuel, is it liquid or,

MR STEYN: I don't know, Chair.

CHAIRPERSON: You don't. Is it combustible, is it a sort or thing that might cause fire?

MR STEYN: Yes, I would say so.

CHAIRPERSON: And it would not be the sort of thing that you would normally expect would be conveyed and transported in an aircraft?

MR STEYN: I would not, no, but again, sir I ...(intervention)

CHAIRPERSON: Put it this way, if you were to take the decision, even with your limited knowledge of the components of this chemical, were you to be asked to convey it in an aircraft, you would certainly not choose a passenger airliner to convey that sort of ...(intervention)

MR STEYN: Definitely not, if you asked me personally.

CHAIRPERSON: Yes, I'm doing that. You see, I'm asking because the theory is, and this is where Armscor comes in, that what was being conveyed in that passenger airliner was APC and that it created because of its combustible components, a fire, the nature of which caused the disaster in the form that took place. Now, what did - it says if, let's just accept that that is the theory, what it says therefor, is that if the fire started in circumstances where the pilot detected it, the easiest thing for the pilot to do, would be either to land at the nearest airfield or to return to base or where they had taken from. Would you agree with that?

MR STEYN: I'm afraid, Chair, it is a subject of which I know nothing. I would be speculating if I would make an opinion on that.

CHAIRPERSON: Let me ask another question, if APC was one of the ingredients in your research, that you were to import from elsewhere to the extent that it would be used in developing the armourments ...(indistinct) by South Africa, it would have been in contravention of the arms embargo which was in place at the time. Would you agree with that proposition?

MR STEYN: I am really sorry to disappoint you, Chair, but I do not know the specifics of what the embargo did and what it did not include. What I can tell you, because I can see that this is a matter of concern for you, is that our propulsion industry at the time was a very very well-developed industry, still is and propellants of most modern kinds were developed there and produced there to the standard of most international standards. I would be really surprised if there was any cause for this substance to be transported on aircraft at all. I apologise that I cannot be more specific on this issue, but I am very sure that there are countless people of Somchem that could answer all your questions as perfectly.

MS TERREBLANCHE: I would like to ask Mr Peyaga, we have made numerous enquiries about the whereabouts of the relevant people from Somchem, I'm afraid we're not very close to them.

CHAIRPERSON: I do not know that Mr Peyaga is in a position to recite at the moment, maybe at another time, for one thing, he has not been sworn in and for another, we having a witness on the stand, we either have to say we have no further questions from

him in which event we should release him and then continue the next issue. Do you have any questions?

MS PATTA: Just one, maybe just one, I understand about APC and that wasn't your area of expertise, do you remember Somchem being shut down in 1987 because they needed to extend its production capacity for the Intercontinental Missile Ballistic Programme when you were at Armscor because they needed to do renovations?

MR STEYN: I do not remember shut-down, no. I do remember construction, yes.

MS PATTA: And when they were constructing, did this hamper the production of APC?

MR STEYN: I don't know about that at all, I was not aware of that.

CHAIRPERSON: Did it hamper the production of anything at all, I mean, would you be saying you were at full capacity during the construction period as you were before it?

MR STEYN: I was, Chair, not aware of any interruptions.

CHAIRPERSON: But you are not saying, you are stating your considered opinion as to what the production levels were?

What I'm trying to say, if we had it on authority that there either was a shut-down or an interruption in production activity levels, you wouldn't deny that, or are you saying you are certain, you emphatically deny that there every was either an interruption in the production or a shut-down?

MR STEYN: Chair, I want to be as explicit as I can. If there was an interruption of the supply, I am sure that I would have known and I didn't know about it.

MS TERREBLANCHE: One last question, you - I just want to make sure that I interpret you correctly, you said that after the Helderberg accident you were requested by SAA or the Maritime Institute was requested to help with the search by SAA?

MR STEYN: That is certainly my recollection, yes.

CHAIRPERSON: Mr Magadhla?

MR MAGADHLA: Thank you, Mr Chair. Were any of Armscor employees summoned to give evidence before the Margo Commission on the Helderberg issue?

MR STEYN: I don't know, sir.

MR MAGADHLA: Even those who had been invited to join the search in the sea, the area of the disaster?

MR STEYN: I don't know, I'm not aware of people being asked to give evidence, I don't know, I simply don't know.

CHAIRPERSON: Would you have expected that they should have been called, given that they had been officially asked by SAA to go and assist and they did in fact go to assist.

MR STEYN: I don't know, sir, I would speculate if I have to tell you that.

MR MAGADHLA: Did you ever get a report seeing that you knew that these people had gone there and that being confirmed?

Did you ever get a report that in fact this was the product of their investigation?

MR STEYN: Yes, I know about such a report, I know about the reports that were sent in to Armscor about the findings of the team and about the work that they had done in helping the search teams to find the pieces of wreckage.

MR MAGADHLA: Was that report ever discussed at a level where you participated in the discussions of that report?

MR STEYN: I do not recall that, sir.

CHAIRPERSON: So you only know that there was a report that was filed, but you don't know what its contents were?

MR STEYN: To my recollection, Mr Chair ...(intervention)

MS PATTA: Excuse me, we do have the report.

CHAIRPERSON: I'm asking the witness, in fact.

MR STEYN: To my recollection, sir, the IMT, the Institute of Maritime Technology made quite an important contribution towards this search by helping the search parties with the patterns in which they searched, this was contained in the report. That, at least, I remember.

CHAIRPERSON: Do you remember, because you've got a copy of the report or is it because you discussed it at your level?

MR STEYN: I remember because it was due to a discussion at that level, sir.

CHAIRPERSON: And what was that discussion about, what was it seeking to say?

MR STEYN: I think basically there was satisfaction about the job that they've done. I must say that I'm struggling to remember the exact content. There was also some aspect of the underwater detection that was not as satisfying as they'd hoped for. If I remember correctly, and here I must confess that my memory is not crisp, the wreckage pieces was on a very great depth and this caused a problem for the team.

CHAIRPERSON: Now at the time that this report was being discussed, was there already a speculation about the possibility of the plane ever being caused by, not only the fire on board, but also by that fire being caused by a combustible substance that may have irregularly carried on that flight? Was that discussed as part of that analysis of the report?

MR STEYN: I don't remember that.

CHAIRPERSON: You are not saying that it never was discussed, for instance where it could be said, look we have found no evidence that the fire was caused by a combustible substance that was - because we went there, we searched, we got the parts and they were analysed, they were subjected to forensic tests and all that and there is no way in which that theory can be confirmed. Was there a discussion of that nature in the ...(intervention)

MR STEYN: I don't remember such a discussion, Chair, and it might be my poor memory or it might just be that that came out after the fact.

CHAIRPERSON: Mr Magadhla?

MR MAGADHLA: In view of the fact that certain reports in the Press at the time, I think one of which led to the complaint by Armscor to the Press Counsel. According to your knowledge, did the investigation into the disaster itself extend to certain officials of Armscor, where certain officials of Armscor approached you with a view to ascertaining from them as to whether there was any involvement by Armscor or not?

MR STEYN: Chair, I'd like to understand the question as well, this investigation ...(intervention)

MR MAGADHLA: There was the Margo Investigation, the Margo Commission, now did that extend to certain officials of Armscor being asked questions as to whether or not they had anything to do with the disaster itself, or whether having material, dangerous material loaded into the aircraft?

MR STEYN: Thank you for clarifying that. I don't remember, I cannot recall about Armscor officials being part of this, but of course for our Chief Executive Officer, Mr ...(inaudible), I do remember that Mr van Vuuren of course made sure that that matter was investigated to make sure that there was nothing that could possibly have been involved in Armscor.

MR MAGADHLA: Was that an internal investigation by Armscor?

MR STEYN: As far as I know, yes.

MR MAGADHLA: Could it have been then that that report would have formed part of, or would have been present to the Commission as the version of the happenings by Armscor?

MR STEYN: It could have been, Mr Chair, I simply don't know.

MR MAGADHLA: Thank you.

CHAIRPERSON: Any further questions?

MS TERREBLANCHE: No further questions, I would just like to make an appeal to Dr Steyn that if he can have a bit of a memory about the priorities at the time if he can send us such a short list, just to make sure that we thoroughly canvassed everything.

MR STEYN: Chair, I'd gladly do that with the understanding that what you will get is the recollection of a retired man of 11 years ago. I trust that you will understand.

CHAIRPERSON: We'll take that into account.

MR STEYN: Thank you, sir.

CHAIRPERSON: May I take the opportunity then to thank you for having come. I don't even think the notice was sufficient, but you and your attorney found it possible to come. It's a job that we're not enjoying doing, not only because of the circumstances, and the tragedy that accompanied these events, but also because we have to do it in circumstances where we've got all sorts of constraints, time constraints, capacity constraints, but there is a persistent cry from those who suffered great losses that an

attempt must be again done in order to try and see if no further light can be thrown on this tragedy. Thank you very much.

MR STEYN: Chair, thank you, we - I certainly personally respect the work that you are doing, thank you.

CHAIRPERSON: You're welcome, Dr Steyn. Ms Terreblanche?

WITNESS EXCUSED

MS TERREBLANCHE: I was hoping before lunch to call Mr Peyaga's client, Mr Richard Steyl.

CHAIRPERSON: Can we - is lunch ready?

MS TERREBLANCHE: I don't believe so, we have not been informed, I can have a look, but we do have two more witnesses that have time constraints and, but I can check quickly if lunch is ready.

CHAIRPERSON: I was going to propose that we take lunch now, but we come back at 13h30/13h45.

MR STEYN: Mr Chairman, may I be excused?

CHAIRPERSON: You are excused, thank you.

MS TERREBLANCHE: But we must just establish if lunch is there.

CHAIRPERSON: Yes, we'll adjourn for one minute for you to do what you have to do.

