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DAY 3

**COMMISSION OF INQUIRY INTO
HIGHER EDUCATION AND TRAINING**

HELD AT: QUEST CONFERENCE CENTRE - VANDERBIJLPARK

PARTIES PRESENT:

Commission
Evidence Leaders
Finance and Treasury
Students for Law and Social Justice
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SESSION 3 – 12-08-2016

JUDGE: Morning everybody welcome to the second set of hearings of the Commission for Higher Education, thank you for coming to Vanderbijlpark to do your presentation and this is really a series of
5 introductory presentations but everything that you present will be taken into account, it will be added I hope to the knowledge of the commission and Advocate Pillay SC who is the evidence leaders will no doubt introduce what we have today, what can you tell us about that Advocate Pillay.

10 ADV. K. PILLAY SC: On this which is day 3 of set 1 of the hearings our first presentation is by National Treasury Chair and the two presenters are Mr Dondo Mogajane who is the Deputy Director General of Public Finance and Treasury and Mr Michael Sachs who is the Deputy Director General of Budget Office in National Treasury. Mr Sachs I believe that
15 you will be doing the presentation on behalf of Treasury so over to you.

JUDGE: They are seated on our right are they?

ADV. K. PILLAY SC: That is correct Chair.

JUDGE: Yes Deputy DG and you and your colleague are you in a position to proceed on behalf of National Treasury?

20 MR SACHS: We are sir yes.

JUDGE: Thank you, can you move that it is rather in the way. Do you need to see the screen while you are presenting?

MR SACHS: ...[inaudible]

JUDGE: Is that sufficient for you, that is fine, would you like to go ahead

please at your convenience.

MR SACHS: Thank you Chairperson.

JUDGE: Just place your name and title on record please for the purpose of the recording thank you.

5 MR SACHS: Okay, I am Michael Sachs I am the Deputy Director General for the Budget Office at National Treasury, I am also assisted here by Deputy Director General Dondo Mogajane on my right, he is the DDG responsible for public finance. The Treasury team we have here I also have Mr Ian Stewart who is Chief Director responsible for Fiscal
10 policy and Miss Julia de Bruin who is the Chief Director responsible for the budgets of the higher education and basic education departments.

JUDGE: Thank you for taking the trouble to come and to prepare a presentation.

MR SACHS: So today we will not be addressing the issues of higher
15 education directly, our aim is to give you the commission a context about the fiscal and macro economic background and how we do budgeting in the Treasury so that you understand some of the issues that we face when we have a resource shortfall of the kind that we are confronting here. I think our main message today is that resources and resource
20 constraints are real constraints and when you have real resource constraints anything that you do to allocate resources in the system somewhere has consequences somewhere else in the system so you cannot, there is not a place where you can simply pick up resources and allocate them to address a problem without there being a consequence.

25 In the main and I am just extemporising while the presentation

returns to the screen, but in the main if we are to spend more on higher education for example we would need to either raise taxes or allocate the additional spending from somewhere else within the system and one of the great things about the protest that took place last year is that they
5 generated a lot of debate about inefficiencies within the budget system and places within the budget system that we could allocate resources to but in general again there is very few areas of resource allocation where there is resources can be taken without consequences, wherever we take the resources from there will be a consequence for that. So I take it
10 that the commission does have the presentation on paper before them
...[intervenes]

JUDGE: Yes thank you.

MR SACHS: Ja so I do not need, we will proceed without the screen. There are four parts to the presentation one is the fiscal policy and
15 macro economic context, the next is choices and constraints in last years budget, the third is taxation and how we should think about the problems of taxation and lastly we will look at the budget process. Turning to slide 4, it is important to note that over the last two decades we have seen an increase in government social spending so if I take for example the basic
20 education which is this grey line here you can see that from, in about the year 2000, now this graph is showing us per capita real spending so we have taken out the, sorry we have taken out the impact of inflation and we have divided the total spending by the population.

So in about the year 2000 we were spending R3000-00 per
25 South African on education, since then that has risen to about R5000-00

so the last year we have data for on this data set is 2012/13 so education expenditure as a whole has risen considerably per South African. Again you can look at the red line there and see that spending on social protection per South African has risen from below 2000 to
5 above 3500 per person in the country and almost every element of social spending on that graph has seen a sustained increase. The only area where you see a decrease in allocation there in spending is interest on debt and of course interest on debt is what we have to pay for the deficits that we incurred in the past and you can see it declines over the
10 whole period until about 2008/9 and then it begins to increase because that was the year that we were hit by the global recession and we were unable to pay for all of our spending and we had to widen our deficit and accumulate debt.

COMMISSIONER ALLY: Mr Sachs can you explain for the
15 acknowledgeable what social protection means?

MR SACHS: In the main it is grants, it is the old age grants, the child support grant, those are the main drivers of that expenditure line in this graph.

COMMISSIONER KHUMALO: Just a follow up on that, is it exclusively
20 grants or does this reside with one department?

MR SACHS: There will be some other things in there such as payments from the Unemployment Insurance Fund and the Road Accident Fund, Julia I do not know if I have covered it, so it is not exclusively grants and it would also include the operational expenditure of the department, it
25 would include payments for social workers, it would include payments for

social workers employed in provinces so there is a wide range of things in there but I would say 80 to 90 percent of the spending will be social grants there. So the next graph shows the headline picture and what you can take from that, the graph starts in 2002 and there is this
5 distinction between consolidated and main budget which is kind of technical I will not go into it but in 2002 government was spending about R12 000-00 per South African as a whole so each South African received in terms of services and goods and services from the state R12 000-00.

By 2014/15 that had risen to almost R21 000-00 so there is
10 almost a doubling of government spending per South African in the economy and again we are taking out the effects of inflation here, these are all in real 2015 rand.

JUDGE: Does this represent total spending in every respect, how is it calculated?

15 MR SACHS: So this is the total budget, the budget announced by the Minister of Finance when he tables in parliament so it is everything that is financed from taxes, let me put it like that.

JUDGE: Yes.

MR SACHS: So there is other elements of what we might think of as
20 public spending that are not included here for example the spending by Eskom, that is not financed by taxes it is financed by electricity tariffs and although it is a state owned company it is not part of the budget.

JUDGE: Okay but this is all hard money, this is not just also theoretical money.

25 MR SACHS: This is all actual rand.

JUDGE: Yes.

MR SACHS: That is spent that is appropriated by parliament from the National Revenue Fund and spent on health and education, higher education, social services, defence, police and all of the services that
5 government provides. I should point out that the other major element that is excluded is a large share of local government because local government, many local governments are funded from taxes which is included here but other parts of, so for example in Johannesburg the large metros, a large part of their budget is funded from rates and utility
10 charges and that is not, that is their own budget it is not included in the national budget so this is the national budget of government.

The message is, we have had this almost doubling of spending per person over the last decade or so. Now the dotted parts at the end of those lines are our forecasts because we have a three year budgeting
15 cycle and we forecast three year ahead, what are we committing to the next three years and you can see what has happened since the global crisis hit us in 2009 we have stabilised spending and our main fiscal priority at the moment is to stabilise the level of spending, we are not engaged in a process of reducing our expenditure commitment but we
20 want to stabilise our level of spending and the reason we want to do that is because we are worried about the rise of debt because since the crisis of 2008 more and more of this spending has been financed by debt and if debt reaches a particular level we can easily find ourselves in a position that many others in the world have found themselves in where
25 you can no longer sustain this high level of spending.

JUDGE: May I just clarify one thing, you said earlier that inflation had been taken out of the figure.

MR SACHS: Yes.

JUDGE: Does that mean that the increase that we see is not an
5 inflationary increase.

MR SACHS: That is correct Chairperson.

JUDGE: When you say it is taken out what do you mean by that?

MR SACHS: So we engage in a statistical process called deflation, basically we take the number say from 2002/3 and we deflate, we take
10 the CPI index what has been the inflation rate so let us say CPI was 6 percent last year thereabouts, we would increase the spending there last year by 6 percent so that in rand terms it is equal to the spending this year.

JUDGE: Alright so these are all real increases then.

15 MR SACHS: Real ja.

JUDGE: So the increase from 10 000 to 20 whatever it is, 21 000 is a real increase.

MR SACHS: Ja.

JUDGE: Alright.

20 MR SACHS: So if you see on the vertical axis it says constant 2015 rand so the rand, so of course the rand in 2002 would not buy as much or would have bought more than a rand buys today.

JUDGE: Yes.

MR SACHS: So we have taken out that effect by using the inflation

rates, the CPI inflation rates each year, we have taken out that effect so this is measured in today's rands basically.

JUDGE: Well sorry I do not want to make a fool of myself here but the increase to 20 000 is that not because it costs more today to pay for something?
5

MR SACHS: No.

JUDGE: No.

MR SACHS: That is exactly the, when we say a real increase that is or we are taking out the effect of the slow devaluing of money.

10 JUDGE: Yes.

MR SACHS: We are taking out that effect, the fact that it costs more and we are dividing by the population so the fact that the population has also expanded over the period has been taken out of this graph so we are saying per South African in real terms we have almost doubled our expenditure over the last decade. Now it is important to remember that that ...[intervenes]
15

JUDGE: Is this because of the greater breadth of subject matter that you are spending on?

MR SACHS: So what lies behind it and maybe I should go back to the previous graph because the previous graph is showing the same thing but broken down into different policy areas rather than the aggregate.
20

JUDGE: Yes.

COMMISSIONER KHUMALO: Just before you continue Mr Sachs, if you can just maybe also explain the difference between consolidated and

main budget?

MR SACHS: Okay the consolidated budget includes certain items of expenditure that are not appropriated from the National Revenue Fund, in the main what that means is there is for example again the UIF which
5 has a source of funding which does not go through the national, you pay UIF contributions and then the UIF pays out benefits when people become unemployed so the consolidated budget includes the UIF, it includes the Road Accident Fund, it includes public entities like Sanrail and Prasa whereas the main budget excludes those so the main budget
10 is the departments of government, national and provincial in the main as well as some transfers to local government whereas the consolidated government is a slightly broader measure of state spending but as you can see in the graph the difference between the two is not particularly significant for today's purpose.

15 So what lies behind this expansion of spending per person, you can see that a lot of the increases in education, unfortunately I do not have the breakdown in this data set between basic and higher education but put simply we have over that period significantly expanded the employment of teachers, we have significantly expanded the
20 employment of police officers, we have significantly expanded the employment of nurses in hospitals over that period where you see the expenditure rising, we have significantly expanded the recipients of social grants, there has been a wide range of services, if you look at the green line there you can see that the spending on housing and
25 community amenities has expanded so what you are seeing here is a

real expansion of the size of the state and the extent of services that are provided by the state over the period.

JUDGE: Whereas defence has remained more or less stable.

MR SACHS: Defence has remained more or less static in this graph and
5 in certain respects defence is a good example in fact, if you look, so
these numbers are not the, let me not contradict myself but if you look at
the actual budgets that are tabled defence is a good example of where
we prioritise from one priority to another because one of the reasons we
were able to expand access to social grants was that we contained and
10 somewhat reduced the amount of defence spending over the period so
one could say that there was a reallocation from defence towards social
grants so coming out of the 1980's and the early 1990's South Africa had
a very large security expenditure and there was some benefit of scaling
that back and shifting the money into social grants but of course you can
15 only do that once and now the defence force is another area of
government where you could so it is somewhat under-funded.

COMMISSIONER KHUMALO: On that interest on debt, what would be
debt in this instance?

MR SACHS: Can I ask Commissioner that I come back to that question
20 because in a further slide I am going to be addressing, I have got a slide
on debt. So I want to come to this slide now, slide 6 which shows now
spending and revenue, I am using a different metric here, I have left now
the per capita real spending I am not talking about as a percent of GDP
so of all of the income of all South Africans, of the whole economy which
25 is GDP, government in 1996 was spending about 22 percent and that red

line shows non interest expenditure, the reason it is non interest is that we are taking out the payments we make for interest on our debt so this is the money we allocate for services, for actual things that we buy in the economy.

5 And you can see from 1996 until about the year 2000 there was a reduction in spending as a share of GDP, a reduction in spending but then from around 2000 we have the same effect that I have been showing you, a massive increase in spending as government employed more teachers, nurses and police officers and improved their conditions
10 of service as government paid more social grants, increased the value of social grants, lowered the age that social or increased the age that children were able to receive social grants, expanded the net and improved the value of social grants, increased he number of police officers on the beat and improved their salaries.

15 Through that period from 2000 to about 2010 you had a massive expansion in the size of the state of the economy from around 20 percent to around 27 percent of GDP and the reason that at the time this seemed like an appropriate thing to do is explained by the black line which is showing the revenue we receive from taxes as a share of GDP
20 and you can see in the period from about 2003 to 2008 taxes were extremely buoyant, South Africa was growing then at about 5 percent of GDP, commodity prices were high and us, not only us but the whole world thought that this situation would to a large extent continue so government was of the view that a lot of this buoyant tax revenue would
25 remain in the system and therefore it made sense to expand our

spending up to a new higher level.

At the same time we were reducing some of the tax rates but we were nevertheless getting more and more revenue but then we were hit by the crisis in 2008 and you can see the immediate effect of tax collapsing in 2008 for the first time, in 2009 we had negative growth in tax and this huge gap then opened up between the red line and the black line and between expenditure and revenue and like a household if you are spending more than your income you are funding the difference by borrowing and this is what happened to us in 2008 and since 2008 we have not been able to close that gap and so you can see that the gap has begun to close but almost all the closing of the gap on this graph has been on the revenue side, in other words the tax burden on South Africans has been rising, rather than borrow money and pay debt we have been increasing the burden of taxation from around 23 percent in 2009 to about 26 percent today.

In the last budget, in the 2015 budget we increased personal income tax rates, in the last budget we announced further increases in personal income tax and fuel tax and you can see again the dotted line there is a continuation of this commitment to moderate tax increases over the medium term, on the other hand expenditure again and I want to stress this has been sustained at this high level and we are not in the business now of reducing the size of the state cutting back on the size of government because there are a lot of social needs in society, our aim is to sustain spending at this level and unfortunately in order to do that you either need to borrow or you need to tax and you can see quite a large

share of the closing of the gap has been on the revenue side already.

JUDGE: Are you going to tell us how this situation compares with the rest of the world, I mean are you going to tell us whether South Africans are heavily taxed by comparison with the rest of the world or not sir?

5 MR SACHS: I do have some tables on that.

JUDGE: Will you come to that sort of thing?

MR SACHS: I will later in the presentation ja.

JUDGE: Thank you, yes.

MR SACHS: So the next graph just shows the borrowing, each year if
10 you would spend more than your income you borrow so when it is below zero, the negative, this is the deficit so u can see in 2006/2007 although we had expanded the expenditure so dramatically we had a surplus, in other words we had more revenue than we needed to spend.

JUDGE: What is a structural deficit?

15 MR SACHS: A structural deficit means that it is a permanent, so we distinguish between structural and cyclical. In economics generally people will believe that the economy goes up and down and as the economy goes up and down tax revenue also goes up and down so if your spending is remaining flat and your economic cycle is going up and
20 down and your revenue is going up and down you will get a cycle of deficit and then surplus, deficit and then surplus and that would be a cyclical deficit and in those conditions it makes sense to borrow because when you go down you borrow a bit and then when you come back up you have enough money to pay back your borrowing.

A structural deficit now means we are permanently in this borrowing condition and you can see from 2008, from 2009 we went into 6 percent deficit so 6 percent of GDP had to be borrowed to meet government spending commitments and since then we have been structural in the sense that it has been stuck at 4 percent, 3.5 to 4 percent it has not been moving really. These grey bars are the future, it is yet to happen, it is what we want to do in the budget but if I had come here three years ago ...[intervenes]

ADV. K. PILLAY SC: Mr Sachs I am sorry to interrupt you, I think you just need to step closer to the mic so that we can record all of what you are saying.

MR SACHS: Sorry, if I had of come here three years ago and showed you the same bars, the grey bars would also have been closing but each year that goes past they do not close so each year that goes past we have had to take more drastic action to try and close those bars.

COMMISSIONER KHUMALO: Is it like an overdraft, permanent overdraft?

MR SACHS: It is something like, it is something like that.

JUDGE: Does the fact that we have had for the last month or two good trade balances portent [?] something good?

MR SACHS: It might do and again I will come to that in a couple of slides.

JUDGE: Do trade balances affect your budgetary plans?

MR SACHS: They affect revenue somewhat, in fact we get more

revenue from imports but what we, the effect, where we would look for the effect of trade balances is that it may be an indication that growth is improving because if our exports are growing it means maybe the economy is going to pick up and if the overall economy picks up it means
5 we will get more revenue.