We will now adjourn and Ms Terreblanche, you must make sure that our guests are called to lunch and until 13h30 or such time, or so soon thereafter as it becomes necessary.

HEARING ADJOURNS

ON RESUMPTION

CHAIRPERSON: This is a resumption of a section 29 process, an investigative enquiry held in terms of section 29 of the promotion of National Unity and Reconciliation Act, 34 of 1995. I have already welcomed your legal representative, Mr Steyl, but I welcome him now formally as your legal representative and I will ask you to place yourself on the record.

MR STEYL: I am Richard David Steyl from Pretoria.

CHAIRPERSON: Mr Peyaga, if you could place yourself on the record.

MR PEYAGA: My name is Elias Machodi Peyaga and I'm representing Mr Steyl. Mr Steyl would prefer to give his testimony in Afrikaans.

CHAIRPERSON: Mr Steyl I have to swear you in, so if you will stand, thank you.

JOHAN LODEDIKUS STEYL: (Duly sworn in, states):

CHAIRPERSON: There is a facility, you have it in your hands, I'm sure Afrikaans is on channel 1 and I'm sure even as I speak you will be hearing the Afrikaans translation getting into your ears, do you hear it.

MR STEYL: Not yet.

CHAIRPERSON: Do you hear anything?

MR STEYL: Yes, thank you, I can hear now.

CHAIRPERSON: Okay so it appears that the Afrikaans is on channel 2, well, I don't know, both English and Afrikaans are on

channel 2, the engineers must please put us on track. I want to make sure that the Afrikaans version is getting through.

MR STEYL: Yes, I can.

CHAIRPERSON: Thank you. The witness has been sworn in.

MS TERREBLANCHE: Thank you, Mr Chair. Welcome Mr Steyl, Mr Peyaga. Mr Steyl thank you for coming here, we've called you here with a very broad outline to answer questions about procurement during 1980's. Can you just tell us a little bit about your career in Armscor.

MR STEYL: Honourable Chairperson, I joined Armscor in 1978 and the first three or four years I did administrative duties in the foreign trade department of Armscor, and in 1981 I became involved in the shipping section of Armscor and this responsibility I kept throughout my career there, up to the present day. So, to sum up, my duties were foreign trade and the specific responsibility of shipping services, and the shipping services included the importation of goods and also exportation of goods, that is procurement, foreign procurement.

MS TERREBLANCHE: During 1987 when the unfortunate Helderberg disaster took place you were involved in shipping?

MR STEYL: Yes.

MS TERREBLANCHE: Do you have any knowledge of any Armscor device or devices which were carried by means of passenger liners or passenger planes or by means of civil aviation methods?

MR STEYL: I'd like to answer you as follows, the imports, as far as imports were concerned, our department in Armscor only did the customs clearance, in other words we did place cargo on board of planes or ships, but as soon as the cargo arrived in Cape Town Harbour or Durban Harbour, we would then do the necessary customs clearance. These clearances were done as follows, importers with the Armscor departments or Armscor contractors or Armscor subsidiaries, if they had cargo on board a plane or a ship, they would give us the instruction that the cargo would be arriving on a specific flight or a specific ship and that we had to make arrangements for the necessary customs clearance and we would have to take charge of the domestic supply.

Now the answer your question, when the Helderberg disaster took place, our department had had no request to clear any cargo on board the Helderberg. We monitored the situation, because I had received instruction from my superiors to ascertain whether there had been such cargo on board and we monitored it for weeks afterwards to find out whether there had been any loading bill document which could perhaps confirm that there was cargo on board the Helderberg, no such document emerged or there was not such request, that's why I told you I did not have any knowledge of any cargo on board Helderberg and it is also our policy and our view that we would comply with all the IATA rules and that if there had been cargo on board the plane, it would have been permissible cargo and not non-permissible cargo.

MS TERREBLANCHE: Thank you for that answer, I would like to find out more specifically, were you aware of any circumstances where Armscor made use of civil aviation either as a result of sanctions busting or on a basis of urgency, are you aware of any cargo which entered the country by means of a civil aviation plane which fell into the dangerous category?

MR STEYL: No, definitely not, I'm not aware of any cargo which was unlawfully placed on a civil passenger plane. A lot of cargo came in and 99% of these consignments which came in consisted of normal commercial cargo, whether spare parts, electronic equipment or whatever, which had no connection with explosives or ammunition. If it was allowed and allowed to be loaded in terms of IATA rules we would have given that permission, we would never have given permission for loading stuff outside of the IATA rules.

MS TERREBLANCHE: But you worked for a specific department, and you say that other Armscor departments usually asked that things be loaded?

MR STEYL: Yes.

MS TERREBLANCHE: So who did the actual shipping?

MR STEYL: No, let me correct that, they didn't ask the permission, we did the clearance, in other words, if contractors or subsidiaries of Armscor loaded cargo on planes or ships, I didn't know about it until the cargo actually arrived.

MS PATTA: Are you happy that the affilliators of Armscor was in all ways above board in terms of what you required and the way that things should have been shipped?

MR STEYL: I'd like to answer you as follows, it was a subject which was hotly discussed at the time and I'm talking about the era before the Helderberg disaster. The two subjects which were quite sensitively addressed in this group was, not to place any impermissible cargo on board passenger liners or IATA liners or planes and at that stage the State departments only paid import duties on the consignments coming in, and the other point that was emphasised at the time was that employees were not allowed to include any personal cargo in State consignments for obvious tax purposes. So these two issues were always raised at each and every seminar and conference and I believe that we did everything in our power to ensure that that did not happen. If anybody had done that, any member of staff, he would be acting of his own accord and we might not have known about it, but I can't believe that such a thing happened.

MS TERREBLANCHE: So it never came to light that any member of staff did such a thing?

MR STEYL: As far as I'm aware, it never came to light that any such a thing happened.

MS PATTA: Mr Steyl, we have information from a pilot, a captain Jimmy Hippert who was flying from Spain and a Foreign Affairs official approached him and asked him to bring a package

for his wife as a birthday present, it was wrapped up as a birthday present. He said it was valuable glass, "waardevolle glass" was the words that were used. He didn't believe this because it wasn't heavy enough and he opened it and inside he found Nitro-glycerine which he was being asked to take in. And when he complained to the Airline, he was visited by South African Security Officials and said that he should not interfere in this at all. I mean, there we have one small example of, Nitro-glycerine is a dangerous substance, which was being illegally smuggled. Do you expect us to believe that at the time of the arms embargo that when South Africa was battling to develop its own programmed, missile programmes and other such things in South Africa, that nothing was ever illegally transported into the country. How did you manage to the stuff then?

MR STEYL: It is very difficult to comment on that because if that was an individual involved in that instance, and my responsibility was official consignments, so if that happened it's strange that there wasn't the necessary follow-up action taken to expose that person to Armscor to prove that that person was busy with an illegal transaction. I can't comment on that because I'm not aware of any such an incident. To further answer your question, we obviously had many consignments which could not be transported on passenger planes and then we made use of ships and we went as far as hiring ships where we did the chartering of the ship, we hired the entire ship to be able to get the freight

here. So there ways and means to transport sensitive cargo imported into the country, so it wasn't necessary to import these things on board a passenger plane. I'm not aware of any such incident.

MS PATTA: Mr Steyl, you testified a minute ago that after the Helderberg went down your superiors actually asked you to monitor the situation, why would they do that if you never transported those kinds of substances on planes? Surely that implies that there must have been some kind of suspicion in Armscor that you were in fact doing that kind of thing and that it was quite possible that Armscor could have had stuff on the Helderberg?

MR STEYL: I can't think that there was a specific suspicion. I saw it as a normal procedure that after the accident Armscor was visited by security personnel, they asked us certain questions, they asked us whether we'd been aware of any cargo whatsoever, dangerous or non-dangerous, any cargo, whether Armscor had any cargo on board, and that's why we were so very keen to make sure that if there was something we would find out what it was and who had loaded it, or to find out whether perhaps there was no cargo. And I can say with certainty we didn't find anything.

MS PATTA: But there was even - you entertained the possibility that you might have had cargo on the plane? You didn't just say to us, there's not ways, we'd never do anything like that, you entertained the possibility.

MR STEYL: I can answer you in this way, in Armscor in the shipping department, we acted in good faith and I think one could say that perhaps one did have the fear that somebody in his individual capacity, his personal capacity had perhaps done something. We believe that he didn't, but it could have been a person who in his personal capacity did such a thing, and we had to ascertain that at all costs, but we couldn't ascertain that.

MS TERREBLANCHE: Armscor in those days had many private agents, what I mean by that, is people who on a once-off basis or a couple of times did foreign procurement, is that not so?

MR STEYL: That is correct. I checked, when we looked at the enquiry or when we tried to determine whether there was anything, we in that time, 1987, when the disaster took place, we handled about ± 20 customs clearances per day. In other words 20 imports per day were dealt with. That gives us about 400 imports per month. Now, the biggest portion of that, and I refer to a percentage of 98/99%, came from contractors appointed by Armscor, subsidiaries of Armscor and a small percentage of that was stuff which Armscor imported directly. In other words your statement is correct, there were many agents and many contractors.

MS TERREBLANCHE: I'm also referring to individuals like Mr Oslo who died in the Helderberg disaster.

MR STEYL: Because I did not deal with foreign procurement directly or deal directly with agents, I'm assuming that there were

agents, but I can't tell you who they were and how many there were and what exactly they did.

CHAIRPERSON: Any questions, Mr Magadhla?

MR MAGADHLA: Mr Steyl, would you reject out of hand any suggestion that during those years the South African Authorities or the South African Government was involved in sanction busting together with their allies world-wide?

MR STEYL: Honourable Chairperson, I would like to believe that in my capacity in Armscor that there would not have been cases where we as Armscor or as the Government had committed any malicious acts such as for instance placing cargo on board a passenger liner, what individuals might or might not have done I can't comment on, but officially I have to say, I believe no, the answer is no.

MR MAGADHLA: You're saying according to yourself there were no sanction busting by the South African Government?

MR STEYL: I'm sorry, I misunderstood you.

MR MAGADHLA: The question was, would you reject out of hand any idea or any suggestion that South Africa did embark on sanction busting during those years together or in conjunction with their allies somewhere else?

MR STEYL: Honourable Chairperson, I must answer that positively, I do believe that there were agreements with other countries and I think those other countries did help our Government.

MR MAGADHLA: Now, besides shipments and besides freights using airways to convey whatever stuff between South Africa and her allies in that sanction busting - in those sanction busting operations or undertakings, how else would it have been done according to your thinking or your understanding?

MR STEYL: I would as I answered just now, there were countries who helped us with certain venting of sanctions and if there weren't countries then there were individuals in countries who provided in-user certificates whereby certain procurement functions were complied with or fulfilled. Am I perhaps answering your question, perhaps you should just repeat the question.

MR MAGADHLA: To an extent you are, but what I'm driving at is that we are talking about the Helderberg and as you have conceded that after the Helderberg incident there was some kind of an investigation even by yourselves. Now, the popular suggestion and suspicion is that on that plane there was a dangerous cargo that was loaded from Taipei. Now, that would have been cargo which would have had to do either with Armscor or Armscor subsidiaries. The question is in the context of that incident, now you are saying there could have been individuals and there could have been agents and there could have been whoever, but I'm saying whoever it could have been, how could they have carried out, helped South Africa without having to use ships or aeroplanes?

MR STEYL: Chairperson, the countries that helped South Africa and of which I was aware, in those countries there were very strict security measures. Firstly to not reveal and make public the fact that a particular country helped us, it was handled in a very sensitive way. In those cases their security people, the country that was helping us, their security personnel and our own security people co-operated very closely to deal with the freight or cargo issue between those two countries to deal with it in a very safe manner. And that's why in most cases, almost all the cases, those consignments were consolidated in the country and then a chartered ship would be sent to go and fetch the consignment. If it could be flown then a chartered plane would be sent to go and fetch the consignment. I can't think for one moment that where the governments of other countries were involved, that either their government or our government would have allowed it being placed unlawfully on a passenger plane.

MS PATTA: Were you aware of the amendment to the dangerous goods legislation in terms of aircraft in 1986, that according to that if armourments were to be conveyed, Armscor would be, and particularly Armscor's procurement services overseas, would be the person to decide whether or not it is too dangerous, in addition that the legislation made provision for certain exemptions in terms of national interest?

MR STEYL: I am aware of the amendment to the legislation. I never interpreted the legislation as giving Armscor an unfettered

right to convey dangerous goods or substances on passenger planes. I did not see that legislation as not being subordinate to IATA rules. The way I saw it is that when charter planes were used, the legislation was such that the airspace covered by those planes, or the countries to whom the airspace belonged had to be asked permission if armouredments were conveyed across their airspace. That is in connection with chartered flights.

MS TERREBLANCHE: Are you saying that permission was not asked?

MR STEYL: Permission was not asked for other countries, in other words, if we used charter flights we did not request permission from neighbouring countries that there was military ammunitions on board the plane.

MS TERREBLANCHE: But that is in contravention of international rules.

MR STEYL: That is how I interpreted the amendment.

MS PATTA: When Somchem needed to procure stuff for its work, how would they go about it?

MR STEYL: Once again, I did not myself actually do the procurement, there was a procurement section and Somchem had its own procurement section and Armscor had its own procurement section. And the ways in which they would have done it, well, I can't give you a firsthand account of that, what I can say is that when the cargo was to be shipped, I would have been involved. If it was a commercial freight the sender would

have sent the cargo, it would be a free on-board transaction. If it was dangerous freight which had anything to do with sanctions busting, then we were tasked with chartering a ship or to find room on board a ship to bring this freight to South Africa.

MS PATTA: So that would work for all the various companies of Armscor, that's how it would work. In 1987 Somchem was producing Ammonium Perchlorate, which was used in the manufacture of solid rocket fuels and at some point, am I correct in saying that there were extensions done to Somchem because you needed to increase the capacity of Somchem to produce APC?

MR STEYL: Yes, what is the question?

MS PATTA: Am I correct in saying that there were extensions done to Somchem because you needed to increase its capacity to produce Ammonium Perchlorate?

MR STEYL: It may be, I don't know.

MS PATTA: You're not aware of Somchem having extensions done and the plant shutting down temporarily while these extensions were done?

MR STEYL: I was aware of the fact that they manufactured it, I wasn't aware of the fact that they had a shortage and that Armscor was instructed to obtain additional supplies, so no, I was not aware.

MS PATTA: I wasn't asking you if Armscor was instructed to obtain additional supplies, I was asking you if you thought Somchem had shut down. But it's interesting that you make that

leap, that Armscor was instructed, that you're saying that they weren't instructed to obtain additional supplies, it's an interesting leap that you've made there. So you're not aware of procuring any Ammonium Perchlorate for Somchem in 1987?

MR STEYL: Armscor may be so aware, I personally am not aware.

MS PATTA: But you were at shipping, you were in procurements?

MR STEYL: Yes.

MS PATTA: You knew of the stuff coming in?

MR STEYL: I can't recall that in 1987 or in that period that I was involved in importing this product or to issue clearances for such a product into South Africa.

MS PATTA: Well, what sort of products were coming in in 1987?

MR STEYL: As I said just now, we dealt with about 20 shipments or consignments per day and very few of those consisted of dangerous cargo. If a ship came into Durban and Cape Town Harbours with dangerous cargo or freight, I didn't always know what exactly this commodity was. I would know that it was a class 1 or class 2 commodity, in the shipping terms for what it was, such as explosives, class 1 or whatever, but the exact names of these explosives that I was not aware of.

MS PATTA: But you knew that they were explosives?

MR STEYL: Yes, obviously.

MS PATTA: You knew that they were and you - so you knew that we were exporting, bringing in chemical additives used in the manufacture of rocket fuel?

MR STEYL: If you're saying that I was aware that we were exporting fuel for rockets, I have to say, no. I was aware of the fact that certain substances were imported, but what the exact application was, I wasn't quite sure.

MS TERREBLANCHE: When you are saying raw materials, are you saying raw materials for use in rocket fuel?

MR STEYL: No, I'm talking about chemicals. I'm not a scientist, so I can't really make sense of a particular chemical, when that was imported I wouldn't know what the application of that would be.

MS PATTA: But you're saying that you were aware that certain chemicals were coming in, used in the manufacture of rocket fuels that were explosives?

MR STEYL: I am aware of certain chemical substances which entered the country by ship. What the application was I don't know.

MS TERREBLANCHE: I would just like to go the legislation from 1986, you said that it made provision for the fact that you need not notify neighbouring countries when you were overflying their airspace with dangerous cargo?

MR STEYL: Let me answer it in this way, when we chartered a plane we would tell the owner of the plane or the crew of the

plane what these commodities were. They then submitted their flight plans, worked out their own route and ...(indistinct) their flight plans, and we left it to them to make the necessary flight arrangements. We in Armscor did not notify the neighbouring countries the plane needed overflight rights, but we didn't notify the neighbouring countries that a plane was about to cross their airspace and that it had specific armourments on board. That we did not do.

MS TERREBLANCHE: What would have happened if there was such a flight containing dangerous cargo on board and also cargo which needed to be kept a secret from the numerous countries that were hostile toward us at the time and should not have known about our armourments, what would have happened if such a plane encountered some difficulties or problems? What would Armscor's approach have been?

MR STEYL: I don't think we could have acted prescriptively towards the crew, the captain was at all times aware of what he was conveying and he was in charge of the plane. We had basically no radio communication with him once he was air-borne, we did have communication with his owners. But if he was in trouble and he had to make a crash-landing or emergency landing, that would have been the decision of the captain of the plane.

MS TERREBLANCHE: Would Armscor in all cases have owned the person as the person flying with their cargo?

MR STEYL: Obviously Armscor was running a risk, it had a risk because it was placing cargo in possession of a conveyer or a carrier and the only claim which Armscor had against the carrier was this cargo manifest accompanying the cargo, and on this document there was an addressee, a person to whom it was being sent. And if this plan was to land, the Authorities of that country would obviously have known who the sender was and who the addressee was and what the commodity was.

MS TERREBLANCHE: Unless of course the plane landed up in the sea?

MR STEYL: I have my doubts about the question or the answer to that, because there are certain cargo documents that would not necessarily be on the plane, there would be, for instance, air freight letters or cargo manifests which the owners of the plane would have in their possession. In other words, they would be able to state or explain should the plane go missing what exactly the cargo was and where was it going to.

MS TERREBLANCHE: Captain Deon Storm who was a pilot in the South African Airways, a former Air Force pilot and also later a security officer at Jan Smuts, he said that they did a kind of a spot check which indicated that almost 80%, I just have to verify that, say 60% of all cargo which was not declared or declared incorrectly, contained military or military type or Armscor type of cargo.

MR STEYL: I can't comment on that because when we received cargo or when we sent cargo off, I was operating on the information given to me or to my people. We never did any inspections or it was very seldom that inspections were done to see whether the actual content of the consignment corresponded with the freight documents, so I can't comment on that.

MS TERREBLANCHE: So you say you're not aware of any such thing, that it actually occurred?

MR STEYL: I am aware, or I believe that most of the cargo was vaguely defined, I'm not talking about dangerous stuff or explosives, I'm not talking about that being defined or described as harmless, but for instance if there were aeroplane spare parts being shipped, it might just be vaguely described as parts, and the particulars would not be given.