JUDGE: Thank you.

MR SACHS: So each year, I mean it maybe comes back to the overdraft question, this graph shows how much you are short each year so your spending was R100-00 but your salary was R80-00 so it means that
10 each year you have to borrow R20-00. So the first year you borrow R20-00, the second year you borrow another R20-00 now you owe R40-00 then the following year you owe R60-00 so this so showing the stock of debt, how much does government owe to investors, to people who have lent us money, you can see that in 2007, I am focusing on the grey bars
15 now, we owed that is R483 billion right, this year if you look at 2015/2016 or if you look at 2016/2017 we expect to be borrowing, we expect to be owing 2000 billion rand [?] that is 2 trillion rand.

Now the total value of all the income in the South African economy is about 4 trillion rand so our debt is now 50 percent of GDP
20 and that is what the red line is showing you, the same numbers but now as a percent of GDP and you can see as a percent of GDP we have gone from about 20 percent in 2007 to about 45 percent today and again I want to stress that the dotted lines is what we hope will happen in the future, it has not yet happened. What has happened is that debt has
25 continued to rise, our main fiscal policy objective today is not to reduce

debt but to stabilise the growth of debt so we want that red line to become a flat line.

So we are not really talking about cutting down the amount we owe but we want to stabilise it because if the debt continues to rise the people who are lending you money start asking the question when will this stop and we want to be able to show them that we are able to stop it in order for them to continue lending us the money.

JUDGE: If you increase taxes do you automatically reduce debt?

MR SACHS: If you increase taxes and you do not increase spending then you can close the deficit so you stop the growth of debt but there is another complication which is the relationship between taxes and economic growth and so you can raise taxes and also undermine economic growth which economic growth is the growth of GDP and GDP is the denominator of this metric of debt to GDP ratio so if GDP begins to go down that debt will rise as a share of your income. So now this is the big problem we are also having, is that again we are talking about a structural versus a cyclical problem that this graph is showing economic growth since the year 2000 so the blue bars are just the annual growth of GDP which is the value of all goods and services produced in the South African economy, it is the value of the income of all South Africans added together.

So you can see that national income grew by between 3 and 5 percent, almost reaching 6 percent in that period from 2000 until 2008. The average GDP growth rate in that period was about 4.3 percent and while that is taking place, while the economy is growing at that rate the

resources available to government are also growing at that rate. Since the global crisis in 2009 you see we had negative growth, the economy contracted in that period. Since 2009 we had a rebound back the 3 percent but each year after that the economy, the economic growth in
5 the economy has been slowing and slowing and slowing.

This year in the budget in 2016 in February we estimated that growth for the year would be 0.9 percent, we will be revising that forecast in October when we present our medium term budget policy statement. Others, for example the Reserve Bank, have reserved their
10 forecast down to zero percent for the current year so there is a concern or a lot depends in these budget estimations on what is the long term average trajectory of the economy, if you think that the long term average trajectory of the economy has a growth rate of 4.5 percent that means government will be able to afford all kinds of things from the
15 growth of the economy because everything government gets ultimately comes from this economy so it is like the goose is laying more golden eggs and we are able to take more of them but if the growth rate in the future is only going to be 2 percent over the next decade we are going to have a problem.

20 The national development plan which has a detailed set of recommendations on the expansion of further education and training, assumed that we would achieve a sustained growth rate of around 5 percent, we are now looking at a growth rate over the last decade of about 2 percent and there is growing concern that this 2 percent will be a
25 permanent condition afflicting us. So of course the next graph

...[intervenes]

COMMISSIONER KHUMALO: Mr Sachs how permanent is permanent, is it perpetuity or?

MR SACHS: That is the question economists also always prefer not to answer but in this context I am talking about the next 10 to 15 years so if the NDP has a grown growth target of 5 percent and it also has objectives of raising employment, reducing inequality, reducing poverty but 2030 which is in 15 years time so that is the kind of time horizon I am talking about in permanent terms.

10 COMMISSIONER KHUMALO: In context, would the finding be different or the planning in the NDP if this 2 percent is confirmed, so it means 5 percent is not correct?

MR SACHS: Well I think the NDP was saying if we do, if we take certain actions we will be able to accelerate growth towards 5 percent so the NDP is a package and then one has to ask I suppose have we taken those actions, have we taken the actions as a society necessary to make growth accelerate, of course this is not only about South Africa, these are global phenomenon's so when the NDP was drafted during the global boom of 2000's global growth was going to be much higher and globally growth has everybody's, so the US permanent long term growth rate has also been revised down for example.

So when we prepare our budget the most important thing because we have a three year budget, the most important thing we look at is what is economic growth going to be over the next three years because economic growth over the next three years will tell you what is

revenue that government is going to get over the next three years, now this graph, I am now on slide 10, shows how we have been disappointed year after year so the black line is the actual growth rate since about 2005, you see the impact of the global recession in 2009/10 where we had negative growth, growth then rebounds then that first blue line was our forecast of economic growth in the 2014 budget so we said we expected growth to recover towards 3.5 or 4 percent over the next 3 years.

But if you have a look at what actually happened, the black line, it went in the opposite direction and each year, year after year in successive budgets we face the same problem. In the last budget that we presented in February the growth forecast is given by the green line there, now we have not updated our forecast but I have also showed you what the latest IMF forecast is and you can see it is far from that green line so going straight to the next graph, there is a direct relationship between economic growth and revenue growth.

COMMISSIONER KHUMALO: I am sorry to disturb you.

MR SACHS: No that is fine.

COMMISSIONER KHUMALO: If we got an, what caused the growth in 2010 on the previous graph?

MR SACHS: So the main impact in 2010 was the global economic recession so remember we had, well it was 2009 and 2010 that is the year where you had negative growth, there was a worldwide recession in that year.

COMMISSIONER KHUMALO: And then it goes up again.

MR SACHS: And then there is a rebound up to 3 percent which is often the case when you have a recession because I mean in economics it is almost like whatever goes down must come up, it is like you, you see if we had of had that recession in 2008/9/10 and then we had returned to 3
5 percent and stayed there we would not be having a large problem because as I said that would have been a cyclical departure, a temporary departure from the norm and then we would have recovered and our revenue would have recovered and we would have been on track where we were before, the problem is we recovered and then we
10 are going down and down and down and we are now thinking we at this permanently lower growth rate and if we are at a permanently lower growth rate it means our revenue income is going to be permanently lower and that means we have to now look at our expenditure.

It is like a household, if you lose your job but you know that next
15 year you will get another job, it might make sense for you to borrow now to sustain your lifestyle in this interim period but if you lose your job permanently and your income is permanently lower it does not make sense for you to continue borrowing because all you are doing is postponing the reality that you are going to have to reduce your
20 expenditure to this new lower level of income that you have and this is really the challenge that we are facing now.

JUDGE: May I just ask you, why is it that your budgetary forecasts are so far from reality?

MR SACHS: You know it is a funny thing that I am coming here and
25 admitting how bad we are at forecasting in a sense.

JUDGE: No, no, no, not at all, I do not think it is funny at all, there must be reasons.

MR SACHS: So what I will say is our forecasts are not substantially different from everybody else's that is the best answer that I can give.

5 JUDGE: That may be but why are they out, what is causing this annual inability to get close to the truth?

MR SACHS: So I think, when I say everybody else's, so if you look at the forecast for global growth that is the world economy given by the IMF you would see the same pattern. Now when we prepare our forecast
10 one of the, you have to make assumptions so one of the main assumptions we make is what is the global economy growth going to be, so we assume that the global economy is going to grow at 3 percent that has an impact on our exports because if global income is growing they are demanding more from us so that goes into our model and we make
15 that assumption but then the IMF is wrong and global economic growth is much lower than that.

So there is a global aspect that throughout the world there has been a same experience of decline but there are also domestic factors at play so there are a lot of reforms that I think are recommended in the
20 NDP that have not been executed with a speed that are necessary to accelerate growth in the South African economy, I do not know Mr Mogajane want to add anything on that?

MR MOGAJANE: I mean if you look at, if you look at global growth and in particular you look at merging economies ...[intervenes]

25 ADV. K. PILLAY SC: Sorry Mr Mogajane just, I am sorry to interrupt, if

you can just put yourself on record and then proceed to address the question.

MR MOGAJANE: I am Dondo Mogajane I am Deputy Director General responsible for public finance in the National Treasury. I was saying
5 Chairperson that it is important to note that for instance if we talk about global growth we also base our assumptions on what is happening in merging economies, in particular if we look at China and India and the growth there, China and India at some point they are going at around 10, 11, 12 percent, India at around 7, 8, 9 percent at the time. Now the
10 amount of exports to China as an example raw material was still iron ore, also that has got an impact in terms of our own focus, now if China's economy slows down and China's economy as big as the US, if it slows down it effectively also means that our exports to China slows down and that has got a direct impact on growth.

15 Again if you think about our own mining sector, in the, during the commodity boom periods when our exports, platinum prices were high, gold prices were high, we were exporting and that had direct impact on growth. As an example, just one incident as an example of the Marikana
20 massacre and challenges that in itself had an impact in the mining sector, in platinum in particular and then as a result there was slow commodity prices and slow production, output production in terms of exports and that had a direct impact so each and every of the focus that you maintain formed by various factors and there are some other challenges internally that we have, as Michael says doing things that the
25 NDP says we must do and we are not doing them very well and then we

have got other challenges in various other sectors that should boost economy, our agriculture and its performance sector.

JUDGE: I hear all of that, that does not really tell me why your forecasts are so bad because if you are forecasting knowing that these are
5 problems and are likely to be problems each year I do not know why the gap should be so large.

COMMISSIONER ALLY: Just to add on that, somewhere the factors which you take into account in doing your forecasts, one would think that after two years of you being out in your forecasts you would then start
10 reviewing how you forecast and this happens across the world except, well all things being equal it does not happen that way but one would have expected that you would adjust your factors you take into account in coming to a forecast.

JUDGE: Otherwise you may as well be working for the weather bureau.

15 MR SACHS: Well it is usually an analogy which I use which it is a lot like weather forecasting because nobody knows ...[intervenes]

JUDGE: I am sorry to hear it.

MR SACHS: Ja nobody actually knows what the future holds that is the truth and economists, so when I say, if I took the forecast of a private
20 bank and remember a private bank is in this to make money and their economic forecasts will depend, determine their own business strategy, a private bank in South Africa would have the same record as us, our record is not worse than anyone else's so it is a problem with economics rather than a problem with National Treasury, I would put it like that. We
25 have revised our forecast down, if you see the blue line, as I said the

blue line which was budget 2014 we thought then that we would rebound forwards three and a half percent, when we came to budget 2015 which is the red line we said maybe that was too optimistic our outer year, the further out forecast is now below three percent, in the budget of
5 February this year we expected a rebound of to two and a half percent.

I do not think there is anyone, I think everyone would still agree that assuming that the IMF projection there is right and this years growth is zero percent everyone would agree that that is not where we are going to be permanently that at some point this thing is going to turn around
10 and the economy is going to come back and grow faster than this zero percent that is being projected now.

JUDGE: Does that mean that this is all really cyclical and not structural?

MR SACHS: Well look there is a cyclical and a structural element so if I go back to this picture, so we are saying in a sense if you regard the red
15 line as the structural path of growth and the blue bars as the cycle around that structure so I am saying everyone agrees that the structural rate of growth now is higher than zero but it is probably not four percent, the Reserve Bank currently estimates that it is around one and a half percent so the structural growth has come down but in addition we are now even
20 well below that structure, there is also a cyclical downturn.

JUDGE: Alright thank you I think I have distracted you from what, where you were going.

MR SACHS: Okay. Now this, I will not go into this but you can look at it on your leisure it just shows the growth of governments revenue and the
25 growth of the economy, note that this is nominal growth so it includes

prices which is why the numbers are slightly different but that is not really significant, the point is when growth is lower than we expect the immediate consequences is that revenue is lower than we expect, so all of this is background is suppose to this conclusion which I will just go
5 through briefly. The medium term framework which is our budget over the next three years sustains the social gains so those social gains I am talking about is what I showed you in the first graphs of the huge expansion of social spending.

It is sustained social gains in a weakening economic
10 environment and according to our estimations the current level of spending is sustainable if economic growth returns to its historic average and that historic average if you look over a hundred years is about three or three and a half percent however if two percent growth is a new normal a stable debt path will be difficult to sustain in the long run even
15 with current levels of expenditure so other words if growth is permanently lower our revenue is going to be permanently lower and our level of, our revenue is not going to catch up with our level of expenditure and debt is going to continue to grow and is never going to reach that flat line that we are hoping it is going to reach.

20 And that is the case even if we do not take two new policy initiatives, this is just to finance what we are currently spending on right. Now there are several new policy initiatives on the table and the purpose today is not to go into the higher education issues but in the national development plan, one of those is the expansion of higher education,
25 tertiary education, we estimate that over the next 15 years that could

cost anything between two to three percent of GDP in additional spending and we will come back when we do our main submission on the basis of that estimation.

JUDGE: Not annually to suit ...[intervenes]

5 MR SACHS: Ja annually.

JUDGE: Annually thank you.

MR SACHS: So it is an additional annual expenditure of two to three percent of GDP. The national health insurance ...[intervenes]

JUDGE: That is all education is it not just higher education.

10 MR SACHS: No that is tertiary education, that is the expansion of the system of, the post school education and training system.

JUDGE: No, no I hear you because, but I am thinking immediately well our present expenditure on education to GDP is 0.75 percent or thereabout.

15 MR SACHS: That is tertiary education.

JUDGE: That is right.

MR SACHS: So we are not, I am not including basic education, high schools and primary schools etcetera.

JUDGE: I understand that but now you say it is going to go up to two
20 percent.

MR SACHS: Ja, two to three percent of GDP additional expenditure.

JUDGE: On tertiary education.

MR SACHS: Ja but we will come Chairperson to the actual estimates later on but those are our preliminary estimates of the cost of what is in

the national development plan.

JUDGE: Yes well you may in due course explain to us how you come to that sort of figure.

MR SACHS: We will do so.

5 JUDGE: Yes thank you.

MR SACHS: So we have looked at also the costing of the national health insurance and national health insurance again it is very difficult to cost but our estimate is between two and three percent of GDP so if you add just those two things together you are looking at an expansion of
10 spending of around five percent of GDP. Now there is nowhere where it would make sense to finance that by borrowing because this is recurring consumption expenditure, it is for salaries and things like that so it would not make sense so either you need to reallocate that five percent of GDP from somewhere else in the spending system or you need to raise taxes
15 by 5 percent of GDP.

JUDGE: Putting in a new source of revenue.

MR SACHS: You need a new source of revenue or you raise the existing taxes by five percent of GDP so we say there that in order to achieve these things we are not, our purpose here and I think we are very clear
20 about them, we are not saying things cannot be done it can be done and in many other societies it has been done but we need to understand what are the consequences of those choices, if we have to raise taxes by five percent of GDP it is not something that we should do, it is something that we should approach with great care and thought is our
25 message, similarly there are many suggestions within, coming from the

public and coming from students and coming from many people with good intentions about where within the existing budget how we can improve efficiency within the existing budget to fund these elements.

And there are certainly many efficiencies that we can find in the
5 existing budget but when you add them all together it is highly unlikely that it is going to reach anywhere near the kind of quantum of expenditure that is being put on the table.

ADV. K. PILLAY SC: Mr Sachs I am sorry to interrupt you I just wanted to confirm, at the moment the quantum of expenditure which you are
10 addressing is the NDP targets.

MR SACHS: Yes.

ADV. K. PILLAY SC: It is not the fees must fall demand.

MR SACHS: Yes I think so yes.

ADV. K. PILLAY SC: That is right ja.

15 MR SACHS: Do you want to add anything?

JUDGE: Would the satisfaction of the NDP targets on education also represent a satisfaction of the fees must fall?

MR SACHS: Not necessarily because so the NDP target really what we are looking at is a significant expansion of enrolment in the University
20 sector and in the technical and vocational education and training sector and in the latter in particular, I do not know Julia if you want to ...[intervenes]

JUDGE: Well it may be that both of those are consistent with the fees must fall, I am not sure.

MR SACHS: So if you were to say the whole thing is free.

JUDGE: Yes.

MR SACHS: That is not part of what we are suggesting here, we are simply saying to implement the NDP so I think a lot of the discussion
5 over the last few years before the fees must fall events was that the government has a white paper on post school education and raising, if you look at that paper there is very little detail on the cost of the proposals and the funding of that cost and immediately we initiated a process together with the Department of Higher Education and Training
10 and say let us sit down and look at the, how much is this going to cost and what are the options of funding it and we prepared quite a detailed set of reports that look at exactly that question and this was before the fees must fall thing emerged and I think those reports or our submission is kind of a summary of those reports that we have worked on together.