MS TERREBLANCHE: It is quite co-incidental that you mention that example, because Captain Storm and somebody else also said that, Mr Rene van Zyl of the Civil Aviation Directorate, they both said that virtually all Armscor goods incorrectly described was described as plane spare parts.

MR STEYL: That may be, but I must also point out that by far the majority of these consignments were actually aeroplane spare parts.

MS PATTA: I'd like to just read you something from a former Armscor employee,

"That South Africa's Ammonium Perchlorate production facility was set up in the 1970's at Somchem. The initial capacity of this plant was about 100 tons per annum. Around the time of the Helderberg crash South Africa was involved in military operations in Angola, Namibia and on the home front. The operational demand for solid rocket fuels was high, also around the time of the crash Armscor was busy developing the means to produce its own inter-continental missile ballistic programme using US technology obtained in a devious manner by Israel. The development programme was getting well advanced about then, with full-scale rockets being tested and at a new secret test facility near Rooi Els.

I mention the ICBM to emphasise that not only was the military demand for APC high at the time, but the demand for APC to feed these big hungry space rockets was also soaring. Somchem with its 100 ton per year capacity was not keeping up with the demand. Of course this had been foreseen and a decision was made to double it. This involved shutting down the plant for the duration of the extensions. Because of the on-going demand it was impossible to stock-pile APC prior to the shutdown. Obviously for a period of several months a large

quantity of APC had to be sourced outside the country in defiance of prevailing military sanctions.

This was difficult and expensive and I believe that initially the necessary APC supply was sourced from America and that it was brought in on SAA passenger planes as an integral part of the necessary deception."

Are you aware of this, Mr Steyl?

MR STEYL: Chairperson, I'm not at all aware of that. It may be that there were problems with the plant, and if the plant was closed, I can't comment on that, I don't know about that, but that there were that vast amounts of the chemical entering the country, well, I'm not aware of that. I can't think for one moment that such vast amounts could enter the country commercially from the States and I also can't conceive of such large amounts of the stuff could be brought in in the cargo holds of planes. You mentioned Israel, the sea transport or traffic between South Africa and Israel was done on such a regular basis that it could actually have been conveyed very easily between South Africa and Israel.

MS TERREBLANCHE: I would just like to ask Mr Peyaga something, should I ask you first?

CHAIRPERSON: I can't understand how you can do that, he's not testifying. You can't, if there's anything that you want to clear with him in his capacity or whatever, I think you should find the time to do that and we can make an arrangement in terms of

which we will receive whatever he has to say, but we can't in the middle of putting questions to the witness put other questions to somebody else who is legal representative of that particular person.

MS TERREBLANCHE: Is this something that I can read into the record?

CHAIRPERSON: Can we adjourn quickly so that I can appreciate the nature of your request. We'll adjourn for five minutes.

HEARING ADJOURNS

ON RESUMPTION

JOHAN LODEWIKUS STEYL: (s.u.o.)

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: I don't have any more questions, Ms Patta?

MS PATTA: No.

CHAIRPERSON: Is there something you wanted to place on the record?

MS TERREBLANCHE: I would just like to say that I think we really should be addressing some of these questions to a representative of Somchem at the time, either the former MD or the former Procurement Officer, we have the names of, but can't locate, and I think that perhaps Mr Steyl is not the right person.

CHAIRPERSON: Mr Steyl, do you know of anyone from Somchem whom you think would be appropriate to come and address us?

MR STEYL: Mr Chairperson, the procurement person who did the procurement at Somchem for many years, there's a person by the name of Humphreys and I would think that he, Francois Humphreys, would be the suitable person to be able to answer your questions.

CHAIRPERSON: Where can we get hold of him?

MR STEYL: Until recently he was still involved in Somchem and then he was transferred to Denel, head office in Pretoria, but I have an idea that he retired a month or two ago and I do not know exactly where he is at this moment.

CHAIRPERSON: Ms Terreblanche, does that assist you?

MS TERREBLANCHE: At this stage it assists me. I would just like to ask that if either of the two gentlemen have any idea where to locate Mr Decker or Mr Humphreys if they could pass on that information to us.

CHAIRPERSON: Can I just put a few questions. Now, I don't know if I got it correctly from you, at the time of the Helderberg incident, where you with Armscor?

MR STEYL: That's correct, yes.

CHAIRPERSON: And what position did you hold then?

MR STEYL: Manager of Shipping Services.

CHAIRPERSON: And would the decision to send the Maritime Institute to participate in the investigation taken by you or would it be taken by somebody higher than you?

MR STEYL: No, it was not a decision made by me. I had to accept that it was made by the Management of Armscor. I only read about their involvement in the newspapers, I was not involved in the decision making.

CHAIRPERSON: Were you not aware that after the crash, such as it was called, South African Airways and the Military immediately dispatched an aircraft to Mauritius, are you aware of that, and that on board some of this aircraft were a number of Armscor personnel who stayed at the Meridian Hotel in Mauritius?

MR STEYL: At the time that this was arranged I was not aware of the fact. I read about it for the first time in the newspapers.

CHAIRPERSON: Dr Steyn who was before you confirmed this that there was a group who was sent, and he said it was the Maritime Institute who had been requested by SAA to go and assist in the search. Now, what did you read in the newspapers, what was the purpose of them going there?

MR STEYL: What I read in the newspapers is that they went to look at certain things which had washed up on the beach, they were looking for certain objects, cargo, I don't know what it was, but they were looking for one or other item which could have washed up from the sea, that's what I read in the newspapers.

What I understood from Armscor when this was said in the newspapers was that they were sent there, IMT was sent there to help with the investigation, but I cannot comment any further, I do not know.

CHAIRPERSON: You yourself never saw the investigation report when your group of people came back, did you?

MR STEYL: No, I did not see it.

CHAIRPERSON: So you know nothing about either their going or their returning or the report that they compiled?

MR STEYL: That's correct, I do not know.

CHAIRPERSON: Mr Magadhla?

MR MAGADHLA: Do you know if Armscor participated in the investigation by Justice Margo, by perhaps making a submission as to what their side of the story was?

MR STEYL: No, I am not aware of any submission made by Armscor to the Margo Commission.

MR MAGADHLA: But were you yourself approached by the investigators of the crash itself for your own role as what you were at the time?

MR STEYL: No, I was not approached by the investigative team, I was only approached by my own Management, that of Armscor and at a stage we were visited by the SOS security, who came to question us and look at our records at that stage as to whether there was any possibility that we had any cargo on that

aeroplane, that was my only involvement in the investigation of the Helderberg incident.

MR MAGADHLA: Was it that they felt that it would have happened that you had cargo on that plane and it was left for you to say, no or yes, you did? Did this mean that, according to them, this would have been practised at times where there would have been any incident like the one, but seeing that now there was this incident, they felt they should come and find out from you whether this time around you had any cargo in that plane, in that particular plane?

MR STEYL: The way in which I interpreted it, was that it was merely a routine visit, because at that stage in the newspapers there were reports or rumours that Armscor could be involved, they did not ignore this, but they then came to ask the questions and do the investigating.

MR MAGADHLA: Their investigation as you know, did not extend beyond the country. They wouldn't perhaps have investigated Armscor activities in Taipei for instance, or in Israel, with regards to conveying that kind of stuff in aeroplanes?

MR STEYL: It is very difficult for me to comment on this question because I cannot say yes or no, whether the airline SAA or the Margo Commission did such investigations, I'm not aware of any such investigations. I cannot answer, I do not know.

MR MAGADHLA: Would you have been part of a panel or a group of officials of Armscor who would have received a briefing

from representatives of Armscor in that situation, for instance, a representative of Armscor would have under normal circumstances perhaps after the whole investigation, the whole Margo report or Commission, would then have come to that panel of people or that group of people, officials to say, look this is how it has all gone, our contribution has been appreciated and this is - now it's over?

MR STEYL: At that stage, I'm now referring to the late 80's, '87 when the accident took place, I was not in the Senior Management team of Armscor and if such sessions were held, then I was not involved because I have no knowledge of any such sessions.

MR MAGADHLA: Thank you.

MS TERREBLANCHE: Mr Chair, I think we have concluded.

CHAIRPERSON: Well, it remains for me, Mr Steyl, to thank you and your legal representative, Mr Peyaga, for having come and in circumstances where notice was possibly short where you could not even try and get documentation if you would have been able to from your offices or the offices which you held at the time. I would like you to appreciate that this is an enquiry we are having to do in the light of persistent requests from families of people lost friends and relatives in that tragedy. It's an enquiry that we would have loved to do on the scale of the Margo Enquiry, but we just do not have the resources and the capacity and the time to do it in, but we are trying and endeavouring to come to terms

with the reality of this tragedy, but our own direction is to follow the paths that we hope will reveal at some stage the truth about what happened, and I'm sure it will be in the interest of everybody if we're able to get to that truth. And to the extent that you have contributed to telling the story in your own way, in the way in which you heard whether it was rumours, and in the way in which you have information that you can share with us to that extent, we thank you. You are excused and in the event, as Ms Terreblanche asked, you are able to trace or assist us in tracing people in Somchem who you consider might shed light on this mystery, we would be very much indebted to you if you could let us know, whether by yourself or through your legal representative, Mr Peyaga. You're excused.

MR STEYL: Thank you very much.

WITNESS EXCUSED

MS TERREBLANCHE: Thank you very much, Mr Chairman
...(intervention)

CHAIRPERSON: Do you have any further evidence, Ms Terreblanche?

MS TERREBLANCHE: Yes, I have two more witnesses for the day, this actually concludes our witnesses for the Helderberg. I am now calling Mr J N J van Rensburg, he was the attorney who assisted Judge Margo on both the enquiries.

CHAIRPERSON: Okay, you're excused Mr Peyaga.

CHAIRPERSON: Mr van Rensburg you are reminded that you are still under oath.

This is the enquiry into the Helderberg air disaster and Mr van Rensburg, who has been sworn in already, will testify. Miss Terreblanche?

MS TERREBLANCHE: Thank you. Now, Mr van Rensburg, I assume that the same procedure was followed vis a vis DCA with the Helderberg enquiry.

MR VAN RENSBURG: In terms of annex. 13.2, the Chicago Convention, yes.

MS TERREBLANCHE: So basically they provided you with evidence?

MR VAN RENSBURG: That's correct.

MS TERREBLANCHE: I also understand that when, just before the enquiry was opened or started, some submissions were asked for from all interested parties.

MR VAN RENSBURG: Yes.

MS TERREBLANCHE: And was there a deadline to that?

MR VAN RENSBURG: If I can just give you an idea here ... (intervention)

MS TERREBLANCHE: How much time did they get?

MR VAN RENSBURG: No, no, it was - we published well in advance, before the actual hearings, I mean, the Board conducted its proceedings in public in Johannesburg on the 15, 16, 17, 18,

22, 23, 24 and 25 of August 1989, this was after notice had been given and advertisements placed of the date and place of the hearings. I still recall that when the venue of the hearings in Johannesburg in the Johannesburg Supreme Court was determined, then we published the notices for all interested parties to come forward with whatever evidence they may have.

MS TERREBLANCHE: Now at what stage did you first get a transcription or listen to the CVR records that there were, the recovered black box records?

MR VAN RENSBURG: Well that was, we even listened to that during the course of the hearing and we've read it as it was typed.

MS TERREBLANCHE: I hear what you're saying, but at what stage did you first have access to it, before or during the enquiry?

MR VAN RENSBURG: No, I think we had, you know, it's quite some time ago, but if my memory serves me, I think we listened to that before the hearing and during the course of the hearing, and it was also on paper of course.

MS TERREBLANCHE: You relied, as in the previous enquiry, it was relied on Dr Leonard Jansen to do the interpretation?

MR VAN RENSBURG: Yes, we analysed the DVI.

MS TERREBLANCHE: And the full transcript?

MR VAN RENSBURG: Yes.

MS TERREBLANCHE: Now, at the enquiry the Pilots Association was called right in the beginning to ask their

permission to play the entire recording and run into the court record the entire transcript, is that correct?

CHAIRPERSON: Yes.

MS TERREBLANCHE: And they were questioned by Judge Margo a number of times where they said, yes, they would not mind the whole one until he said that perhaps it contains confidential evidence, and then they conceded and said, well in that case, no, they don't want the whole one.

MR VAN RENSBURG: No, I do not recall the reference to confidential information, but what I recall which also came from the Airline Pilots Association that some strong language was used by Captain Dawie Uys on board that aircraft and they didn't want all those heavy expressions or strong language to be broadcast in open, because it was an open hearing, the general members of public were there and there was some objection to that part, but not because of confidential information, to the best of my recollection.

MS TERREBLANCHE: What stage was it decided that only the part from when the fire warning bell rang was applicable to the enquiry, and not the part where the strong language was used?

MR VAN RENSBURG: No, the strong language was used right through, I mean up to the last bit, I mean, if you go through that recording, Dawie Uys was very tense up to the last minute.

MS TERREBLANCHE: Listen to the question, at what stage was it determined that only the part after the fire-bell rang was

applicable to the investigation and the enquiry, as to the cause of the accident?

MR VAN RENSBURG: I think when Judge Margo made it clear to the Airline Pilots Association that that's the critical time just before the accident and they will not be able to stand in his way to play that part because that is of critical importance, and that is why that part only was incorporated in the record.

MS TERREBLANCHE: Would you say that Judge Margo had a better understanding of such an interpretation than a pilot?

MR VAN RENSBURG: Well, I will not judge that, I just know that Judge Margo is also an experienced pilot and he was assisted by even more experienced pilots than any pilot of the Airline Association in this enquiry. We had test-pilots from all over the place, and I will not try to be the judge of who was the better one to assess the situation.

MS TERREBLANCHE: Just for the record, Judge Margo never flew a 747.

MR VAN RENSBURG: No, that is correct, but many of the other witnesses involved, they flew that type of aircraft, and we had them all there.

MS TERREBLANCHE: Do you think that the Pilots Association and the Flight Engineers Association were interested parties in this investigation?

MR VAN RENSBURG: Of course yes, they reacted to the notice that we published and that's why they came. They are always an

interested party when it comes to aviation matters. They've just recently filed a serious complaint about air traffic control all over with the Licensing Councils, nationally and internationally, so we would most definitely regard them, that's why they've been given audience there.

MS TERREBLANCHE: Would they have had access to all records, even the entire CVR recording?

MR VAN RENSBURG: Absolutely. It was an entire open - even, you know, with the previous investigation, I was personally attacked by not one person, but more than one when I said to the Media, that as we are leading the evidence to this Counsel, as we handed it up to the Chairman of the Board of Enquiry, I always secured an extra copy for the Media and said, as you get it, here it is for the Media. I was criticised for doing that, but we decided it's an open enquiry, whatever comes to record must be part of the record, we are not to try and hold anything back. And that was the attitude from the Board's side, internationally represented and all the legal representatives involved in the Enquiry.

MS TERREBLANCHE: I think you must now listen closely, we have had more than one person come forward, particularly pertaining to the Flight Engineers Association who said that they asked for participation, but was given only observer status. They then had difficulty of accessing the full transcript of the voice recording. After securing that, a number of them put together -

well, were in fact originally seconded to the board, but was never used, put together their own interpretation of the CVR where they said that the part that was not played and not taken in account, was vital to determine the cause of the accident or the wreckage of the plane. Now, we've had it from more than one person that there was a meeting called after this submission was made, in Judge Margo's chambers. First of all they were told that they were out of the deadline, they dispute that, saying that they were 48 hours inside the deadline of making submissions. We were told ...(intervention)

CHAIRPERSON: You have put a number of things to him already, can he react to some of these that you have already put to him. Do you still remember some of the things that have been put to you?

MR VAN RENSBURG: Mr Chairman, what we must be clear on, I recall the discussions between the Board and the Airline Pilots Association and the Engineers, but, you know, the invitation was addressed to all and sundry who may have had evidence, hard evidence to consider by this Board to come forward and to submit the evidence. Now, I can't recall any evidence that was submitted by the Airline Pilots Association in writing and was subjected to cross-examination. Mr Rene van Zyl will most definitely be in a better position to give you a complete breakdown of the discussions that took place between the DCA and the Airline Pilots Association.

MS TERREBLANCHE: With respect, I'm saying that the flight engineers only had access to the tape at a very late stage. They then had to go back and do an expert analysis because they realised, immediately after listening to it, that there was a different interpretation at stake here. I am talking about representations made to the Board once the enquiry had started. Can you recall such an incident, and I have been told a number of times, I think Ms Patta has been told a number of times, that you were present in Judge Margo's chambers.

CHAIRPERSON: Let's get first things first, are we talking about the Flight Engineers Association or the Airline Pilots Association, because I think Mr van Rensburg is responding to this as though he was responding to both of them. I think all your line of questioning has been on the Flight Engineers Association, let's deal with that first and all the queries that she is raising in regard thereto.

MR VAN RENSBURG: I'm not very clear on the Flight Engineers Association. I remember the Airline Pilots Association, but you must please accept that the investigator in charge in terms of annex. 13 and the Aviation Act is a Board of Enquiry. It's not for me as an individual or any other person so conduct an investigation into an accident like that, that's why a Board of Enquiry has been appointed, and if any person would then come forward with evidence that could assist the Board of Enquiry, the investigator in charge, to get to the cause of the

accident with hard evidence that is submitted to cross-examination and tested, and that would have been refused, then I would have regarded this as an irregularity, but I'm not aware of anything like that, that evidence was submitted and that they were declined or that they haven't been given access. That, I would suggest, that you talk to Mr Rene van Zyl and see whether there was anything of that sort.

MS TERREBLANCHE: I want to speak to you, because what I have been told is, that at this meeting there was a man called Jimmy Mittins of the Flight Engineers Association and other members, Peter de Beer, the Vice-President Ray Scott and a guy called Judge Bedar, on the other side was Margo, Rene van Zyl, Mitchell and the attorney Van Rensburg. The FEA felt ...(intervention)

CHAIRPERSON: Do you recall a meeting of that nature?

MR VAN RENSBURG: Yes, I recall a meeting. We had many meetings in the chambers of Judge Margo, especially when people came forward to look at what they have and what they want to put forward. I remember a meeting, but the detail of the thing, that I'm very vague on, I mean, I can tell you, anything is possible there, I can't recall what was the subject matter of discussion.

CHAIRPERSON: Can you put a specific allegation, Ms Terreblanche.

MS TERREBLANCHE: The Flight Engineers Association felt,

"We wanted to carry on and at the very least, make a number of recommendations of which the most important was the disaster check list ...(intervention)

MR VAN RENSBURG: Of which the most important was?

MS TERREBLANCHE: The disaster check list, but that's not what I want to get at.

"We were summoned to the Chambers by Judge Margo because the CDR came in at a late stage and we wanted to make a submission."

Which they have made in written form and was placed before you the day or so before. They were told that it was late, first of all, and that therefor they must withdraw it. As I understand it, Judge Margo at a stage left the room and Mr Mitten was told, he claims and Mr Scott, they were told by you that the country cannot afford this enquiry into a two stage theory that they advanced on the basis of the full CVR, and that they should therefor withdraw. This could cost the country and a large amount of money was mentioned.

MR VAN RENSBURG: That I can't recall, with respect, Mr Chairman.