15 JUDGE: Thank you.

MR SACHS: You want to say anything Julia?

COMMISSIONER ALLY: Mr Sachs before that, I take it those reports would be available to the team as part of our deliberations on this question.

20 MR SACHS: Indeed they will be. So let me reiterate my basic message that over the last 20 years government significantly expanded service delivery across a broad range of fronts where our aim, our main fiscal priority now is to sustain that level of service delivery and not find ourselves in a position where we have to reverse it. Many countries
25 have sustained service delivery by borrowing and then they found

themselves in a painful position of having to reverse, going into reverse gear, this happened to many African countries in the 1980's and you have seen it happen to many European countries today, we do not want to find ourselves in the same position so we want to stabilise our debt
5 level so that we can sustain the current level of expenditure.

However if economic growth is reduced, in other words if our permanent income as South Africans is reduced it is going to be difficult to sustain the current level of expenditure and that is even before you talk about these expansions and new policy agendas that are on the
10 table and do need to be addressed so if we add on those new policy initiatives we will need to look at some combination of those three elements that I meant in that slide, either we need a significant acceleration of economic growth or we need an increase in the structural level of taxation which again I mean the permanent tax level or we need
15 to shift resources away from other priorities and there is no other priority that you can shift resources away from that it will be painless to do so, it will have consequences.

So with your permission Chairperson, I know my time might be running out and I was hoping to accelerate my pace a bit through now
20 looking at what did we do in the last budget, so ...[intervenes]

JUDGE: Just excuse me a moment, is the departments time running out?

ADV. K. PILLAY SC: I think we do have a fair amount of time left
Chairperson.

25 JUDGE: So we can budget for an extra.

ADV. K. PILLAY SC: We can budget for a little more time yes.

JUDGE: How much longer above what they have been allocated?

ADV. K. PILLAY SC: I think probably about, we just confirming with another stakeholder but at the moment it is probably about half an hour.

5 JUDGE: Well perhaps you can take a bit more than that too if you need it.

MR SACHS: Okay, I am at your pleasure Chairperson.

JUDGE: No, no we really need to get a proper input.

MR SACHS: Good.

10 COMMISSIONER KHUMALO: Just, before Mr Sachs, I wanted to check, you were going to come to debt, is debt for the purpose of this presentation the borrowings you are referring to or is it something else?

MR SACHS: Exactly, so when I spoke to, ja this graph that is the amount that we owe so we now owe R2 trillion.

15 COMMISSIONER KHUMALO: On borrowings, so what would be your interest in debt then?

MR SACHS: So the interest we pay each year is about R160 billion, so the interest we pay on debt at the moment is more than we pay for the higher education sector and rising and it is the fastest element of
20 spending and I will come back to that as well.

JUDGE: Sorry Miss Pillay supposing we are not going to have one or more of our later contributors, is it not possible that when we reach an appropriate time that this presentation could stand down and recommence when we do have time later in the day?

ADV. K. PILLAY SC: Chairperson we are just waiting for confirmation but it is unlikely that our second presenter will come in today in which event then we have the spare slot for National Treasury to take, we are just waiting for confirmation.

5 JUDGE: Could you make yourselves available later in the day if need be?

MR SACHS: We are available or I am available, I am not sure if all of my colleagues will be but I will certainly be available.

JUDGE: Yes thank you.

10 ADV. K. PILLAY SC: Thank you.

MR SACHS: Okay so the, going to and the reason we are going into budget 2016, the budget we announced in February is obviously that budget was drafted in the context of the fees must fall movement emerging so we just want to give you a taste of some of the challenges
15 that we faced in that context.

JUDGE: How do you, when you say it is drafted in the context what does that mean literally that you take into account the implications that you knew at that stage of the fees must fall?

MR SACHS: So practically a decision was taken in December that there
20 would be a zero fee increase.

JUDGE: Yes.

MR SACHS: And that resulted in us having to find R16 billion within the system to finance that.

JUDGE: Yes, and you do not look beyond the end of your budgetary

period.

MR SACHS: So we are just looking here now at the impact over, that R16 billion is over the next three years so it is the impact, so it was a filling the hole that emerged in the University's balance sheets as a result
5 of this zero fee increase over a three year period.

JUDGE: Thank you.

MR SACHS: So the first thing to note about the context of the 2016 budget is that in the 2015 budget, we have a rolling budget process so we prepare three years ahead and in the 2015 budget we had set aside
10 R60 billion for new policy proposals and our idea was exactly to address the kind of issues that I have been discussing, national health insurance, the expansion of tertiary education and others. We set aside that R60 billion on the assumption that there would be a wage agreement in the public service that would be aligned with inflation, in other words public
15 servants would get an inflationary increase in their salary.

At the time we did not know what the increase would be because at the time we did not know what the increase would be because the negotiations were not concluded yet, that was in February of 2015 so we put R60 billion on the table that is not allocated to any department that
20 we say this money we need to consider how we are going to spend it in the future years, on which policy priorities. In May a few months later we reached an agreement with public servants that meant an effective 10 percent increase in their salaries during 2016/17 which is CPI plus 4 for that year plus an effective CPI plus 2 for the next two years of the
25 medium term.

So that immediately meant that the entire R60 billion we had set aside for new policy priorities was no longer there because it had to go into salaries of public servants so that was the first challenge we faced in preparing the 2016 budget. Then as I have already gone into quite a lot
5 of detail on this, economic growth declined so if I just take the one year 2015/16, in budget 2015, in February 2015 we estimated and this is not a far ahead forecast, this is the forecast for the current year that we were working on, we said we think it is going to be two percent in February, by the time we came to October 2015 we had revised our forecast down to
10 1.2 percent. When we came to budget of the following February the estimate, and this is at the end of the year, the estimate was 0.9 and now we are probably going to revise that down again.

So we are faced, usually and this is not a normal, this is not how things are supposed to be, normally our projections have been pretty
15 much spot on and I mean it is particularly for the current year, it is only in the last few years I would say since the Marikana tragedy that we have had this year after year in year adjustment and had to say well what we said three months ago it looks like it is not going to materialise. At the same time inflation was going up because the exchange rate was
20 depreciating so you had a huge depreciation of the rand which again was unexpected and inflation if you can see our first estimate was for 4.8 and it went up to 5.4, now if you have just agreed to pay public servants, CPI plus 4 that plus, the plus 4 stays fixed but what CPI is, is going up is taking even more so even after we have taken the 60 billion that we had
25 hoped to set aside and put it into salaries we still needed more for

salaries.

And it is not only salaries we then have to think about social grants for children and for old people, what increment in the value, if it is going to keep pace with consumer price inflation so we were hit with that.

5 Then the implication was that gross tax revenue was revised down by 11.6 billion, then we present the MTBPS with all of our nice plans but on the day we presented the MTBPS we had students outside of parliament and we were sitting in parliament hearing some noises going on outside and that process ended up in a zero fee increment and us having to then
10 find another 16 billion to fund University's over the three years and of course all of this is happening under heightened scrutiny from ratings agencies so ratings agencies to a country are like credit bureaus to an individual, you do not necessarily like them but you know that if they give you a bad opinion it is going to cause you a problem because you will
15 not be able to borrow money.

So the ratings agencies are looking at our fiscal position and looking at all of this and threatening to downgrade us to sub investment grade which means that the debt that we, that R2 trillion that we have borrowed the interest rate we will pay on that debt will increase if that
20 happens. So what did we do, first of all we undertook tax measures, we raised an additional 7.6 billion, in the current year that is, from personal income tax through fiscal drag which I will not go into the technical details of, we raised 9.5 billion through increases in the fuel levy and specific excise duties. We raised another 2 billion from adjustments to
25 capitals gains tax and transfer duty. We also said this is not the end of it,

next year we will be raising taxes again by 15 billion and the year after that we will raise taxes by 15 billion so effectively what you have had is in 2015 a R15 billion tax increase because we increased the PIT rate in that year.

5 In 2016 we have had another 15 to R16 billion tax increase. In 2017 we will have another one and in 2018 we will have another one and that is assuming that our forecasts are right which they might not be. So that was the first action we did, secondly we reduced our ...[intervenes]

JUDGE: You apparently do not find it too deleterious to the economy to
10 provide for those tax increases?

MR SACHS: So this is, this is, that is an excellent question Chairperson and it is the big dilemma we face is that you know we have a deficit, we have made a commitment that we will not borrow beyond a certain amount, the economy is not performing well we then are faced with a
15 situation do we (a) leave the deficit, in other words the revenue is lower than we had expected because the economy is not performing well and so it means the deficit is going to be wider, the borrowing is going to be wider, do we accept that situation and leave it, if we do the strong likelihood is that we will have our ratings downgraded. If we have our
20 ratings downgraded the interest rate will rise, not only for government but for the whole economy and that will have a deleterious effect on the economy.

On the other hand if we take action not close that deficit and meet our commitments there is two things we can do, we can either
25 reduce spending or we can raise taxes and so this is not, to be quite

frank this is more of an art than a science in the current year that you have to take a balance of evidence approach.

JUDGE: Ja well I am sure, I am sure you know all the ins and outs of these things but there are countries in the world where there is a 50
5 percent income tax rate are there not?

MR SACHS: There are ja.

JUDGE: Successful countries.

MR SACHS: There are, I will come back to that time permitting.

JUDGE: So all of these sorts of things are on the table and must be
10 considered every time and you no doubt weigh the up and decide what the pros and cons are.

MR SACHS: Exactly, exactly.

JUDGE: Yes alright.

MR SACHS: And this, that is why I am genuinely, this is, it is a very
15 difficult question that we confront and we will confront again the current year because if growth does turn out to be zero and we miss our deficit targets again where is the balance between ...[intervenes]

JUDGE: Are we talking about bad fiscal policy or are we talking about failure to bite the political bullet?

20 MR SACHS: With your permission Chairperson I will avoid answering that question directly.

JUDGE: That is what I was afraid of yes.

MR MOGAJANE: Chairperson what is also important, maybe I can expand on the list by the way of options available, countries like Japan

for instance they even go up to 200 percent of debt to GDP ratio.

JUDGE: Yes.

MR MOGAJANE: You know 120, we are among the lowest in emerging economies at around 45 percent and we want to stabilise at that point.

5 JUDGE: I understand.

MR MOGAJANE: Nothing however stops us from going beyond but however the factors, I mean rating agencies always caution us and what they also look for and any other bond investor, people who buy our bonds on a weekly basis, our ability to pay as a country is key for them
10 to pay back what we owe so you can go and increase your, but if your ability to pay is questionable and that talks to the issues that I think correctly so Michael says we cannot go into at this point, it then makes it difficult in an environment where bond investors, where rating agencies are questioning certain decisions that this country takes that in their own
15 view have got a possibility to actually point us to the, on a downward spiral.

So it think it is important to note that we could have options whether to increase tax or to increase our debt to GDP ratio because other view out there is that it is very low but however the ability of this
20 investor who buys our bonds to say will you be able to pay in the next few years is key for them and that is why we think at 45 percent they are comfortable currently as per what the rating agencies are and I think we are also comfortable that if it stabilises at the level as per one of the slides around 45 or so then we think we are on the right track for now.

25 JUDGE: Yes thank you.

MR SACHS: I would also mention, when we consider the balance between spending and revenue measures there is also, there is a growth implication for both so a lot will depend on which revenue measures so we also consider that on the growth side and I will come back to that a
5 bit, but there is an equity dimension in that most spending goes to the poorer sections of the population and obviously as, I will be the first to admit that there are inefficiencies in our system but if you look at social grants, what we spend on health, what we spend on education the recipients of these goods and services are poorer whereas most taxation
10 is felt by the more wealthy sections of the population so you have got to balance both the growth and the equity considerations in this okay.

JUDGE: That is a political decision or is it a financial decision?

MR SACHS: It is both, I mean it has, budgeting is political by the way, I mean I think ultimately we make recommendations and we have to make
15 recommendations to politicians.

JUDGE: Yes and ...[intervenes]

MR SACHS: So we have to take account of these things.

JUDGE: If they want a national health scheme that is how you
...[intervenes]

20 MR SACHS: Ja, ja.

JUDGE: Yes.

MR SACHS: So the first thing we did was spending measures, sorry tax measures there but secondly we also said we will reduce spending but we will not reduce spending in the current year in 16/17 we will reduce

spending in 17/18 and 18/19 in the future two years of our medium term framework and we did that by lowering compensation budgets so across the system we have taken 10 billion and 15 billion out of compensation budgets of governments, the salaries of public servants in the future two
5 years and even though we have signed this wage agreement with the public servants the implications of that is that government will have to moderate the number of people it employs over the next couple of years because we cannot, the salary adjustments are built into a collective agreement, there is no question of us walking away from that so the only
10 option we have is to moderate the head counts of public servants and in the main that will take place through attrition and is already happening to a large extent.

So we say there departments will have to align their human resource plans within these lower limits. The reason we also wanted to
15 do the spending cuts in the future rather than now is that it is always better to get, to have preparation so if you know you are going to have to reduce your headcount is better that you do it next year then you know well in advance what is going to happen because otherwise you make decisions that permanently damage the system.

20 JUDGE: Does this imply greater unemployment?

MR SACHS: The main driver of employment growth over the last 10 years has been the public sector.

JUDGE: Yes.

MR SACHS: So this implies a slowdown probably of growth of total
25 employment of the economy which implies greater unemployment, it is

likely to mean that.

JUDGE: Yes alright.

MR SACHS: The third thing we had to do is reprioritisation so in addition to these tax measures and the spending we had to find 31, 32 billion
5 over the three years, half of that was for higher education and I will just come straight to how we did that. So the table on the top, I know maybe the numbers are a little bit small but the table on the top shows what we reprioritise to, in other words we allocated in the top line to higher education, 4.8 billion in the current year, 5.5 billion next year and 5.8
10 billion the year after to a total of 16.3 billion.

JUDGE: I am sorry is this just new allocations?

MR SACHS: This is a new allocation to cover the impact of the zero fee increase and address shortfalls in NSFAS am I right, ja.

JUDGE: Does this imply that you are also budgeting for a zero fee
15 increase next year or is this simply spreading this zero fee increase over three years?

MR SACHS: This was responding to this fee increase over three, the last year, for the current year what will be decided this year we have not budgeted for a zero fee increase.

20 JUDGE: I see now if you were to do so it would mean that you would multiply those, the figures that you have got.

MR SACHS: Yes.

JUDGE: Oh I see righto.

MR MOGAJANE: The numbers that you see Chairperson, 4.8, 5.5 and

5.8 effectively covers the caretryary [?] cost of what you would have paid in year one so because we have to sustain that cost throughout the three years and that is what we did here not taking into account the zero fee increase.

5 MR SACHS: Because from the University's point of view if they were going to get 50 000 this year and that was going to increase to 60 000, now it is only, it is staying at 50 000 so it will only increase, so the thing carries through permanently, it is a lower base that carries through, you have to pay them permanently more for each zero fee increase you have
10 and I mean as an aside let me say that whatever ones views on free higher education for all, if we were all to agree that that is exactly what we want, the way to do it would not be through zero fee increases, we would find a different mechanism to implement it because through kind of unplanned because it is a, it is like a brute mechanism that affects
15 everybody at the same time and interferes with our planning process but that is kind of an aside.

JUDGE: Are you suggesting you would find a way?

MR SACHS: I am saying if society agreed and government, if everybody agreed it would be certainly our job to find a way yes.

20 JUDGE: Yes of course it would be.

MR SACHS: And then we would find a different way from a continuous kind of we are not sure what the fee increases of this year is going to be and that kind of thing.

COMMISSIONER ALLY: That would probably be for another
25 presentation.

MR SACHS: Indeed.

COMMISSIONER ALLY: And we hope it will be.

MR SACHS: Indeed. So the other big spending item that we included that we had to find money for is the new development bank or the bricks
5 bank, part of the reason that spending ballooned so much is that that is something we have to pay in dollars and the rand depreciated considerably and you had big amounts there so and the others are quite small amounts.

JUDGE: But what purpose does the new development bank serve?

10 MR SACHS: Sorry?

JUDGE: What purpose does the new development bank serve?

MR SACHS: It is a bank that has been established by an international agreement between South Africa, China, India and Brazil and it will fund infrastructure, developmental infrastructure, investments, hopefully
15 significant number of them will be in South Africa.

JUDGE: Okay, alright yes.