CHAIRPERSON: What is the large amount, Ms Terreblanche?

MS TERREBLANCHE: Something like R400 000.

MR VAN RENSBURG: No, I can assure you, that type of remark would most definitely not have come from me. The question of costs of the investigation, you know, this was quite a

costly situation with all the stuff that we had to remove from the ocean bed, 4½ kilometres down, would have been rather from Mr Rene van Zyl who was involved in the budget of the thing, I had absolutely nothing to do with the budget or the financial situation of the investigation, that was - if I have to give any evidence on that matter, I will just be swimming because I had no information whatsoever.

CHAIRPERSON: Can I just put the proposition in the manner in which I have understood to be put to previous witnesses here. The proposition is that Judge Margo in your presence and in the presence of the other people that have been mentioned, discouraged these people from making the sort of enquiry that they wanted to make, on the basis that it would cost the country a considerable amount of money, that it was not in the national interest, that in fact, they had to consider, not at that meeting but at another, the security of their jobs and their family. Now, I think what we are seeking to find out is whether a conversation of that nature, which in terms amounts to an intimidation of witnesses, whether a conversation of that nature ever took place, either at the meeting that she has mentioned, but at any other meeting at which you were present?

MR VAN RENSBURG: Mr Chairman, I recall meetings with the Flight Engineers Association and the Airline Pilots Association, but most definitely not any form of intimidation, because we had the approach to this whole thing, whatever information could be

brought forward to throw light on a possible cause of this accident, must be considered, but in the same breath I must also say to you, when you do an investigation like this, you have many people from the general public who are looking for some sensational disclosure, and then they come forward with pure allegations and Judge Margo, as a Judge of the Supreme Court with his experience assessing witnesses, he would just ask one or two questions and see whether there's any substance in what this person is coming forward with. And if there is not substance, then he would be very firm to say, sorry, you are not raising anything here of any importance. Whether this was the case with the Airline Engineers Association, I can't say, I can't recall anything to that extent, and in the least, it would be against his nature to repudiate anything coming from that body, because it must be seen as an expert body, the Flight Engineers are experts in their field, if they ...(intervention)

CHAIRPERSON: My emphasis is on something much more serious, this information seeks to say Judge Margo actively dissuaded information which might have been material from being placed before the Commission on the basis that it was not in the national interest, it would cost the country a great deal of money, there was even a suggestion that words in the form of, they would play into the hands of the ANC, were used.

MR VAN RENSBURG: No, that, Mr Chairman, I can most definitely not verify, because the political say, whether we talk

about political parties, with Justice Margo that was never ever part of his make-up to come forward with a political expression that, you are working in the hands of the ANC, or for that matter in the hands of any other political party. That, I can most definitely say to you, knowing him through the experiences that I've gone through in these investigations, that's not his approach, but if he's convinced that someone would come forward with a statement or an allegation that's of no substance, he can be firm to stop that, because we had a lot of real information to consider, and you can't lose time on something if it's not of substance and prove by solid evidence. That is a possibility.

CHAIRPERSON: Let us examine that. Let's examine Judge Margo in the context of his uprightness, and I'm not challenging for once your observation and your view of him. Now, during the course of that sort of enquiry, would you expect Judge Margo to invite anyone to his residence in the circumstances where the person came by himself in the absence of other interested parties, during the Commission of Enquiry, whilst it existed, would you expect that to be happening?

MR VAN RENSBURG: I won't say that won't be possible with him, but whether he will react to that, because he was always, when he heard something, wherever, he came back and he put it to us as the legal representatives, that's now in the case of the Helderberg enquiry, Advocate Southwood and Bob Nugent, he's a Judge today, Bob Nugent was the junior advocate with Brian

Southwood, and then we would have said to him, yes, but let them come forward and let's assess the situation where everybody could be heard.

CHAIRPERSON: That's the procedure, that's the normal procedure, but would you expect Judge Margo to have invited to his home a person who was a material party, for instance a pilot, a person who had now become Manager, who had been given on evidence the tape from the UCR, would you have expected him to have invited that person, on that person's evidence, to his residence whilst this thing was taking place?

MR VAN RENSBURG: I wouldn't have - I won't expect that, but I can't say it hasn't happened, Mr Chairman.

CHAIRPERSON: I'm not saying that it has happened - well, we have now evidence, I'm trying to say the mere fact that you have a view of Judge Margo as having been a morally upright person, etc, should not by itself be conclusive or sufficient for you to say some of the things could not have happened, because a witness here yesterday told us under oath that he went to Judge Margo's chambers, when this specific question was put, in denying, in an effort to deny that this meeting took place, they said the only time that he went and saw Judge Margo was not in his chambers, but at his home, at his invitation. And when he was getting out there, he's sure that the Flight Engineers were leaving, also having been there at the invitation of the Judge. I ask myself the question ...(intervention)

MR VAN RENSBURG: No, that's possible, but I can't verify it, I can't say it's impossible, most definitely not.

CHAIRPERSON: But what I want to get at is, would you consider it to have been highly irregular and improper of a sitting Judge, whilst handling a sensitive Commission of Enquiry of that nature, to be inviting people in that sort of fashion to his residence in the absence of the attorneys and in the absence of the other parties?

MR VAN RENSBURG: Mr Chairman, there I must say to you that Judge Margo has always said that this Enquiry is an inquisitorial enquiry, in other words it's ...(intervention)

CHAIRPERSON: That may well be, but it must be conducted in circumstances where the Enquiry is not only just, but is seen to be just, not only even-ended, but is seen to be even-ended, would you agree with me that, as a lawyer, if there was a suggestion that a Judge had invited people to his residence in the absence of the other parties, in the absence of their legal representatives, that would have been irregular.

MR VAN RENSBURG: Most definitely that would have been irregular, but I can also say that if that would have happened and something would have come out of that meeting, he would have insisted on getting that evidence submitted to the full Board.

CHAIRPERSON: That's the problem, because now what comes out of that meeting is that, he made a suggestion that people

should cover up evidence, that's one of the allegations. That's why then the irregularity becomes even more important.

MR VAN RENSBURG: I hear you, but I can't comment on that.

MS TERREBLANCHE: Perhaps I should just remind you what, well maybe it will remind you when I tell you what people said further,

"We went back inside...", that's after the tea-break, "and said we will only withdraw if our recommendations are accepted. We were also saying that our Chairman is not present..." the Chairman of the Flight Association, ...(intervention)

MR VAN RENSBURG: The Flight Engineers now?

MS TERREBLANCHE: Yes, Flight Engineers Association.

"and we said that we cannot completely withdraw the report without his consent. We were just hoping that they will consider the two fire theory. The Chairperson was then flown back from England immediately and summoned to Judge Margo's house, where he was persuaded to withdraw the report. He came out of that meeting telling us that this was done for fear and finance, the two wrong reasons."

MR VAN RENSBURG: No, I can't comment on that, I'm sorry, there I can't say anything.

MS TERREBLANCHE: It just strikes me as completely absurd that R28 million is spent on recovering the black box and then

you listen to only a small part of it to find the true cause of the accident, and then determine at the end you can't find the true cause.

MR VAN RENSBURG: But what I must state categorically, Mr Chairman, I can't verify or confirm that meeting, because that meeting at Judge Margo's house that I am now hearing of here, I have not been aware of that, I can assure you.

CHAIRPERSON: But are you then denying - that's technical, I'm sorry, Ms Terreblanche, but to the extent that the meeting or one of the meetings suggested to have taken place in chambers ... (intervention)

MR VAN RENSBURG: No, that has taken place for sure, I remember that.

CHAIRPERSON: But what you deny about that is the fact that Judge Margo persuaded people not to follow certain in the national interest, because of money and all that, are you denying that?

MR VAN RENSBURG: Yes, most definitely, I can't verify that at all, and I have nothing even to say in support of that, so as far as ... (intervention)

CHAIRPERSON: You were supposed to be present you see, that's why I want you to commit yourself to a version. Are you saying it never happened, or if it happened you have forgotten about it, what is your ... (intervention)

MR VAN RENSBURG: I recall the meeting, but I do not recall any allegation of, do this or do this because it's costing the country a lot of money or that finance was at all involved. It was argued on merits whenever we were present in his chambers and something came to the table, he always had the way of doing it, this is what has been put to me, what do you guys say, and then he addresses that to all the members of the Board, that was a meeting outside the hearing, but in his chambers with all the Board members present.

CHAIRPERSON: Can I get you clearly then, are you saying you don't recall it because it never happened, or you don't recall it because these things took place 11/12 years ago and it may have been said, except that not it is a serious change of mind.

MR VAN RENSBURG: These meetings may have taken place, I just can't recall the detail of any allegation with regard to finance or what it will cost the country, but that meetings ... (intervention)

CHAIRPERSON: Are you considering that it could have been said?

MR VAN RENSBURG: Yes, no, no, for sure, I just can't say with any conviction of my mind that that it's been said.

CHAIRPERSON: Okay, if it was said, would you agree that it was the most irresponsible statement to come from a Judge?

MR VAN RENSBURG: I agree with that, but I must tell you I ... (intervention)

CHAIRPERSON: I accept that you don't recall it, but you are considering the possibility that those who say it actually was said may be correct, and if it is so, ...(intervention)

MR VAN RENSBURG: Then it would have been irregular and not acceptable to me at least.

CHAIRPERSON: Ms Terreblanche?

MS TERREBLANCHE: Mr van Rensburg, you recall the meeting, but you don't recall the report that was handed in at the meeting by the Flight Engineers Association?

MR VAN RENSBURG: No, I don't recall that. You must really ask the Department what happened about that report, because I know and I remember that meetings took place, but what they've handed up or what they wanted to hand up, I have no record of because it's not part of the record that we've handed in, it was never submitted as evidence, whatever the reason was, I can't say.