MR SACHS: So that is where the money went to and if you add it all up it goes to R31 billion and then the table below shows where the money came from, in other words this is the budgets that we had to cut to fund
20 these issues and we have divided it between national government, provincial government and local government so we cut the compensation of employees budgets of national departments by 1.4, 2.9 and R2.7 billion.

JUDGE: So that effectively says to the department you have 200 staff

next year instead of 250.

MR SACHS: You could read it like that and this is in addition to the 10 and 15 billion that I mentioned in the previous slide so it means, what that means is effectively that the police for example, so all of these
5 things when you get into the details are more complex so the police obviously have people who are leaving the force and people who are coming into the force on a continuous basis there is a churn but what it says is there will be less resources to expand the police force over the next three years.

10 JUDGE: So to some extent it will be fewer posts but also it will be not replacing people who leave.

MR SACHS: Exactly, exactly.

JUDGE: Yes alright.

MR SACHS: We then cut goods and services, so these are all things
15 that, it is highly diverse group of things that government buys to do its work. We cut transfers to public entities, so public entities are things like SARS, the human sciences research council, there is 200 or so public entities.

JUDGE: SAA.

20 MR SACHS: No SAA is a public company so that is outside the budget hopefully.

JUDGE: Okay.

MR SACHS: We prefer it like that.

COMMISSIONER KHUMALO: Just on that Mr Sachs, on compensation

of employees, I am just comparing that with the economic growth, how did you achieve the cutting down unemployment, was it retirement age or?

MR SACHS: So in general what has happened is that provinces, if you
5 look at some of the data coming out recently provinces are reducing their employment levels mainly through attrition so it is what Chairperson indicated when somebody retires or resigns or moves on or for whatever reason leaves their post you do not replace the person.

COMMISSIONER KHUMALO: So it is not actual cutting down of the
10 currently employed?

MR SACHS: So that is a kind of cutting down of the currently employed or it is a cutting down of the, but we are not, there have not been large retrenchments if I can put it like that.

MR MOGAJANE: What we have done is we said to departments come
15 up with human resource business plans in preparing your 17, is it what 17/18 budget, 17/18 budget because that is when effectively the cuts is going to start in 18/19 so at the moment because of this current budget or cycle or budget process cycle that we are in that is the kind of conversation we are having currently with departments to actually tease
20 them out around how they are going to remain within budget because the budget is set and it is reduced budget so we have to find a mechanism for them to fit within that lower budget and then we are saying you have got current tools that are in the system that applicable, attrition has to be taken into account etcetera, etcetera and not fill new
25 positions.

If you had vacancies that you have funded then you do not feel them and that is why now of late you see very few government posts coming through to be filled in most government departments because we see a slow response by government departments to actually the
5 personnel numbers as we see them in the current budget.

ADV. K. PILLAY SC: May I just ask, the transfers to public entities would government departments be included in that and for example GHET would there have been less transfers to them?

MR SACHS: No they would not be included so maybe the Seta's would
10 be included, no the Seta's would not be included because they are funded directly from, so public entities look there are many, as I say there are 200, like the Bloemfontein museum is a public entity, the South African Revenue Services is a public entity, South African National Roads Agency is a public entity and what other good examples of public
15 entities, the National Health Laboratory Services so there is, it is a hugely diverse set of agencies that are not core government departments but are set up as an independent legal person if I can put it like that, if that is the right legal term outside of government but wholly financed from the fiscas.

20 So the main difference between a public entity and a public company is that a public company like Eskom, Transnet or SAA are financed from their own revenue source, whether it is electricity charges or selling aeroplane tickets whereas a public entity is entirely financed by a transfer from the tax base.

25 JUDGE: Sorry this reprioritisation means that you have a large number

of unhappy people.

MR SACHS: Indeed.

COMMISSIONER ALLY: As with the Road Accident Fund.

MR SACHS: The Road Accident Fund is in a slightly different category
5 so that was because they get funded directly, they do get funded from
the fiscas but there is a specific levy on fuel that goes directly into the
Road Accident Fund, they are similar to the Unemployment Insurance
Fund but there is a specific earmarked tax which I am actually going to
come back to later as well if time permitting.

10 JUDGE: Thank you.

MR SACHS: So just to note, if you look at the provincial line, provincial
government we made large cuts to the provincial equitable share, that is
the money that is used primarily for health and basic education by
provinces, that is the main intention of that money.

15 JUDGE: Does that say both to provincial government and later to local
government that you must find your own ways of raising money?

MR MOGAJANE: Well not necessarily, what was said to them, we said
we are giving you tools and then we are stringent even from 2013 if
members remember, we introduced what was then basically cost
20 containment measures and we are saying cut on the number of flights
that you, cut on the number of overseas trips.

JUDGE: I see.

MR MOGAJANE: And that category we think they should be, within that
they should be able to find some resources to reprioritise so it was a

package of both cutting and saying let us make cost containment measures morning stringent to ensure that there is, you actually stretch the rand that you have as a department.

JUDGE: Okay so you have a provincial and a local equitable share, the
5 provincial equitable share finances the core business of the province which is mainly health and education and the local equitable share is intended to fund free basic services for the poorest South Africans, free basic electricity and free basic water so we had to shave off a bit from that. the conditional grants, provincial conditional grants and local
10 conditional grants largely finance infrastructures to spending in poor communities so it is your health, I mean it is your schools, building, your municipal infrastructure, water infrastructure, roads and that kind of stuff right, am I right?

MR SACHS: So just to give you an indication that I think as the
15 Chairperson put it this makes a lot of people unhappy and we would rather not be in a position where in an unplanned way we have to cut, because all of these things are vital things that we would rather do than not do and when we are placed in a position where we have to shift the money we have no choice but we would rather not be there.

20 JUDGE: I am sorry that baseline reductions that is not the sum of everything that has gone before, what is that I do not really see it, it could be Vaseline for all I can see.

MR SACHS: So when we talk about the baseline we mean essentially the money that is already been allocated to you in a previous budget so
25 we allocate to you a baseline meaning you going to get R100-00 this

year, R120-00 next year, R130-00 the following year that is your baseline, it is like you have some certainty that you are going to get that money. We then come back and say there is a problem in higher education we will have to reduce your baseline by R2-00 each of those
5 years so instead of getting R120-00 next year you are going to get R118-00.

JUDGE: But that 11 billion is in addition to all the other cuts.

MR SACHS: So no this 11 billion is the total for 16/17.

JUDGE: Well it is certainly not the total of what is above it.

10 MR SACHS: So we have subtotals there so ...[intervenes]

JUDGE: Oh I see.

MR SACHS: Ja so national government subtotal and ja.

JUDGE: Yes thank you.

MR SACHS: Okay, and it adds up, if you look at a table above it is not
15 exactly the same but it is more or less what we ...[intervenes]

JUDGE: Yes I see that.

MR SACHS: There was a difference that we just put into the deficit but it funds that 11.8 billion additional spending is funded by an 11.8 billion cut in spending elsewhere.

20 JUDGE: I see thank you.

MR SACHS: So the next slide I think unless there is any questions, just to give you in one year this is the consolidated spending, the total spending so I would point out debt service costs so for every rand we collect in revenue we have to spend about 10 cents just to give, to pay

interest for the debt we have accumulated previously. The next slide shows you the growth of expenditure items over the next 3 years according to our plans and the growth over the last three years according to the outcomes of the budget and I will point out two things, 5 firstly note that that service costs is the fastest growing item of expenditure and this is something we have no control about, it entirely depends on how much we borrow and the interest rate. Secondly if you look at post school education ...[intervenes]

COMMISSIONER KHUMALO: Sorry just on that, can it not be controlled 10 on agreements or do we have not an option on interest?

MR SACHS: In general we do not, we borrow by issuing bonds and the bond is a promise to pay a certain interest rate over a period, there are two types of bonds, it is fixed interest and inflation and it is like our word is our bond, let us put it like that, it is a, if we were to ask for some kind 15 of agreement as you are suggesting that would be regarded as a debt default, we would be finding ourselves in a position like Greece so it is something that you would want to avoid at all costs in fact because once you do that then people who want to lend you money say but you lend these people money today, tomorrow they come and they say can we 20 renegotiate the terms so it would disrupt the whole fiscal operation. So like that is something that would indicate a crisis in the country.

COMMISSIONER KHUMALO: But my main query is who you borrow from, is it not an option that oh this one charges more interest, this one does not charge a lot, do you have that option?

25 MR SACHS: So as I say we do not borrow from individual institutions or

banks we borrow by issuing bonds which is a, so we decide we are going to issue a bond, it is a 20 year bond, in other words we are going to pay you back the money in 20 years time and the face value of the bond is R1 billion and between now and 20 years time we will pay you R10 million every year, that is the coupon what they call on the bond. So that is a piece of paper that then you sell to the person and the person gives you a billion rand because that person has the piece of paper and they can sell it to anyone else they want for different values.

So it is one of the great advantages South Africa has is a bond market so most developing countries do not have a bond market, at least not in their own currency, so we have a, we are able to borrow through bonds in rands which means we can sustain this level of borrowing. Other people are forced to go to banks or other countries, to go to banks and borrow in dollars and it is a very dangerous thing because when your currency depreciates suddenly you cannot pay your debt anymore so ja, the bond market is, as we say we issue about R10 billion in debt every week right or is it every, ja every week, so we are borrowing continuously through this issuing these pieces of paper which is like an IOU.

COMMISSIONER KHUMALO: Maybe if you educate me on that and then when you issuing bonds does it say that the interest is payable on this and this is this much?

MR SACHS: Ja.

COMMISSIONER KHUMALO: So it is a standard figure that you cannot work around.

MR SACHS: Well it is like you are selling something so you say we are going to pay this much and then people decide whether to buy it or not and if you, you know if the amount that you have said is not to peoples appetite for buying because people who are buying those bonds are
5 banks and internet and they can buy bonds from, they can buy bonds from the US Treasury, they can buy bonds from the British Treasury so you have to set an interest rate that is going to be attractive in the market so it is that kind of interplay between supply and demand in the market for this debt.

10 COMMISSIONER KHUMALO: Okay.

MR SACHS: Okay so this graph, so then once you have issued these bonds then you have to pay the interest and the point of these graphs is that over the next three years the interest payments on debt is the faster, is growing at 11 percent or 12 percent or sorry my mistake, 11.4 percent
15 per annum over the next three years. Over the last three years the interest on debt grew at 11.6 so it is coming down a bit because we are borrowing a bit less because of our efforts to close the gap. But now if you look at, I just want to draw your attention to post school education, that the grey bar which is the last three years shows that post school
20 education apart from debt service costs was the fastest growing item of expenditure and over the next three years ...[intervenes]

JUDGE: Does that include the effect of the no fee increase?

MR SACHS: So the grey bar is the last three years not including it.

JUDGE: Oh.

25 MR SACHS: The red bar is the next three years which includes it.

JUDGE: I see.

MR SACHS: But what is important to understand is that that is not University's alone, that includes the Seta's, the money that is coming from the skills development levy which from our point of view as
5 Treasury is an in and an out because the skills development levy comes from, it is a payroll tax so when you employ somebody you pay one percent of your total salary bill over in the skills development levy and it goes directly to the Department of Higher Education and Training and they use it and then it goes directly to two things, the Seta's, the Sector
10 Education and Training Authorities and what is called the National Skills Fund, so those fast growth rates are not necessarily the growth in transfers to University's, it is the average of the whole sector which includes the transfers to University's and the money coming from the Skills Development levy which has been growing very fast.

15 JUDGE: Can you just enlighten me very quickly on this, the money in the Seta's, are you building up a huge reservoir which is available for use somewhere or another and which is being siphoned off for use in various directions or are you building something that it comes in and goes out at an equal level all the time?

20 MR SACHS: There are substantial surpluses that are built up in a number of Seta's, I would not want to talk about siphoning off but there is definitely the case that there are substantial surpluses that have been built up in a number of Seta's and in the National Skills Fund and those, the use of those surpluses is governed by law.

25 JUDGE: That may be but is there a use or is the pot simply getting

fuller, you do not want to commit yourself?

MR SACHS: So I would not say the pot is getting fuller but I would say there is a substantial surplus so the last, the last estimate it was in the order of 10 or 15 billion, somewhere around there.

5 JUDGE: Yes but for whose good is all this being held?

MR SACHS: I think, look one of the issues that I think needs to be discussed in the context of the commission is exactly the questions that you are raising and whether we need to reconsider this arrangement, our hesitation is that we do not have a firm answer, I mean it is something
10 that we discuss a lot but we do not have a clear position.

JUDGE: I am not sure how this falls into your responsibilities for the national budget as the Department of Finance, do you stand looking at the Seta's from the outside or do you actually have an input?

MR SACHS: So we do not have any control over the financial flows in
15 the sense that there is the National Skills Act and that prescribes a one percent levy on payrolls and that one percent levy in terms of the Act may only be used for certain purposes.

JUDGE: So you have got a tap that is permanently turned on?

MR SACHS: You could say so yes.

20 JUDGE: And what about the plug at the bottom?

MR SACHS: So Chairperson if I could go directly to slide 26.

JUDGE: Yes.

MR SACHS: It might not satisfy you but at the bottom of that slide there is a section there addressing imbalances in earmark taxes, is one of the

issues ...[intervenes]

JUDGE: I am not sure if we have the right slide here.

MR SACHS: Let us see, on the screen it looks like this.

JUDGE: What is the heading at the top please?

5 MR SACHS: Medium term policy ...[intervenes]

JUDGE: That I have yes.

MR SACHS: So at the bottom there the third kind of bold bullet.

JUDGE: Addressing imbalances yes.

MR SACHS: In earmark taxes.

10 JUDGE: Yes.

MR SACHS: And we make the point there that, and this slide is addressing the things we think need to be addressed in reforming the tax system as we go forward in addressing these problems and we are saying that National Treasury remains concerned about the imbalances associated with earmark taxes and this is an example of an earmark tax because it does not go into the general pot of spending, it is prescribed that it must only go to a certain, so we then use the example that the accumulated surplus of the UIF, the Unemployment Insurance Fund will increase from 123 billion to 175 billion over the medium term so while we are having to cut the system somewhere the UIF has this bath, filling of a reserve. On the other hand the Road Accident Fund which is also funded directly by an earmark tax has a liability which is growing hugely every year and now it is estimated ...[intervenes]

20 JUDGE: There is a very simple reason for that, they will not pay me, I

cannot get anything out of them but there you are, I suppose they treat everybody the same way and that is ...[inaudible]

MR SACHS: The reason why they cannot pay you is, ja alright let me not say something I will regret later.

5 JUDGE: Anyway so you saying ...[intervenes]

MR SACHS: Anyway the last bullet then says this includes consideration of whether the skills development levy is the best way to support skills development and whether these funds can also be used to increase access to post school education and what we are saying is that the
10 National Skills Act prescribes the use of those funds for the skills training of the workforce. Now it does not define what the workforce is but any common definition of the workforce excludes students so the question is there is this resource coming from the skills development levy, there is a sense of surpluses building there but also let me add that the
15 Department of Higher Education and Training has a very strong mandate coming from the national development plan to expand skills training and wants to use this revenue source for that. All we are saying is that this should be part of the discussion that we are having, it is certainly an issue that needs to be interrogated.

20 ADV. K. PILLAY SC: Chairperson just to indicate that the question of the skills development levy is an issue which we will be looking at very closely in set 2.

JUDGE: Thank you.

ADV. K. PILLAY SC: And we have already started engaging with the
25 Department of Higher Education on that.

JUDGE: Thank you very much.

MR SACHS: Okay so let me just go back to some of the spending issues, this is another way of looking at spending, now I am on slide 19, which is looking at the whole budget so the whole budget is about a
5 trillion rand, you can then see that the wage bill is R516 billion each year, goods and services which includes things like medicines and text books, it is R204 billion, social benefits which is mainly social grants is about R191 billion, there is a little table there that breaks it down and then capital spending and transfers is there.

10 JUDGE: When you say medicines and text books, what is that for, are we not talking about the public service?

MR SACHS: So goods and services in this context that are funded by the budget includes the text books we buy for schools.

JUDGE: I see.

15 MR SACHS: Ja and the medicines we buy for hospitals.

JUDGE: I understand what you are saying thank you.

MR SACHS: Now then if you look at the next graph you can see the same picture but now in terms of growth rates so over the next three years again as I have said debt service costs are the fastest growing
20 element of expenditure. Compensation of employees is the next fastest growing element of expenditure, there and thereafter. Maybe if I go, ja okay ...[intervenes]

JUDGE: And the last one includes renewal of infrastructure does it?