MS PATTA: It's interesting that it wasn't submitted as evidence, it's a detailed report which goes into a detailed analysis of the cockpit voice recording, the whole cockpit voice recording which was not submitted in to the Margo Commission of Enquiry, only the last two minutes were, the whole cockpit voice recording by the way which does not contain any foul language, the only strong language is actually in the bit that was submitted to the court itself, that's when the swearing actually starts, but prior to that they talk about dinner and the lousy SAA food.

CHAIRPERSON: And women.

MS PATTA: I battle to see what's so problematic about that, but what's important about the whole cockpit voice recording is that it makes reference to dinner having been served shortly after take-off and if you go through the Flight Engineer's report, they basically assert that a fire broke out shortly after take-off and they go into a detailed technical analysis of it. It's not a political thing, it's a very conservative analysis of a cockpit voice recording which could have helped your Enquiry, and I find it remarkable, (a) that you don't remember this report, which was very useful and very explanatory, and that you don't remember it and that you actually then later had legal communications with the Flight Engineers Association that you yourself drew up in which you referred to this report.

MR VAN RENSBURG: You must just keep in mind, many of the communications in writing which I did, I did on direct instruction of the Board of Enquiry and in some cases I was not even present at that particular time. I remember the letters that we've written, this one that's just been given to me here addressed to the Chairman of the South African Airways Flight Engineers Association, I mean, that was done on instruction of the Board of Enquiry.

MS PATTA: So you remember that letter?

MR VAN RENSBURG: No, I can't say with any certainty, I know see it and I can confirm that this is a letter that I most definitely sent off to the Chairman of the South African Airways Flight

Engineers Association, but I can't recall the detail or the contents of it. If I can go through it I can tell you, but this is a letter that I've written for sure.

MS PATTA: Mr Chair, can we give him two minutes to read through it?

CHAIRPERSON: Yes, Mr van Rensburg, can you read your own letter.

MR VAN RENSBURG: Yes, Mr Chairman, I recall this letter, and as I've said here we are directed by the Chairman of the Board of Enquiry to write to you as follows, and I know that this letter was settled by the entire Board of Enquiry before I sent it off on our letterhead, and there was some arguments about Captain Dawie Uys' file and his licence ratings and I know that DCA was also involved in that, and they refuted certain of the allegations made by the Flight Engineers and they had record available to say some of the stuff that they submitted was not true and then negotiations took place with a view to see whether they could be accommodated and I know that their recommendation, the recommendations made by the Flight Engineers have been incorporated in the report to the extent that Judge Margo has indicated. But that's all I remember of this thing, the detail behind this I can't give you any further information.

MS PATTA: Well maybe I'll just remind you, the detail behind this is it refers to this report that you can't remember ever having

been brought before Judge Margo in his chambers, a detailed report which goes into a two fire theory on the Helderberg plane.

MR VAN RENSBURG: Which was withdrawn eventually.

MS PATTA: Which was withdraw eventually and there was legal - in fact so concerned were you about this report that you actually had to write a letter to the Flight Engineers Association saying that they were going to withdraw their report, and just putting it on record. The Flight Engineers Association then sent a letter back through their lawyers to you to say that,

"We are instructed that our client stands by its letter to the Helderberg Disaster Commission. Our client does not wish to respond to each allegation made in your letter and from the attitude reflected in the letter our client sees no purpose in doing so. This should not be construed as an admission of the accuracy or correctness of your letter and our client reserves its right to respond to the allegations at a later stage, should it become necessary."

Putting it on record that they actually disagreed with your interpretation of events. We don't need to go into the letters, but the point is that we actually even have legal communication about the Flight Engineers Association report, which amazingly, you can't remember, and I would put it to you that this report could have really helped solve a lot of the mysteries of the Helderberg, and when put off with the fact that a meeting was held in Judge

Margo's chambers and a meeting was held in Judge Margo's home, which Captain de Beer was flown from London for as your letter states that he was flown out from London, and Captain Mickey Mitchell was instructed to bring him back from London, when you put that together with that and the evidence from the Flight Engineers Association that they were forced to withdraw their report for the two wrong reasons, fear and finance, we have a suppression of evidence here, that could have helped shed light on the Helderberg.

MR VAN RENSBURG: Mr Chairman, no, I don't think I would agree with a suppression of evidence, we have said here that this correspondence will form part of the records of the Board, copies of this letter was sent to the DCA, was sent to Mr Viv Lewis of the South African Airways, and was sent to Captain Mitchell as Director of Flight Operations, South African Airways. So, the matter was still open after this, that if they would have come forward with anything material to submit as evidence to the Board, they could have done so. I don't think I can agree with the statement that that was a suppression of evidence, I'll have to see much more before I can just concur with a statement like that.

CHAIRPERSON: Well, there's all sorts of qualifications, even to your acceptance, of the recommendation. In one breath you say, well, you know, the Board will give consideration to them, but immediately, in almost the same breath you say, from a superficial glance of those recommendations, let's assume that the substance

of them had already been adopted in the Board's rough report, or already under consideration by the relevant authorities. This is a very unsatisfactory treatment of people who say, let us have you giving our report the due consideration, and you didn't and that is why I think, you know ...(indistinct) Hazelman & Thompson are making the disclaimer and are waiving their rights to say, we stand by what we've said and we are not accepting your interpretation of the events, and reserve our rights. Maybe that later stage that we were talking about is because they anticipated that one day there might have to be a Commission of this nature which would then look into what ...(inaudible) I still am not satisfied and I'm not passing judgement, I'm still not satisfied why it was not possible for that report to be received.

MR VAN RENSBURG: Mr Chairman, if I may speculate for the moment, I can tell you there must have been a discussion on the merits of the report between all the Board members and the Association and it must have been regarded as not of such material nature that it should have been taken further. Otherwise they would have followed it up, the door was kept open for the Engineers to come forward at any stage, they can even come today. If they come today and they put it further then ...(intervention)

CHAIRPERSON: Let's look at what you had had, because it appears that you are now closing, going towards closing the Commission. You had had a stunning situation where there was

one tape which was either missing or had been rubbed off, so that was vital evidence that was not there. You had professionals who conducted an investigation going through millions of rands from what I'm told, which was making an analysis, an analysis that was showing that contrary to popular belief, that the conversation that was recorded from the cockpit was relating to the last 30 minutes as the aircraft was about to land at Mauritius.

The likelihood was that that recording was of a conversation nearer to when the aircraft had left Taipei when dinner was served, because it was very unlikely that dinner would have been served just on the top of descent. Now, that is the vital - because we would then have to explain, and that Board would have had to explain, how does it happen that when there is an indication almost immediately after departure from Taipei, I'm talking hours, there is a recording which says, we have a smoke problem. In other words, it was not a done deal, what's more the - and this was considered by a Captain yesterday, in spite of the fact that he had been giving a lot of theories about what might have happened, that pilots, especially crew, take their dinner as and when they want, they can take it in the evening, in the morning, whenever. Once it was put to him that if it is so that that 30 minute conversation where the voice cockpit recording says, we have a smoke problem, is relevant to the period when the aircraft was just about to descend on Mauritius Airport, Mount Pleasant, whatever. Then we would expect that recording to correspond with the

recording from Mount Pleasant Airport and it was shown beyond a reasonable doubt that there was no correspondence at all, because what was recorded in that aircraft should also have been found to have been recorded in Mount Pleasant. So that theory seemed call into question any basis on which it could be said that conversation about dinner and women and what have you, was relevant to the period just on top of descent.

Now, we are saying if that was so, then it was bringing into question a whole list of things and therefor when that sort of information, which was put by Engineers who are professional in their field and had analysed all the voice recordings that was available, and it was sought to be put as being either late in coming or when it came, it had been considered. We are saying, when there is a corollary allegation that the Judge was in fact ill-disposed to receiving any enquiry that was going to call into question in the entire theory that was saying this fire must have broken out only when the thing was about to land. Then it calls into question as to whether in fact there wasn't a motive to suppress that information. I think that's the basis that is being put.

MR VAN RENSBURG: No, no I follow that, Mr Chairman, and I can agree with that, but I still think that your enquiry will be much wiser on the whole thing if the entire chain of events on those meetings, before and at the time with the Judge and before, would be discussed with the Directorate of Civil Aviation,

because they were involved in that and they submitted the information. So I will sincerely say that they must also be given the opportunity to talk to you on this point.

CHAIRPERSON: Mr Magadhla?

MR MAGADHLA: Thank you, Mr Chair. Mr van Rensburg, were you aware of the fact that the Judge had summoned a witness to his house?

MR VAN RENSBURG: No, sir, I haven't been aware of that.

MR MAGADHLA: Had you been aware, what would you have done? What would have been your reaction?

MR VAN RENSBURG: Well, Mr Chairman, if you look at the provision of annex 13, the Chairman of the Board of Enquiry is the investigator in charge for all practical purposes. If he would do so, and in the same breath say that this is an inquisitorial enquiry and you can even listen to hearsay evidence, to circumstantial evidence and that the strong and formal rules of evidence do not apply to this type of investigation, then it is possible that something like this can happen, but I would still say whatever may be coming out of any informal discussion at the Judge's home or wherever must, if there's substance in it, must be put before the Board of Enquiry and I have not reason to believe that that hasn't been done. I've listened here today and I've heard about a motive of suppressing evidence, now that I must say categorically to you, was not my impression of Judge Margo or any of his Board members that they would do - because it was an

international Board of Enquiry and the South Africans were in an absolute minority there, they could have been overpowered by the other Board members.

MR MAGADHLA: Something inquisitorial as you say, would that have involved - were all the other people involved, yourself too involved in the investigation, if this Judge would have just called this person secretly and had a discussion with him only to, maybe to implant in your mind that in an inquisitorial situation he could just do that, wouldn't it be a matter for concern to yourself, especially when he does not, the Judge himself, tell you that, look, I have had occasion to have a one to one meeting with one of these people, this is what he says.