MR SACHS: Ja, ja it does. Now the next table just shows some

selected programs that although we are in this process of constraining expenditure growth, there are a number of expenditure items that continue to grow rapidly, relative to other spending items and you can see in the first kind of panel it is the education related items, so and this includes the provision for zero fee increase last year so you can see that community education and training although it is only 1.5 billion in the first year it grows by 15 percent over three years.

NSFAS grows from 9.2 billion to 13.7 billion, that is a growth rate of 14.1 percent, that is probably the single, it is in the top three of rapid growth rates in the entire budget and then University subsidies grow from 22.9 billion to 29.8 billion over the next three years, an annual growth rate of 9.1 percent. Other things that grow rapidly are HIV and AIDS medication and other health, the employment programs, the kind of public works programs of government and you see there the bottom panel, the old age grant and the care dependency grant and the child support grant are also things that we try and keep the growth in line with inflation but remember also the number of recipients is also expanding so it is growing much faster than inflation.

So with your permission Chairperson I will go to the next section which is on tax policy issues and the first slide just shows you the overall breakdown of taxes that we receive in a year, this is 2015, last years taxes, so personal income tax which is on salaries is 390 billion, value added tax which we get from whenever you go into a shop or buy durable goods in particular is 278 billion and company tax which is on company profits was 189 billion and then there is some smaller taxes,

the fuel levy, taxes on trade and excise which is what you pay on cigarettes and alcohol and so forth.

JUDGE: Just again just as a matter of breakdown, taking personal income tax, what percentage of personal income tax comes from people
5 say over a million rand or over R800 000-00 is it possible to know that?

MR SACHS: So let me direct you to slide 30 because the answer is there or at least one version of the answer. This is based on work done by the world bank and it uses household survey data to estimate how much tax is collected from which quintile in the population, so you have
10 taken the whole population and you have broken it into five buckets, number one is the poorest bucket, the poorest 20 percent of the population, number five is the richest 20 percent of the population and you can see that according to this data which I must stress is not National Treasury data, is 97.5 percent of personal income tax is paid by
15 the highest, the richest 20 percent of the population.

JUDGE: Which in our terms is about from what level of income?

MR SACHS: So you have to be earning about, what is the lowest bracket ...[intervenes]

JUDGE: Roughly.

20 MR SACHS: It is like R200 000-00 per annum to pay but it is a progressive structure so look here is another graph, this is the structure so if you earn R85 000-00 a year which is the lowest category there you will pay 2.1 percent of your income in personal income tax on average. The highest one is a million, if you earn a million and above you will pay
25 on average 31 percent of your personal income tax.

JUDGE: Yes, no that I understand I was just trying to work out this 90, on the previous graph, the 91 percent, 97 percent where would that start from?

MR SACHS: I do not have the answer Chairperson but in terms of what
5 is the income of that category of people I would not have an answer but I would include lower paid public servants in that group.

JUDGE: So the missing middle that we talk so much about would be included in that.

MR SACHS: So the missing middle would be partly in quintile 5 but also
10 in quintile 4.

JUDGE: I see, I was more interested to know what percent of personal tax comes from the really high income earners by comparison with, I am not talking about the middle income.

MR SACHS: So if you take, if I was to take this graph into deciles then
15 you would see that the top 10 percent which I think is a better definition of the wealthy elite in South Africa.

JUDGE: Yes.

MR SACHS: Pay about 60 percent of personal income tax.

JUDGE: 60 percent.

20 MR SACHS: Ja.

JUDGE: So you are talking about 190 million, 200 million comes from them.

MR SACHS: Billion.

JUDGE: Billion I beg your pardon yes, yes I see thank you.

MR SACHS: Ja so VAT as well, we usually think of VAT as a more, a less progressive tax but because the top 20 percent are the consumers with wealth that can consume income they also pay more than three quarters of value added tax. While I am here let me point out that when
5 you think of the progressivity of a tax by which we mean is it paid for by the wealthier or the poorer parts of the population, we like to talk about the progressivity of the fiscal system so different taxes have a different distribution or incidence across the population by wealth but it is important to look at the tax but also the spending that is financed by that
10 tax so most governments whilst most tax is collected on this richest 20 percent government spending is very much targeted towards the first, second and third quintile so social grants are almost, are very well targeted at the poorest 50 percent of the population are the main recipients of social grants, equally through no fee schools and other
15 policies the poor tend to benefit from the health expenditure.

JUDGE: Yes.

MR SACHS: Now interestingly higher education is a bit of an outlier in the government in that the higher education expenditure tends to fall on the fourth and the fifth quintile, a little bit of the third quintile but it is
20 more, it is less progressive than other elements of expenditure so we have done fiscal incidents that is where we have looked at and we can easily submit to you one that was done last year by the world bank that looks at every item of tax and every item of spending and looks at how is it distributed across the population and you find that of all of the large
25 spending items that can be classified, obviously something like defence

you cannot say whether it is received by the rich or the poor but of all of those that can be classified, the higher education tends to be more, less progressive than the other elements of expenditure.

So if we were to raise, so people will say VAT for example tends
5 to be less progressive so you can see that more of a burden of VAT in this graph falls on the third and the fourth quintile than PIT but if we were to raise VAT and finance social grants as a hypothetical example that would be a progressive measure overall because you are taking money from the top four or five quintile and you are shifting it down to the lowest
10 quintile of the population, that would be a progressive measure. On the other hand if you were to raise VAT and shift the resources to higher education that would not necessarily be a progressive measure because you are shifting money, it is kind of staying within that upper half of the population.

15 JUDGE: There must surely be more constructive ways of dealing with VAT than simply raising it or lowering it in that way.

MR SACHS: Well there is, so let me try and answer you by going back to this slide 25 and just say, so we have acknowledged in a sense that given the need to implement new policy proposals that government
20 wishes to implement that are there in the national development plan including national health insurance and expansion of tertiary education, there will be a need in coming years to increase the tax burden, I think it is undoubtable. The less economic growth there is the more that that will be required quite frankly. So then we are outlining here what we think
25 should be considered when looking into this increase in the tax burden

so the first thing is taxation and economic growth as you raised earlier.

Where we say, so we start by saying additional taxes will be needed to fund governments policy agenda but should be approached with caution given the current conditions, so in other words when the economy is growing at a very low rate a sudden increase in any taxes will have a deleterious effect that should be considered before we do something like that. also the relationship between individual taxes and growth is different so in general economists will tell you and I will not go into all of the technical details as to why but the VAT and what is called indirect taxes, in other words taxes on consumption, in taxation you have indirect taxes on consumption which is like VAT, the fuel levy, excise taxes where you are taxed at the point of consumption are more efficient from a growth point of view than taxes on income which is your personal income tax.

So taxes on income tend to retard growth faster than taxes on consumption which is why if you look at many, if I take a country like Sweden which has free higher education, which has one of the most progressive fiscal systems in the world, Sweden has a VAT rate of 25 percent because in increasing public expenditure this trade off between economic growth and taxation needs to be confronted and Sweden also has a very high personal income tax rate I should say but at some point you have to have this balance in your tax system. The second point we raised there is the maintaining the social compact that there is a social compact that underlies taxation, of course we are all forced to pay taxes but force is not sufficient, consent is a much more efficient way of

collecting taxes so it relies on a voluntary adherence of tax payers and in South Africa we have a very high level of voluntary adherence to tax payment, people pay their taxes not only because they are forced but because they have a morality of tax payment, it is the right thing to do
5 and people cooperate with the tax authorities in filling out their tax returns.

JUDGE: It was suggested earlier in this hearing that the rich find ways of structuring their tax to do away with the tax burden, is this correct or not?

10 MR SACHS: Of course ...[intervenes]

JUDGE: Now if you lay, if you are able to do that is the answer not to lay a levy on the gross income rather than a tax on the nett income?

MR SACHS: I think the, I am sure that when this was proposed, the main I do not know but my assumption would be they were talking more
15 about corporate tax, that corporations and wealthy individuals have ways of structuring their tax affairs to shift things into say Panama or whatever the latest tax haven is, there is no doubt that is the case and this is a continuous struggle that tax authorities face and there is not a simple solution to it so you cannot simply impose a levy because as I say you
20 need, it is like any law and maybe I should fear to tread on legal issues but ultimately you need the population to accept the law and the majority of people to accept that the thing is wrong, you cannot rely on the brut force of coercion to get people to comply with laws.

JUDGE: So it comes back to your consent.

25 MR SACHS: Ja it comes back to consent or you need a balance, there

will always be individuals that commit misdemeanours and try and avoid paying taxes but overall if you compare South Africa to say for example Brazil, tax avoidance is a culture in Brazil whereas tax compliance is a culture in South Africa so the point I am raising is that as you increase
5 you taxation you must be very careful to preserve that asset of compliance and that has got a lot to do with taxation but it also has a lot to do with the quality of spending because if people feel, if tax payers feel that their money is being wasted in the course of taxation it also will erode this question of tax morality so we need to put taxation and
10 spending on the agenda together and be responsible.

Thirdly we need to keep the system progressive and balances, South Africa's tax system is highly progressive already and compared to most other developing countries it is one of the most progressive tax systems in the world. Well targeted expenditure programs mean that tax
15 revenue mainly benefits the poor through social protection, healthcare, education and other public services. The balance between taxes on income which I spoke to you now and consumption will be important to ensuring a diversified efficient and equitable tax system. The current tax system suggests that there is greater room to increase indirect taxes
20 such as VAT, proposals along these lines would need to be accompanied by measures to improve the prosecutor-poor character of expenditure so the fiscal system remains progressive.

And we are not, again our intention here is not to say things cannot be done but to present the trade-offs and consequences of
25 actions. So if I, the Chairperson asked a question earlier on about the

comparative tax burden, let me just skip to slide 28 which shows in the first column the overall tax to GDP ratio so the highest number there is Sweden 42 percent, extremely high tax to GDP ratio, South Africa has 25.7 percent. Remember in the graph I showed you in the beginning, we
5 already have plans on the table to increase that to about 27 percent just to close the current fiscal position.

JUDGE: Sure.

MR SACHS: So that would take us up to more than Australia. Now of course South Africa is not as developed as Australia, we are a
10 developing country, the only developing country that has a higher tax to GDP burden in that list and of course this is a selective list, is Brazil.

JUDGE: Is Turkey not a developing country?

MR SACHS: Turkey is a developing country you could say but it is next to Europe, it has a higher GDP but you are right it is probably about the
15 same level as us. So but if you look at for example African countries that are there, Kenya, Ghana, Rwanda, in general our tax burden, I mean there is not, some economists would argue that there is a right tax burden, I do not think that is the case, I think that, and it is a personal opinion, it all depends on what the social contract is in that society so
20 Sweden can sustain 42 percent tax to GDP ratio and still grow and function effectively as a society, other countries cannot do that, it depends on politics as much as economics.

But then if I go to the separate columns you can see that PIT, personal income tax we, our highest marginal rate is 41 percent, some
25 are higher than us, some are lower than us but we tend to be in the

upper end of personal income tax range. Corporate income tax is 28 percent, again if you look there we tend to be in the upper range of the rate of corporate tax, Spain is a bit higher, Britain has recently announced or the former chancellor of the Exchequer after the Brexit
5 vote announced plans to reduce their corporate tax to 15 percent and now Donald Trump, in fact the USA has one of the highest corporate tax rates in the world but he has announced part of his platform is to reduce corporate tax to 15 percent.

There is a big problem with corporate tax and that is that and
10 people, and I am raising it because I know in the context of this debate people often point corporate tax as the answer. The difficulty is that it is not clear who pays corporate tax, this is because the statutory incidents of the tax is not the same as the economic incidents of a tax so the law say corporate must pay corporate tax it is clear and they pay corporate
15 tax but if I raise the corporate tax rate and so corporations now have to pay 30 percent instead of 28 percent you have to consider what will be the impact of that say for example on the retail sector, Woolworths, Pick 'n Pay, Checkers etcetera, how will they respond to that tax increase.

One way they could respond and this is all hypothetical, I am not
20 attacking that sector, but one way they could respond is by increasing food prices by two percent on their shelves, if they do that it means the people paying the tax are consumers not corporations.

JUDGE: Yes.

MR SACHS: Alternatively in the same sector the unionisation of the
25 workforce tends to be quite weak because what you have done when

you have raised the tax you have reduced profits in that sector then the shareholders will say to the management we are not prepared to accept that reduction in profits, we will remove our money from you to some other sector of the economy overseas so you better maintain our profit
5 rate.

JUDGE: Well it might have had the effect of reducing the dividend.

MR SACHS: It might reduce the dividend, all I am saying is it is not necessarily the case that that will follow.

JUDGE: Alright.

10 MR SACHS: And company's have recourse to shift the burden of that taxation away from the dividend towards either consumers or towards the workers employed in that company, particularly if those workers are poorly unionised and the outcome, so the economic incidents of the tax may differ from, so one needs to consider this and again I am not saying
15 therefore it must not happen but we must consider this. Lastly if you look at VAT ...[intervenes]

COMMISSIONER KHUMALO: Sorry, sorry may I just ask a question, would this also not depend on the growth of each sector, so you cannot apply a uniform corporate tax, for example what happens if the
20 commodity sector has contracted for example so they are not making money whereas another sector probably is and you can say well they can probably pay more tax, corporate tax than a sector that is struggling, how do you deal with that?

MR SACHS: So in general there is a principle in taxation of equity and in
25 general you want to avoid distortion and distortion arises when you do

the kind of thing you are suggesting and many people do do this kind of thing but in principle you would want a flat rate for everybody who is the same type of person so profits should be equally taxed across all sectors of the economy so this rate applies 28 percent to every sector of the economy. What we do do is we have then say in the mining sector you have something called an accelerated depreciation allowance which means that the money you spend on investment in capital is you can take that off you tax burden to a great, so you have kind of other skills, so the main tax rate is the same for everybody but then you find, if you need to support a particular sector or let me take the auto sector cars, the auto sector benefits from massive subsidies in the tax system that are kind of tax rebates they get but it is better to, if you want to address the kind of problem that you are speaking of to subsidise that sector explicitly rather than granting them a lower tax rate that is generally how tax people would think about the problem.

COMMISSIONER KHUMALO: Sorry Mr Sachs, would it not be a certain percentage of profits, so whatever they are making is that the percentage?

MR SACHS: It is yes, yes so it is 28 percent yes. So okay I will come to the next graph next but I just wanted to get to the VAT column and point out that of all of the countries in that list we have the lowest VAT rate.

JUDGE: Apart from Canada yes.

MR SACHS: Apart from Canada my apologies, ja Canada but then you look at the Canada makes up with a very high personal income tax rate so this is why again, this is not a foregone conclusion but according to

our analysis when we look at the tax system and the balance of various evidence we are of the view that the space that we see out there for shifting taxes is more on the VAT side than on the corporate or the personal tax.

5 JUDGE: Might I just ask though I think I can do it in my own mind but would you just quantify, what would an increase of 2 cents in the rand in VAT mean by way of increased income?

MR SACHS: So a one percent increase in VAT would generate about R15 billion a year. So the other factor to consider ...[intervenes]

10 JUDGE: Which would not doubt be swallowed up in next years public service increase.

MR SACHS: This is why I say the expenditure side has to be on the table again. The other principle to consider is the buoyancy of a tax over the economic cycle, so this shows the percentage of GDP from the main
15 tax collections over time, the top line is personal income tax so you can see that we collect about 8 percent of personal income tax from the economy over time and you can see that it has been rising as a result of the policy interventions that I was speaking about before and the ...[intervenes]

20 JUDGE: I am sorry I do not quite follow this, what do you mean you could, oh I see 8 percent of GDP is represented by personal income tax and it is rising, yes okay.

MR SACHS: Ja, so that when I said we collect R390 billion in, from personal income taxes I am dividing that number by total GDP which is
25 the total income from all different sources, just to give a common metric

to each of these taxes.

JUDGE: And personal income tax does not include VAT for this purpose?

MR SACHS: No, so VAT is also there, if you check the grey line the
5 middle line that is VAT and then the red line is corporate income tax and
then the line at the bottom is customs duties so it is just to give you a
comparative sense on the same scale of how much we collect from each
of these. Now the thing I wanted to point out here is that when we were
hit by the crisis in 2009 immediately the corporate income tax collections
10 fell off dramatically because immediately company's stopped making
profits and many company's made losses so the tax base contracted
very sharply in the 2009 crisis and corporate income tax has not really
recovered since then, it remains at that lower level, we have not dropped
the tax rate still 28 percent and it has remained 28 percent throughout
15 that period but the collections have dropped significantly whereas
personal income tax, VAT you can also see the impact of the recession
so it is also more cyclical so it is just a factor that one has to consider
that if you hinge the program on a tax source that is going to vary
considerably like this over a cycle it will open up problems.

20 Let me go back to slide 25 or 26 to just say what are some of the
other medium term considerations. We then say insuring a sustainable
tax burden and we are commenting on the graph that I have just shown
you that South Africa's tax burden is rising but currently sits roughly on
the average between developing and developed economies while
25 corporate income taxes are relatively high, the VAT rate is relatively low,

lower than in most other jurisdictions especially those with high levels of social spending. The next point is protecting corporate income tax base which is the issue that the Chairperson raised just now in his remarks, so we say in recent years greater attention has been paid to multi national
5 company's that avoid or evade tax by shifting taxable income to low tax regimes or tax havens, such practices reduce the corporate income tax base, essentially you are shifting profits which is the tax base and put domestic company's at a disadvantage so whereas the multi national company can do this a company that does not have a branch in another
10 country is stuck in South Africa so it is at a disadvantage.

JUDGE: How effective is our regime at preventing moving money offshore?

MR SACHS: So it is a difficult question to answer, it is because, how can I put this delicately, you need to know how much money has been
15 moved offshore ...[intervenes]

JUDGE: Sure it is a secret.

MR SACHS: You can only estimate.

JUDGE: Yes.

MR SACHS: So I would say that it is certainly something that the
20 revenue service has paid extensive attention to in the last five to ten years.

JUDGE: And would you say they have been successful?

MR SACHS: They have been successful but it is the kind of thing where you will never be successful enough it is impossible, no matter how

successful you are there is still room to be more successful.

JUDGE: Yes alright.

MR SACHS: So but important is the second point that this is an international problem that in essence you need a cooperation between
5 South Africa and the tax authority in the country where the money is being shifted to so South Africa is also in the forefront of engaging in international processes to address this, so you see the international response to the Panama paper leak was we need to close down Panama as a tax haven and all tax collectors have an interest in doing that. Also
10 increasingly we are sharing information so we require company's to report exactly on their activities wherever they are based in the world and the tax authorities share that information between different people.

MR MOGAJANE: And I think generally through, we are a member of the G20 and in the last five or so years base solution and profit shifting has
15 been an agenda in the G20 setup and our participation in various forums around issues of financial, just generally the global financial architecture membership of FATF, membership of various new regulatory frameworks actually makes us part of the global family that aims to address this in terms of our own exchange of tax information between ourselves and
20 other countries, that in a way slowly is getting us closing the gap quickly because through a reform that has been recently introduced in the last five years or so where sharing of tax information becomes or has become an issue that we have picked up where we share information with other countries who are members of the financial FATF, I forgot the
25 actual, but we are members.

MR SACHS: The Financial Action Task Force.

MR MOGAJANE: Financial Action Task Force, we sharing information has been, it has closed the gap and a good example is the Panama papers as Michael has said.

5 COMMISSIONER KHUMALO: Just on that one, like are we signatories to maybe where those tax havens are on a treaty of some kind or on that family like ...[break in recording]

MR MOGAJANE: ...and then you become a focal point for you to be accepted again you must be lifted up but I can answer you shortly to say
10 yes we are members of all of these global forums that looks at this because it is not only these issues but it is also issues around money laundering and tax avoidance, tax evasion as Michael said and then many other illicit flaws that and we are closing the gaps and we are playing a major ...[intervenes]

15 COMMISSIONER KHUMALO: I was wondering if those countries that frown upon tax sharing how they can be pulled in to that if they do not choose, elect to be signatories.

MR SACHS: It is an issue of international relations more than economics in some respects that you know how do you do that and you
20 know the, well you must also I mean there are those that argue for example that the UK includes within its jurisdictions tax havens like Guernsey and, I do not want to be quoted attacking the UK on that but I am just saying there is that out there. Panama what is its relationship with the US, so issues of international relations play a role in this and our
25 power as a small, relatively small economy is not necessarily, so you

need international cooperation to address these issues.

The last point I wanted to make on taxation is on this slide which I will not go through the whole slide but I just make, we point to the point, the last bullet point that after a certain point higher tax rates become
5 counter productive, for example company's move to a different jurisdiction and can generate lower revenue so there is a well defined regularity where it is said when you reach a certain point of tax increases people will, you may end up raising the tax rate but collecting less revenue and not necessarily because of avoidance or illegal activities,
10 that is one issue but another issue is people change their behaviour.

If we were to for example continue ramping up taxes on petrol eventually people would start consuming less petrol once you reach a certain point and you could say that petrol, I mean there is some, in economics it is elasticity, how dependent are people on petrol but if I
15 start massively increasing the tax on, I live in Johannesburg and I work in Pretoria, if the tax on petrol were to go up beyond a certain point I may say let me move to Pretoria and therefore I can save on my petrol bill so peoples behaviour changes and you reach a point where the increase in the tax rate leads to less collection of taxation. So even on these issues
20 of avoidance probably the country that suffers from this factor the most, if you think which country in the world has the most multi national corporations that are capable of taking their money offshore it is the USA which also has one of the highest corporate tax rates in the world.

So American companies store their cash outside the US and it is
25 a big problem for American policy makers. As I said earlier Donald

Trump's solution to this problem is to reduce the corporate tax rate from about 32 percent to 15 percent, effectively what he is saying is I want to make the USA into a tax haven and have all countries from around the world come to the USA and pay low tax and create jobs there so there is
5 again, the argument is not that you cannot do it, you cannot have higher tax rates, the argument is there are consequences and let us understand what the consequences are before we go down that path.

The last section of the presentation is about the budget process and I will try and go as fast as I can through it without but obviously still
10 remaining open to all of your difficult questions.

COMMISSIONER KHUMALO: Sorry what page is this?

MR SACHS: Now I am moving to slide 34.

COMMISSIONER KHUMALO: No I am saying the one that is on.

MR SACHS: Oh sorry let me move there, this one that is on the screen
15 is slide 27 on the, Madam Commissioner if you found it, it is like ja after the medium term tax policy considerations.

COMMISSIONER KHUMALO: Okay.

MR SACHS: So I am now going to slide, it is un-numbered but it is 33 which just says how do we engage in a budget process and usually in
20 the public discourse National Treasury is depicted as this department that that enormous influence over the budget process and I would not deny that we do have a strong influence over the budget process but the important thing to remember about the budget process is it is a collaborate process within government and the final decision makers are
25 political. We make recommendations to cabinet, we make

recommendations to a body called the Ministers Committee on the budget but we are not the decision makers, the ultimate decision makers are parliament, there is no money that can be appropriated and spent by government without the approval of a law in parliament and that law is
5 called the Appropriation Act which is passed by parliament and parliament has the power to in law to change that Act.

There are many debates to be had which are legitimate debates about how effective their ability to do so, whether they can effectively exercise that power but the point I am making is that the budget is a
10 collaborative process about which we try and convene the discussions, have rational deliberations about the problems we face and make sensible recommendations to the decision makers who are cabinet and parliament. There are three objectives that we try to promote, fiscal sustainability which I have spoken about at length, effective allocation of
15 resources which means with the limited resources we have which priorities do we allocate them to and lastly value for money which is now you have decided to allocate the money to a particular use are you wasting it in the execution of that intention so we try and raise these three issues consistently in the process.

20 We are constrained by this equation in slide 34 and it is a very simple equation but it is one that people often miss that expenditure equals revenue plus borrowing, there is no place where we can take money and allocate it to higher education, it must either come from without changing the expenditure side of the equation which means you
25 have to decrease expenditure somewhere else in the system or you

have to get more revenue which means that you have to raise taxes or you have to borrow the money those are the only three ways we can allocate resources in the budget, anything, if you try and avoid this equation it will come back and find you one day.

5 JUDGE: If we invent a new way we will tell you.

MR SACHS: If this commission could apply their mind to that we will be very thankful.

COMMISSIONER ALLY: Is that not the which came first the chicken or the egg because if you think about it you have already have certain
10 expenditure items and you are saying in order to give money to a different item you are going to have to take it away from somewhere.

MR SACHS: Ja.

COMMISSIONER ALLY: But if that item was not there in the first place hence the question of the chicken or the egg which came first.

15 MR SACHS: You are very right commissioner, one of the big problems in budgeting and not only in South Africa but internationally is what is called incrementalism so we would all like a situation and the budget is a billion rand oh sorry a trillion rand, budget which is a thousand billion rand, we would all like a situation where we say okay what should we spend our
20 money on next year, what should we spend this trillion rand on next year and we say well let us spend more on higher education and less on something else and more on the other, that would be zero based budgeting and many people have tried to give effect to this but nobody has succeeded, in the private and the public sector because what you
25 have allocated last year it is almost like your are locked into that in

perpetuity and it is very difficult to shift resources out of that responsibility so when we were, maybe if I go back to right at the beginning of the presentation and I was showing you an expansion of the budget year after year for 10 years, when we were in that situation each
5 year our revenue was over performing on the previous year because growth was so high so each year we would say this is how much we are spending next year but then when we arrive there we find we have got 10 billion extra we can spend and then the discussion is very nice, the discussion is what should we spend this R10 billion on.

10 Now the discussion is very painful because the discussion is who is going to contribute to this R10 billion that is needed by somebody else and where are you going to cut and the issues of, so in this graph when the red line was rising year after year, on average every year in the MTF we added R50 billion into the pot and the budget process was
15 about a discussion of how will we spend the new money, should it go to health, should it go to social grants etcetera. Now when the line is flat anything you want to do you have to cut somewhere else and we raise the issues of value for money, it is one of the most important issues we raise, we try and combat inefficiencies in the system and get people to
20 do things more efficiently.

We try and identify programs that it is our view that they are not performing but the important thing to remember about budgeting is that anyway you cut there is a loser on the other side so for example Mr Mogajane was talking earlier about cost cutting so one of the things
25 people might say is cut catering budgets, government is having these

lavish lunches and it is true and it is something we have cut but remember that there are small black owned businesses that are providing catering to government that is a business for them and when you cut that catering budget they lose from that cut so there is no cut
5 that you can conceive of in the system that will not have a counter argument, that people will come and say but you say we are trying to promote small business and by cutting this catering budget you are undermining small business therefore do not cut the catering budget so anything we do ultimately requires a political commitment that we will
10 make this cut and it is not an easy process to engage on.

JUDGE: Can I ask you a slightly different thing, unallocated, sorry unspent allocations in budget what does this represent annually?

MR SACHS: It is declining but last year I think we had under-spending against the final budget of about R6 billion.

15 JUDGE: Now is that simply built into the next budget or what happens to, how is that carried forward?

MR SACHS: In general that will reduce the amount of borrowing we need to make in the year so it will not be carried through onto the next budget it will mean that our total spending level is less than we would
20 have thought of in the year that we budgeted for and because the total spend, remember that the spending is here and the revenue is here now it means your spending is a bit lower.

JUDGE: Is that reflected in your next budget?

MR SACHS: It is not carried forward into the next budget.

25 JUDGE: Or is it just a windfall?

MR SACHS: Ja it is not carried through into the next budget.

JUDGE: It is a windfall.

MR SACHS: Well it is a less of a, so we are borrowing the money so it means we have to borrow less which is a type of windfall but it is not like
5 the money is sitting somewhere it just means that we have to borrow less in the course ...[intervenes]

JUDGE: Now recently I had cause to ask what is happening with certain people in a certain department and I was told that they are doing something or another and I said how can this be and they said oh well
10 you know there is a budget to be spent.

MR SACHS: So often another problem we have with budgeting is that towards the end of the year many departments and agencies will see that, so they make budget bits and then during the course of the year they are unable to spend the money so often and I mean it is a,
15 especially with new programs, when you ramp up spending on a program very rapidly people believe, they think it is easy to spend a billion rand and it is actually not that easy.

JUDGE: But nearer the end of the year it get a lot easier.

MR SACHS: So for example, and Julia was the one, there was a
20 decision taken in government at a certain point that no children should be left under a tree for school, a very good decision nothing wrong with that and it was said let us create a new grant to build schools and we created a new grant to build schools and in the first year we had how much allocated, so in the first year we allocated 700 million but the
25 Department of Basic Education could only spend 10 million so

sometimes, and what this illustrates is that sometimes people say the constraint is the budget but they do not realise that actually simply allocating money to some, to a problem does not always solve the problem.

5 JUDGE: Does this not indicate a great deal of inefficiency?

MR SACHS: Well in this case that I am talking about it indicates an over optimism about the capacity to set up a new program and spend the money so over time three or four years later they did ramp up the spending so thee you have to contract with construction company's to
10 build the schools and so forth and they were over optimistic about their capacity as a department to roll out the program.

JUDGE: This over, the over allocation the 5 billion or whatever it is in the present budget or the previous one.

MR SACHS: The 6 million last year.

15 JUDGE: Ja now is this a standard thing, how much does it vary from year to year?

MR SACHS: It is getting, as the fiscal constraints are beginning to bite it is getting smaller that is the one point I would make, you know the difficulty we have is that the system punishes over-spending, so the
20 Public Finance Management Act makes it illegal to overspend on your budget.

JUDGE: I understand.

MR SACHS: But there is not a similar punishment for under-spending.

JUDGE: I understand.

MR SACHS: So it is kind of biased, it is asymmetrical.

JUDGE: No but it is, what you are saying suggests to me that at any given year you have got anything up to 5 or 6 billion rand which is lying around waiting to be used.

5 MR SACHS: Let me come at it from a different angle, as I indicated in an earlier slide our revenue collection was R11 billion lower than we forecast.

JUDGE: I thought that the revenue collection was so very good but anyway.

10 MR SACHS: No but the revenue collection depends on the economic growth.

JUDGE: I see.

MR SACHS: So when we revise the growth, we at the, so we are estimating, in February we have to estimate what 300 departments
15 across national and provincial government and 300 public entities will spend in a trillion rand budget 1000 billion and we are out by 6.

JUDGE: Yes.

MR SACHS: So it is like you budget for R1000-00 and you spend R994-
00 and you are left with change of R6-00 it is not, from where we are
20 sitting it is not too bad.

JUDGE: If you are earning R1000-00 a month then the R6-00 would be quite valuable.

MR SACHS: It would be quite valuable but then you also find that you were expecting to earn R1000-00 but you only earn R500-00 so you are

right it would be valuable but actually it is a benefit that you did not spend the whole money because your revenue has fallen much faster than your spending so at the end of last year we were 10 billion lower than what we said we would collect in revenue and we were 6 billion
5 lower than what we said we would spend. The other element in this that people often do not appreciate is that we have an adjustment budget so we sit in February and we estimate what we will spend in the year then we come in October and we adjust those estimates and usually what will happen is a program will adjust the estimate upwards.

10 So you thought you were going to spend R100-00 then you look at your spending program through the year and you say I think we are going to be short of money by the end of the year and because the PMFA makes it illegal to overspend I would like to adjust my budget from R100-00 to R150-00 then at the end of the year you only spend R130-00
15 so you have under spent against the adjusted budget but you have spent more than what you said you would originally spend so that R6 billion is against the adjusted budget and in previous years the adjusted budget would be higher than the original budget.

JUDGE: Alright thank you.

20 MR SACHS: The next slide looks at medium term budgeting and the basic point is that we have a three year window that we budget over and we roll and we update over the years. In recent years we have committed, we made those limits much stronger, hard limits which means that they are much more rigid in the future years. I will not go into this, I
25 do not know what to call it, spider web diagram but it is just trying to

convey some of the complexity of the issues that we have to process through each annual budget from the economic forecast it feeds into the fiscal framework where you have that equation of revenue, the deficit revenue plus borrowing equals spending.

5 You also have to update the wage bill forecast in terms of the inflation forecast, update all of your expenditure projections for the next three years and then you would consider policy priorities and how these would feed into the system. We also have the budget in four dimensions so there is functional budgeting which is how do we divide the trillion
10 rand between the different policy objectives but if I allocate money to education, let us say here we are talking about basic education, basic education spending is the salaries of teachers so if I allocate more money to basic education it also means I must allocate more money to compensation of employees which is the next block, the economic
15 classification.

 Also basic education is delivered in provinces so if I allocate more money to basic education I must shift money from national to provincial government and lastly basic education is delivered by departments so it means I must allocate to the departments of basic
20 education. On the other hand let us say I allocate additional money to higher education, higher education is funded through a transfer to University's in other words we do not provide salaries directly we transfer to University's and NSFAS so it means in the economic classification the transfers and subsidies will go up.