MR VAN RENSBURG: I'm not accurate on this, Mr Chairman, but I'm pretty sure the way I know Justice Margo, that the meeting that took place eventually between himself, the other Board members and all of us present, must have been the follow-up of a meeting that could have taken place at his home, which I'm not aware of, but I'm listening to what you are saying here.

MR MAGADHLA: If you think it was a follow-up, was there any indication in whatever he said that this was a follow-up to a meeting he would have had with certain people?

MR VAN RENSBURG: No, I can't say that because I ... (intervention)

MR MAGADHLA: Why did you say it would have been a follow-up to a meeting that he would have had?

MR VAN RENSBURG: That's his nature, if he's heard anything anywhere, he's always come to us and said, I've heard this or we must look at this and please go a bit deeper into this, and then the investigating team will take that further. Now, I really can't say where he's heard it, it may have been at his house or any other place.

MR MAGADHLA: Now the tape that was a part of which was embargoed or censored, would this tape have been - or this discussion, would it have taken place just before the plane crash landed or when?

MR VAN RENSBURG: Yes, well that's my impression that the information we have on the cockpit voice recorder was the last minutes before the impact in the ocean before landing at Mauritius.

MR MAGADHLA: Would this have been after the people noticed that there was danger, that they were sort of in distress?

MR VAN RENSBURG: Most definitely because the smoke-detectors came on and that was when everything started gaining momentum and when oxygen was released and ...(intervention)

MR MAGADHLA: The unacceptable language therefor, in what context would it have been used, would it have been used in the context where one would be saying, well, I told these people, look what's happening now, or something else?

MR VAN RENSBURG: No, there I can't comment, Mr Chairman. I know what was said in the last minutes, but I mean, before that

or if there was anything mysterious beforehand, I can't comment on.

MR MAGADHLA: Would it not have been proper therefor that even if this conversation would not be for public consumption, that those people who were involved in the Commission with the people who represented - the legal representatives of the victims were to listen to that thing for everybody to be satisfied about what was said there, in camera?

MR VAN RENSBURG: I don't think it's been kept away from them, we must accept that they are not investigating, or they were not investigating the accident, I mean, that was done by the Board of Enquiry, but whatever served before the Board of Enquiry was available to any interested party whether it's relatives of some of the victims or of the aircraft operators or whatever, it was available to them and it's up to this day, to the best of my knowledge available, the record is there.

MS PATTA: With due respect, just to come in there, the full cockpit voice recording was never put on the record, it was not available, the last two minutes were put on the record. Your own admission to us today was that the full cockpit voice recording was withheld because of the foul or the strong language that it contained, that it might upset the families.

MR VAN RENSBURG: But that does not ...(intervention)

MS PATTA: But now you're contradicting yourself, saying it was fully available.

MR VAN RENSBURG: No, not in the least, I'm not even trying to contradict myself, but that recording is still there. I mean, I don't think, if they must be called upon today at the DCA to give you the full recording that it won't be available.

MS PATTA: It's there, but it's not available publicly. The only thing that is a matter of public record is the last two minutes.

MR VAN RENSBURG: There was a reason why it wasn't publicly available, there was most definitely a reason. That reason wasn't to suppress vital evidence, that I can assure you, not to the best of my knowledge.

MS PATTA: The reason was because, you said, it had strong language.

MR VAN RENSBURG: Yes, that was a factor at the time, that strong language was used and they didn't want to publish that.

MS PATTA: Strong words like lousy food and stuff?

CHAIRPERSON: Can we, I think, I don't know, it seems to me we possibly have kind of asked at this point fairly extensively and I would, Ms Terreblanche, what would you want?

MS TERREBLANCHE: Little things that I would just like to check on. Just to say that the last half an hour of the Helderberg's conversation was with the Mauritius tower, there's no overlap between the CVR and that last half hour, so that CVR conversation took at least, it burned through, at least half an hour before the plane landed, or before it made contact with Mauritius.

Therefor it could theoretically be in any part of that flight. Do you concede that, because there is no overlap?

MR VAN RENSBURG: Yes, no, but there was also a reason communication wise with the Pleasance Airport Traffic Controller, there was some problem there, so I'm not conceding that that thing could have taken place at any stage during the flight, if you have evidence to that effect which we haven't had, then I will be as surprised as anyone else, but not with the information available to me.

MS TERREBLANCHE: Just one thing, you said that Judge Margo continually asked you, did you hear of this and that, was there ever any discussion about the fact that the fire could have broken out earlier in the flight?

MR VAN RENSBURG: I think that must have been part of the Flight Engineer's situation which was debated and as you've seen, this letter which you've given me here, it was not only a matter between the Board and the Flight Engineers, it was a matter between the South African Airways and/or the parties that have received copies of the letter. So it wasn't a secret issue, I mean, this letter was sent to Rene van Zyl, to Viv Lewis of SAA and Captain Mitchell, Flight Operations, South African Airways.

MS TERREBLANCHE: But for some or other reason the submission was disregarded.

MR VAN RENSBURG: Yes, but not just lightly I can assure you, Mr Chairman, that wasn't done. Judge Margo would never

have just, look, I mean, he had a responsibility of an international Board of Enquiry, the country's image was at stake here and a lot of people lost their relatives, everything he had to consider. He can't play around with superficial issues here, he must make sure that there's substance in what he said before he takes it up and makes findings on it.

MR MAGADHLA: Maybe, let's quickly run through the second tape, the tape that you are, what can you tell us about that one?

MR VAN RENSBURG: Mr Chairman, I can just say according to the information available to us there was no connection between the accident and the omission of the station ZUR to communicate with the Helderberg at the pre-arranged time, nor is there any significance in the fact that the ZUR tape covering that time was mislaid or wiped out by later use. There was sensational statements about the ZUR tapes and that it was wiped out and what have you. But again, it was the Board's duty to decide whether there was any bearing between that and a possible cause of the accident, and that was wiped out very early in the proceedings because the reasons were given by the South African Airways officials what the purpose of the ZUR tapes were, and all the experts involved in the investigating teams did not regard this as serious, but the moment you have an open hearing and it goes out to the general public that ZUR tapes were wiped out at the time, and when they were looked for it wasn't available, then it sounds suspicious, and obviously that's what happened here.

MR MAGADHLA: Finally, any reason for wiping them off?

MR VAN RENSBURG: Not to my knowledge, Mr Chairman, not that I'm aware of.

MR MAGADHLA: Thank you.

CHAIRPERSON: Ms Patta?

MS PATTA: On to another subject, can I ask why you failed to call the Mauritian campers who were camping on flat island who gave statements to the investigators and testified to seeing a big ball of fire with a black tail of smoke plunge into the Indian Ocean at exactly the time the Helderberg crash occurred?

MR VAN RENSBURG: Mr Chairman, I recall that part and I can tell you a lot was done to get hold of them, but in the final analysis they couldn't trace those people. They made the noise at the time to say they've seen this and they've seen that, and then it was followed up to please get hold of them because we were very uncertain about what happened in the final minutes of this sad flight of the Helderberg, and if anyone would have come forward from that part of the world close to the point of impact with that type of information, we would have considered it very carefully, but they have not pitched up. It was eventually said, no, they can't trace these people and they don't know where they are.

MS PATTA: Amazing, it took me 10 minutes to find them. I arrived in Mauritius at 09h00, looked in the phone book and phoned them, and they're at the same place they've been for the last ten years, and I actually got their names and addresses from

statements that were given to Civil Aviation investigators on Mauritius Island.

MR VAN RENSBURG: That may be so, Mr Chairman, but now I can talk of experience here, we had no jurisdiction to subpoena witnesses to force them to come before.

CHAIRPERSON: That's another reason now, that's another reason.

MR VAN RENSBURG: No, no, but I mean we've tried and the moment you've asked people, Mr Chairman, really I must tell you here, we have tried to get hold of them, but they refused when they heard that they must testify and they must come under oath, they just tried to wipe that thing out and then not to get it close to us and they couldn't follow it further and we couldn't get hold of those people to come and tell us exactly what they've seen.

MS PATTA: Well we'll hear evidence from them tomorrow because we've got - they were very easily traceable and they said to me that they were amazed and surprised because they were waiting and willing and wanting to come to South Africa and they indicated to Roy Downs and Rene van Zyl that they were willing to come at the moments notice to South Africa to testify before the Truth Commission. In fact the one of them had been a witness in something else a year previously and he said he knows that their testimony was very important and he was shocked that South Africa never came to find them, it was only 10 years later

when I phoned them up that they had contact with South Africa again.

MR VAN RENSBURG: Well if they can give any evidence that could give any further light, I'll be as pleased as you could be about it because it wasn't available at the time, but I say, get the evidence and cross-examine them and see exactly what it is. It may just give us more light on this incident.

CHAIRPERSON: Well for the moment you will be pleased to know that your pick-up truck is here so that you should be excused and released and should not miss your flight.

MR VAN RENSBURG: I thank you, Mr Chairman, am I excused for this proceedings, I mean, it won't be necessary to come here again?

CHAIRPERSON: No, well, for the moment I do not consider that you will be called, certain in the immediate future, should the need arise I'm sure it will be in terms and conditions that will have been arranged with you ahead of time.

MR VAN RENSBURG: Thank you.

CHAIRPERSON: You are excused.

WITNESS EXCUSED

MS TERREBLANCHE: Mr Chairman, I wish to call one more witness, do you want a break?

CHAIRPERSON: Call the witness, Ms Terreblanche. He has written a book, I don't know if his evidence is going to be as long

as the book, because if that is going to be so, maybe we need to consider whether we need to take his evidence now.

RECORDING ENDS