25 In the inter governmental classification it is a national function so

it means money will be more national than provincial and in the consolidated budget there what I would be saying is that it would go to agencies and entities such as University's not to government departments because it goes to the department but then it goes out to the agency so just to give you a sense of all of these things have to be considered together.

COMMISSIONER KHUMALO: Sorry just on that, would counsels not be appropriate for varsity's because I think there was suggestion that it is controlled by counsels, there will still be agencies?

10 MR SACHS: You mean University counsels, so ja, so you are probably, personally I am less in touch with that, I do not know Julia if you want to say anything about that. Ja so from our point of view I am not sure, it would go to, we transfer to the Department of Higher Education and then the Department of Higher Education transfers to the University
15 administrations which are governed by counsels who obviously would take that as part of their income and as you know they would have other sources of income and this would be one stream of income for them. The role players in the budget within the, so I suppose the three big role or the two big roll players, let me put, it is the executive and the
20 legislatures, so it starts in the executive and National Treasury convenes the executives budget preparation at national level.

So we have a medium term expenditure committee so people like Julia will sit with individual departments looking at their budget pressures and their budget issues and prepare a report and that report
25 after extensive discussion will go to the medium term expenditure

committee, that is a committee comprised of the director general of National Treasury, the director general of the department of performance monitoring and evaluation in the presidency, the director general of the department of cooperative governance and the director general of the department of public service and administration and other officials but it is those four key what we call centre of government departments that then constitute a committee that would consider the proposals arising from each of the different groups.

That committee then makes recommendations to the ministers committee on the budget, the ministers committee of the budget is chaired by the Minister of finance, it includes the Minister of public enterprises, the Minister of cooperative governance, the Minister of public service and administration, the Minister of performance monitoring and evaluation, it includes the chair of the social cluster in government who happens to be the Minister of social development. The Minister of the economic cluster, the chair of the economic cluster it includes several other ministers so there is about 10 ministers, key ministers within cabinet that form the ministers committee on the budget so all the recommendations from this committee of officials, the MTEC then get taken to the Ministers committee on the budget.

Then if they agree with the budgets those recommendations are then tabled in cabinet and there are two types of recommendations that we need to table in cabinet, the one is the appropriation so we go with the fiscal framework, we say this is what we propose the spending limit, these are our revenue estimates, this is our economic forecast, this is

the fiscal outlook, then these are the Appropriations Act or the Appropriations Bill we want to table so this is what we are allocating to individual departments but there is another important constitutional instrument which is the division of revenue so how do you allocate the revenue between national, provincial and local and when we present that we have to an extended cabinet which is cabinet plus the premiers of every province plus some representatives of local government so those are the role players.

Of course in the division of revenue there are all kinds of structures set up to govern the fiscal relations between national, province and local including the financial and fiscal commission and other statutory bodies and then of course once the executive has completed its work it tables the budget in the legislature which in our case is parliament but in provinces they also table their own budgets in provincial legislatures. So the next slide just sets out how a typical department would prepare its budget submission which I will suggest that I will skip over unless there is any questions. We then look at the executive budget cycle which I think covers the ground that I have already covered except in a slightly more detail.

The next slide talks about the parliamentary process and there it is important to understand its relationship between the medium term budget policy statement which we table in October and the actual budget and this comes back to why last year was such a difficult year because we go in October and we say this is our economic forecast, these are our spending priorities, these are all of the elements in broad terms, in broad

brush strokes this is what we think should be in the budget for the next three years and we table that in October and the idea is that parliament should debate that and parliament will prepare a report on the fiscal framework, a report on the proposed division of revenue, a report on the appropriations proposed in the medium term and those reports we then have to consider them when preparing the main budget which will come through in February.

So when we have something knocks us off course where we have prepared our medium term budget policy statement then we in November, December have a zero fee increase which we have not considered it becomes a bit complicated for us. So and as I said there is a Money Bills Amendment Procedure Act which empowers, the constitution says parliament is allowed to amend the budget and national legislation must provide for the process through which that happens that national legislation is in place, parliament is allowed to amend the budget so far they have not done so but maybe if they present here you can engage with them.

And then the last slide speaks to the role of National Treasury which is to propose the fiscal framework in the macro economic forecast, to propose the division of revenue between three spheres of government, to provide technical guidelines so we set out how should budget submissions look like, to conduct and evaluation of budget submissions, to ensure that submissions reflect government priorities, to maintain ongoing communications with other central government departments, to make recommendations to the MTEC, the budget

council, the budget council is an inter governmental forum, the ministers committee on the budget who in turn make recommendations to cabinet and extended cabinet and to convene, so we convene various committees of officials that consider budget processes and of course we
5 prepare and compile the budget documentation which brings me to the end of the presentation.

JUDGE: There is one thing I would like to ask you about because it is obviously a very large source of income, it may be totally relevant but one has heard that it is, gets diverted to general income and that is the
10 fuel levy, can you give me just some idea of the parameters of the fuel levy and what its potential for expenditure is?

MR SACHS: So let me just go here, so you can see there in this that the fuel levy raised about 56.7 billion in this particular year, 5 percent of revenues so it is significant but not huge source of revenue. Part of the
15 fuel levy is an earmarked levy, so the fuel levy has different elements, part of it is an RAF levy, a Road Accident Fund levy and it goes directly to the Road Accident Fund which, and it is that amount is not sufficient to cover the claims against the fund which is why the liability ...[intervenes]

JUDGE: Even under the new compensation dispensation?

20 MR SACHS: So there is a new bill that government is working on to transform the Road Accident Fund into a different type of scheme which we hope will solve this problem although we will still be left with the liability we will renege on our obligation to pay those who have claims under the Road Accident Fund currently but at least we will have a more
25 sustainable future system there so part of the fuel levy goes to that. a

large part of the fuel levy comes into general revenue and our strong view as we alluded to before is that that is right and proper that we should avoid earmarking taxes because you have situations in earmark, if you were to say for example the fuel levy must be reserved for road
5 maintenance and all road maintenance must be funded from the fuel levy.

The danger is, is that you build up these imbalances where either now, let us say you are in a situation where it is too much money to fund road maintenance and you have a surplus and because it is
10 earmarked by law you cannot use it for some other need or you end up with a deficit where it is insufficient to fund the road maintenance and then you have to find money from elsewhere and usually the dynamics in the system are such that if there is a deficit you must fund the deficit from general taxation and if there is a surplus, the people concerned will
15 keep the surplus and tell you from touching it which is the case exactly that we have in respect of, so that we were discussing earlier, but here we have and I do not want to be interpreted as saying that what should happen about it but the facts are that we have a need in the form of higher education and we have on the other hand a surplus that is
20 generated on the skills development levy and we are, so having earmarked taxes reduces the flexibility of the fiscal system to respond to changing dynamics.

JUDGE: What percentage of the fuel levy goes into general revenue at the moment?

25 MR SACHS: Ja the most of it goes into general revenue.

JUDGE: Most of it goes into general levy to the RAF.

MR SACHS: Ja the bulk of it, I think, I am guessing but I would say like 20 percent may go to the RAF but the rest is going to general revenue.

JUDGE: And what scope is there for increasing the fuel levy?

5 MR SACHS: I would say there is some scope for increasing the fuel levy, like VAT there are elements of the fuel levy that are regressive because again who pays the fuel levy, it could be co-owners but people who ride in taxis would pay higher taxi fares for example so in our, I think our view is that our fuel levy is quite low by international standards.

10 JUDGE: Oh really.

MR SACHS: It is what we call a consumption tax which tends to be more efficient, there are good reasons from an environmental point of view for taxing fuel so there is scope I would say to consider increases to the fuel levy but on the other hand there are consequences. As fuel
15 consumption is, my colleague Ian is pointing out, he is declining our over time so I mentioned the issue of if you increase the fuel levy I will move to Pretoria.

JUDGE: Why should that be I am sorry?

MR SACHS: Cars are becoming more efficient in their fuel consumption,
20 also the issue we often confront is the oil price and the swings in the price of fuel is quite volatile so at some point when the oil price falls and the fuel price goes down then people say why do we not increase the fuel levy but then the following year will be on the other foot and so in general it is a declining source of revenue even at the same rate.

JUDGE: Thank you.

COMMISSIONER KHUMALO: Can I ask one last question, has there been an attempt to maybe try and amend the National Skills Act just to open it up for other purposes?

5 MR SACHS: It is in discussion within government that would be led by the Minister of higher education and which we would participate on so we are not yet at a point where we can say there is a bill on the table, we are just saying there is, it is a discussion.

JUDGE: So when the pension fund trustees try to protect their surpluses
10 the government was prepared to legislate for that.

MR SACHS: I am not following.

JUDGE: I am not sure if this is not a very analogous sort of situation but anyway.

MR SACHS: So as I say I think with the other thing to remember about
15 the skills development levy is that it is a, it is subject to constituency oversight.

JUDGE: Oh yes.

MR SACHS: Let me put it like that, there is organised businesses involved, organised labour is involved, Nedlac is involved, it is a social
20 compact that was reached in the early 90's which reflected an important policy objective which was to up skill the existing workforce.

JUDGE: Yes.

MR SACHS: So it is not, I do not want to create any impression that it is without merit or anything like this, the only question is now after 15 years

is there scope to maybe raise the issues once and for all.

COMMISSIONER KHUMALO: And after 15 years you can insert potential force.

MR SACHS: You are empowered to advise us on that matter.

5 JUDGE: Thank you. Thank you very much for the thoroughness of your presentation and apart from the interest of the presentation which was very high we would like to compliment the National Treasury on its presentation thank you. Is there anything else that you would like to ask?

10 ADV. K. PILLAY SC: Nothing further Chair.

JUDGE: Thank you. Very well are we now in a position to commence at 14:00 or what is the story?

ADV. K. PILLAY SC: Yes we are Chair I see our presenters have just walked in, the presenters for 14:00

15 JUDGE: So 14:0 will be a suitable time?

ADV. K. PILLAY SC: That is right yes.

JUDGE: Thank you very much we are adjourned until 14:00.

HEARING ADJOURNS

HEARING RESUMES

JUDGE: Now who have we got?

20 ADV. K. PILLAY SC: Thank you Chairperson. The next presenter are the Students for Law and Social Justice, they are represented by the legal resources centre and the presenter on behalf of the SLSJ is in-house council at the resources centre Mr, Advocate Lunga Siyo and the LRC and Mr Michael Powers, the LRC has very kindly put together a

bundle of authorities Chair which is what you have before you and I think it is just a copy of all the various authorities that they rely on.

JUDGE: Thank you. Yes now who is doing the presentation?

ADV. SIYO: I am Chair.

5 JUDGE: You are, and you are?

ADV. SIYO: I am Mr Siyo.

JUDGE: Mr Siyo thank you would you like to start.

ADV. SIYO: Thank you Chairperson. I confirm my appearance on behalf of the Students for Law and Social Justice, I am a member of the
10 Johannesburg bar and I am also a member of the SLSJ board. By way of introduction I would like to state the manner in which the presentation will be structured.

JUDGE: Yes please.

ADV. SIYO: It is divided into 11 slides as follows, the first would be
15 introducing SLSJ, an overview of the presentation, SLSJ's seven principles, suggested approach, the constitutional framework, international law framework, realisation of the right, SLSJ's approach to realisation, preliminary recommendations and remarks, proposed further presentations.

20 JUDGE: Right you go ahead and present it as you will.

ADV. SIYO: Thank you Chairperson. Introducing SLSJ, SLSJ was formed in 2008 and has 11 branches at 11 institutions with approximately 3500 members. During May 2016 SLSJ obtained written submissions from the following branches, the University of KwaZulu Natal

Pietermaritzburg campus, the University of KwaZulu Natal Hard College campus, the University of Pretoria, the University of Forte, Stellenbosch University, Varsity College Durban North, University of Cape Town, the University of Witwatersrand, the University of the Western Cape, Varsity
5 College Westville, Walter Sesulu University, the University of the Free State and Varsity College Sandton.

JUDGE: Can I just stop you, I have heard of most of these but I do not know what these Varsity Colleges are, what are they?

ADV. SIYO: They are institutions of higher learning.

10 JUDGE: Are they private?

ADV. SIYO: They are private Chairperson.

JUDGE: Oh alright thank you.

COMMISSIONER ALLY: Would you also in your submissions, maybe not now, later down the line indicate how they should be catered for
15 because on the one hand you have an issue of public higher education and you have private higher education and it might be your submission I do not know but there is no differentiation that needs to be made, there could be a case made out for a differentiation and how you propose to deal with it.

20 ADV. SIYO: IF I could perhaps say from the onset commission that I do not have instructions in that regard but it is something that perhaps at a later stage that SLSJ would like to address.

JUDGE: The submissions that you had obtained were they obtained with a view to presenting them to this commission?

ADV. SIYO: That is correct Chairperson.

JUDGE: Thank you.

ADV. SIYO: So SLSJ put out a call for submissions, also put out a call for submissions from individual members thereafter the National Executive, Chairpersons of the various branches and members of SLSJ held a three day national consultation from 24 June to 26 June 2016 in Muldersdrift Gauteng in order to discuss and debate the position to be taken in written submissions. Following the national consultation an advisory committee was established to work alongside the legal representatives at the Legal Resources Centre in order to finalise written submissions. SLSJ does not purport to speak on behalf of all students and acknowledges that the experiences of students across the country may differ significantly.

JUDGE: Did you manage to obtain a unanimity between the persons attending this conference?

ADV. SIYO: Chairperson I did not attend the consultation but I have no reason to believe that there was not any form of unanimity amongst the members.

JUDGE: Alright thanks.

ADV. SIYO: Thank you. Overview of the presentation, relying on items 1.1 to 1.3 of the term of reference SLSJ seeks to assist the commission by giving a student driven perspective on (1) constructing a constitutional and international law framework which may inform and guide the political and the economic questions in the current debate on fee free further education, framing the national dialogue on fee free further education

through the purposive and contextual interpretations of the guiding constitutional principles on aggressive realisation. Making practicable recommendations, source from SLSJ student members to assist the fees commission in fulfilling its mandate.

5 SLSJ's written submissions are based on the following seven principles, the right to further education must be made progressively available and accessible and it is a constitutional imperative and obligation under international law that further education become universally available and accessible over time. Universal availability and
10 access to further education may require that further education is fee free to certain students, the best interests of the student must be promoted and protected at all times. In assessing the best interests of the student regard must be had to any forms of disadvantage, socio economic disparities, historic or continuing social systems or structures.

15 No retrogressive measures should be implemented in the pursuit of realising the right to further education save for measures designed to redress the injustices of the past. The availability to resources is not a justification that could be relied on by the state for non fulfilment of the right to further education but it may be a component in assessing the
20 reasonableness of the measures taken. The fees commission should facilitate public involvement and transparency in its process. The suggested approach ...[intervenes]

JUDGE: Sorry that last point for a moment, are you suggesting that one of your principles is that the fees commission must be transparent?

25 ADV. SIYO: That is correct Chairperson.

JUDGE: Yes thank you.

ADV. SIYO: The role of the fees commission should be investigative rather than adjudicative, the fees commission should be used to inform, educate concerned members of the public.

5 COMMISSIONER ALLY: Mr Siyo, Mr Siyo I do not national to stop your submission but when you indicate that we should be investigative rather than adjudicative can, do you have any further explanation as to what do you mean by investigative?

ADV. SIYO: Commissioner that is contained on page 7 paragraph 2.7 of
10 our written submission, I do not know if you would like me to elaborate.

JUDGE: Understood.

ADV. SIYO: Thank you, thank you commission. Okay so the fees commission should be used to inform and educate concerned members of the public, the standard of proof adopted by the fees commission
15 should be *prima facie* or sufficiency to avoid stultifying its purpose.

JUDGE: Why is that transaction advisor bother, we are I agree with you a purely investigative commission who makes a recommendation to the President, why should we worry about the burden of proof or the degree of proof, we listen to what there is and we hear what seems to be fact
20 and we hear what suggestions appear to us to be useful, why worry about sufficiency?

ADV. SIYO: Then I think that Chairperson we would be on the same page if that is the view that is adopted.

JUDGE: We trying to inform ourselves as best we can on the mandate

which we are vested with and in turn to inform the state President as best we can as to the way which we suggest going forward and he can do what he likes with it.

ADV. SIYO: Indeed Chairperson.

5 JUDGE: That is just how we see it.

ADV. SIYO: That is indeed correct Chairperson but it was in its wisdom SLSJ took it upon themselves to put these suggestions forward to the commission and the commission can do as they please with this the suggestions.

10 JUDGE: Yes alright.

ADV. SIYO: Okay the fees commission should adopt a broad all inclusive interpretation of further education, all written submissions should be made available to the public and the parties.

JUDGE: Well I must tell you that I think there is nothing in what you
15 have said that is not being complied with and is not being complied with on an ongoing basis, I may be wrong but I think that is so, in the sense that the submissions have been put up on the website and all these matter are available to the public and we are trying to engage in a participative process for anybody who is interested.

20 ADV. SIYO: Indeed.

JUDGE: Unfortunately not as many people have attended as we might have hoped but that is understandable too.

ADV. SIYO: Indeed Chairperson. I think at the time the parties had not had sight of the submissions of other parties so SLSJ had not had sight

of any of the submissions and I am instructed that when they had enquired on the website there were not any submissions that had been put up, but I am quite happy with your explanation Chairperson.

JUDGE: Well do not be, what is the position Miss Pillay?

5 ADV. K. PILLAY SC: Chairperson I believe that the intention is to definitely have all of the submissions and the supplementary submissions put up on the website, as to whether the website is fully functional is a different question and I believe we may be experiencing some logistical issues in that regard but the intention definitely is to have
10 the website up and running as soon as we can.

JUDGE: Mr Siyo may I indicate to you that insofar as you are inadequately informed as to the content of any submissions that it is perfectly open to you when you do become informed to put any supplementary submissions that you may wish to.

15 ADV. SIYO: Thank you Chairperson.

JUDGE: And they will be had regard to.

ADV. K. PILLAY SC: And of course Chair we extend the invitation to the LRC and SLSJ to contact any of the evidence leaders should you require access to any of the documents.

20 JUDGE: Thank you.

ADV. SIYO: Thank you Chairperson. Next we address the constitutional framework, relevant provisions are sections 1, section 7 [2], section 10, section 29 [1] [B] and section 39 of the constitution, human dignity and education are inextricably linked, there are three key features to section

29 [1] [B] that must be noted. That the right to education both basic and further education is the only socio economic right contained In the Bill of Rights that is not expressly circumscribed in its wording by the availability of resources. In realising the right to further education the
5 state is enjoined to take measures ...[intervenes]

ADV. K. PILLAY SC: Mr Siyo may I just interrupt you there, I just have a question for you on this, I mean it is one of the issues which this commission may ultimately be called upon to express a view now will you accept that the wording of 29 [1] [B] is not exactly clear and that it is
10 open to be interpreted either the way you have or on the contrary that there is the circumscribed progressive realisation constraint built into 29 [1] [B]?

ADV. SIYO: We would agree insofar as there has not been any determination that has been made by the courts in this country but there
15 are various, I agree with you insofar as there are various means of interpreting it and we have amongst others used international law as an interpretive tool of analysis in trying to find some sort of meaning in section 29 [1] [B].

ADV. K. PILLAY SC: Alright so what you are putting forward then is
20 basically an approach to interpretation of section 29 [1] [B] but not necessarily what the section says in its own right?

ADV. SIYO: It is merely persuasive.

JUDGE: Is it not so, you said it is not expressly circumscribed but is it not so that it is inherently circumscribed by the question of resources, availability of resources. What is reasonable means reasonable in all
25

the circumstances which includes availability of resources.

ADV. SIYO: Our view commissioner is that it is one of them.

JUDGE: Yes.

ADV. SIYO: Only one.

5 JUDGE: It might be one of many in fact.

ADV. SIYO: Yes.

JUDGE: Some may be applicable yes.

ADV. SIYO: The view that SLSJ would be opposed to is the view that it is the only one.

10 JUDGE: It is the only what?

ADV. SIYO: It is the only consideration Chairperson.

JUDGE: Resources.

ADV. SIYO: Yes.

JUDGE: Oh yes certainly.

15 ADV. SIYO: Yes that is what SLSJ would be opposed to.

JUDGE: Oh yes.

ADV. SIYO: Thank you. Okay in realising the right to further education the state is enjoined to take measures that are reasonable. The right to further education must be made progressively available and accessible.

20 There are two key aspects of section ...[intervenes]

ADV. K. PILLAY SC: Mr Siyo may I just stop you there just a further question, the question of progressively available does it mean, does the section read progressively available and progressively accessible or is it merely progressively available?

ADV. SIYO: Progressively available ...[inaudible] it says must make progressively available and accessible, that is the reading of this.

ADV. K. PILLAY SC: The question is does the term progressive relate both to availability and accessibility or not?

5 ADV. SIYO: I do not have any instructions on that but ...[intervenes]

ADV. K. PILLAY SC: But do you understand that this is one of the issues which we will have to grapple with and which we would like to hear submissions on.

ADV. SIYO: Yes, yes, I would submit Miss Pillay that there would be so
10 progressively would relate to both availability and accessibility and our use of international law instruments seems to suggest that too.

COMMISSIONER ALLY: Mr Siyo it might be that as we go further into the commission you would have further time to have your own research and deal with this particular matter and make further submissions on it
15 but my understanding is that you are trying to give an overview of the submission that SLSJ would be, is giving and in respect of each of the issues that you are dealing with you do not necessarily intend an engagement on that at the present time, is that correct?

ADV. SIYO: Commission we are in the commission's hands, as we
20 understand it, in terms of the structure of the oral presentations, today being set 1 is only intended for parties to provide an overview of their written submissions.

JUDGE: Yes.

ADV. SIYO: If the commission wants to engage in certain areas we

would be inclined to do so insofar as we are able to.

JUDGE: Yes but as I understand it that is exactly what you are doing, yes.

ADV. SIYO: That is correct Chairperson.

5 JUDGE: Yes.

ADV. K. PILLAY SC: But just bear in mind Mr Siyo that the interpretation and content of the right does not necessarily feature very largely in any of the sets so if you do wish to take time to deal with that I think now is the perfect opportunity to do that.

10 ADV. SIYO: Would be quite happy to do that. Perhaps to point out that the page of reference in our submissions on progressive realisation is page 28 of our written submissions and so forth. As I was saying there are two key aspects to section 39 that are relevant to the fees commission, in conducting its work and interpreting the right to further
15 education the fees commission is required to promote the values underlying an open and democratic society, the fees commission is required to consider international law when interpreting the relevant provisions under the constitution which includes both binding and non binding instruments.

20 The international law framework, the proper approach to international law binding and non binding instruments can be found on page 13 and also reference must be had to the matter of State versus Maponyane, the relevant provisions and instruments that reliance has been placed on are article 26 of the universal declaration on human
25 rights articles 13 [1] and 13 [2] [C\ of the international convention on

economic, social and cultural rights which was ratified by South Africa in 2015, article 13 [2] [C], it states that higher education shall be made equally accessible to all on the basis of capacity by every appropriate means, in particular by the progressive introduction of free education, 5 also have reliance to article 4 [3] of Unesco Convention against discrimination in education 1960, article 18 [1] of the African Charter, Human and Peoples Rights 1981.

Article 11 [3] [C] of the African Charter on the rights and welfare of child 1990. Article 13 [4] [5] of the African Youth Charter 2006, the 10 implications and also the implications of the United Nations Committee on economic, social and cultural rights, general comment number 13, the right to education that is article 13 of the ICE SCR.

JUDGE: Now would you like to tell us what you understand by free education?

15 ADV. SIYO: Our understanding, it is something that we approach a bit later on.

JUDGE: Oh you do okay.

ADV. SIYO: Yes we do address that.

JUDGE: Righto.

20 COMMISSIONER KHUMALO: If I may, hi.

ADV. SIYO: Yes ma'am.

COMMISSIONER KHUMALO: I see under the ICE SCR that convention it speaks of higher education and our constitution speaks about further education, is there a distinction between the two?

ADV. SIYO: I would, my submission is that there is no distinction between the two, I think it is just question of semantics and wording, other parties may choose to say higher education, South Africa may choose to say further education, our submission is that there is none.

5 ADV. K. PILLAY SC: I think just to muddy the waters even further Mr Siyo the terms of reference for the commission you used the terms higher education and training but the department in terms of its planning uses the terms post school education and training so maybe if you can just consider the difference between all the wording and the concepts
10 and how that relates to both position under the constitution as well as the position under the international instruments.

ADV. SIYO: My submission would be that the commission should also consider in interpreting, it should be inclusive, I do not think that getting bogged down in semantics or further, is it post, is it higher and whatever
15 the case may be is going to do any justice because I think that the parties are well aware what is meant and why the commission was put together so the investigations relate to education in our view there is no distinction it is further be it higher.

ADV. K. PILLAY SC: You see the difference is from a very practical
20 perspective that for example post school education and training includes, let us use an example community education and training institutions, that is not included within the category of higher education and training institutions so there is a distinct difference.

ADV. SIYO: If there would be an enquiry and I am getting way out of my
25 submissions but I am not certain if I am allowed to go this far but if there

would be, why would there be an enquiry only on a certain level or segment of higher education and not on another so our submission and I am really going to get into serious trouble for saying this but if there is, it has to be inclusive, it has to include all levels be it University, FET's, 5 technicians and so on.

JUDGE: Yes but does it for example include people who are undergoing literacy courses?

ADV. SIYO: I do not understand that to be post education.

JUDGE: No it is not post education.

10 ADV. SIYO: So I do not think it would Chairperson.

ADV. K. PILLAY SC: No I think with respect it does, it is adult basic education falls under post school education and training so it is included but obviously excluded from the term higher education and training and I think those are the kind of intricacies we have to consider. The only 15 issue which we raise and this is not something you necessarily have to deal with now it is something you could always deal with in the course of supplementary submissions but how all of these different formulations relate to the right as enshrined in the constitution and how it is dealt with in the international governance you deal with.

20 ADV. SIYO: If I may, there are submissions that are made in some regard, in some respect to the questions that have been posed on page 9 of our written submissions and where it is necessary I think that SLSJ will go back and consider whether there should also be supplementary submissions that are made in that respect.

25 JUDGE: I should just indicate to you that thus far we have been quite

happy to listen to evidence, whether or not it falls within our strict mandate or not, relating to not merely University education or if or Tvet education but also about community colleges and adult learning, whether in the end we will have to report to the President on all these things I am
5 not sure but from the point of view of practical instruction to us we are listening to evidence on everything.

ADV. SIYO: Thank you Chairperson.

JUDGE: But we are just looking at you to assist us with where we should go and what the right approach is.

10 ADV. SIYO: Thank you Chairperson, I think these are all valid points that SLSJ needs to go back and consider.

JUDGE: Well it would certainly assist us to have your submissions in that regard.

ADV. SIYO: Indeed Chairperson.

15 ADV. K. PILLAY SC: And just to point out that in your submissions you make the point that the terms are interchangeable when in fact they may not be interchangeable so you may want to just consider that a bit further.

ADV. SIYO: I think that is part of the further supplementation and
20 consideration. So the realisation of the right, okay the five components to move as a expeditiously and effectively as possible to full realisation of the right to further education are as follows, the full realisation is both an immediate and continuing obligation ...[intervenes]

JUDGE: I am sorry the word expeditiously is that your word, how does

that creep in?

ADV. SIYO: It is a term that has crept in from general comment 13 that I made reference to under our international law section.

JUDGE: How do you fit expeditiously into the limitations of our
5 constitution, it does not seem to be consistent with expeditiously?

ADV. SIYO: It would be expeditiously subject to the limitations of the constitution.

JUDGE: Alright, alright.

ADV. SIYO: Okay the full realisation is both an immediate and
10 continuing obligation. There is a duty to accelerate reasonable and progressive schemes, to ameliorate a vast areas of deprivation. The full realisation requires the lowering of hurdles, legal, administrative, operational and financial hurdles should be examined and where possible lowered over time. The standard of reasonableness applies. A
15 procedural fairness is necessary, progressive realisation requires careful planning and fair procedures made known in advanced to the most effected. Orderly and predicable processes are vital. Policy must be ...[intervenes]

JUDGE: Sorry what is a predicable process?

20 ADV. SIYO: I think it is predictable process.

JUDGE: I think it might be a predictable process.

ADV. SIYO: Predictable process.

JUDGE: Yes.

ADV. SIYO: It is a typographical error.

JUDGE: This is a quote, oh this is from your heads I see.

ADV. SIYO: Yes.

JUDGE: Oh alright thank you.

ADV. SIYO: Thank you. Policy must be reviewed, a policy that is set in
5 stone and never revisited is likely to be a policy that will result in the
progressive realisation of rights consistently with obligations imposed by
the social and economic rights in our constitution.

JUDGE: Which policy is this, any policy?

ADV. SIYO: Any policy that relates to ...[intervenes]

10 JUDGE: Yes righto.

ADV. SIYO: Yes, the states, okay and the states obligation to take
reasonable measures is found from page 25 to 26 of our written
submissions and ...[intervenes]

JUDGE: Yes and again is the state obliged to take reasonable measures
15 or is it obliged to take measures which are reasonable in the
circumstances?

ADV. SIYO: Reasonable measures that are, it is always dependent on
circumstances Chairperson.

JUDGE: Yes alright.

20 ADV. SIYO: So it would never be reasonableness.

JUDGE: So it is not reasonable measures, it is measures that are
reasonable in the circumstances.

ADV. SIYO: In the circumstances.

COMMISSIONER ALLY: Because do you see the difference in what the

Chairperson is putting to you, reasonable measures might not be reasonable measures in the circumstances at any given time and therefore the distinction being brought to you by the Chairperson, you get that understanding?

5 ADV. SIYO: Yes I do commissioner.

JUDGE: Yes thank you.

ADV. SIYO: But it is also perhaps something to be pointed out that reasonable measures are something that has been adopted from *judis prudis*.

10 JUDGE: Yes, yes well we all know what reasonable measures are, yes thank you.

ADV. SIYO: SLSJ's approach to realisation, SLSJ submits that fees entail more than just costs of registration and tuition but rather that fees should be understood holistically including among other things the cost
15 of residence and the provision of academic materials as necessary in the process of equal access to education.

JUDGE: Can I stop you there, this is how you might like to interpret it and you may be right but I do not know how you draw lines here, is it computer part of the fees, the provision of a computer is that part of the
20 fees, is access to the internet a part of the fees?

ADV. SIYO: Chairperson if ...[intervenes]

JUDGE: If you understand it holistically you might say it does but you cannot expect the state to provide computer and internet but you cannot expect the state to provide computer and internet services to every

student in the country.

ADV. SIYO: That is right but that is not what reasonableness supposes
Chairperson.

JUDGE: Well how do you distinguish between person A and person B?

5 ADV. SIYO: You distinguish by whether it would be something that is
necessary in order to further person A or B's right to access to further
education. So if, I mean this is an example that is not contained
anywhere but perhaps I should just draw it, for instance someone who is
doing it may be reasonable to provide someone who is doing computer
10 science with the laptop and perhaps not with someone who is for
argument sake doing a course in agriculture.

JUDGE: I am astonished how can you demean agricultural students.

ADV. SIYO: Chairperson this is quite revealing of what you think of
agriculture.

15 JUDGE: No, no it is revealing of how important a computer is in modern
education.

ADV. SIYO: It is just an example Chairperson not something to be taken
literally.

JUDGE: I know but the whole question was put upon the basis of how
20 you determine whether one group of individuals should be entitled to
internet access or computer availability, where do you draw the line with
books are they books that are on the University reading list?

ADV. SIYO: Yes Chairperson it probably, reason would probably suggest
that it should be books that are on the prescribed reading list.

JUDGE: Heavens above I wish I had all those supplied to me.

ADV. K. PILLAY SC: Mr Siyo just to point out to you that the issue you are touching on now is actually, it is actually a very complex one and it one which we have dedicated an entire set to just unpacking the demand
5 and you put it as a right to fee free higher education and training, what that means and what it entails. I see that in your submission in paragraph 6.3 of your submissions you deal with it in one paragraph and you may want to spend more time on this concept and tying it in as you have done to the right to dignity and to the question of access and the
10 question of availability ...[intervenes]

JUDGE: And reasonableness.

ADV. K. PILLAY SC: And reasonableness but this is something which we will spend a lot of time on in set 5 and you may in preparation for set 5 want to consider all of the issues which are being put to you now.

15 ADV. SIYO: Yes.

COMMISSIONER KHUMALO: Can I just maybe on that, do we not need further elaboration on academic materials is put in here as well.

JUDGE: What are academic materials is that your expression academic materials?

20 ADV. SIYO: It is not my expression Chairperson.

JUDGE: Alright.

ADV. SIYO: If I may also point out to the commission that there is an attempt to flash out on some of the issues that have been raised on page 28 of our written submissions but I accepted that supplementation may

be necessary.

JUDGE: It is just that you know there is such wide room for differences of interpretation and to determine or sorry to try to decide how you put boundaries to tuition, this is fee free, now fees and, I would have thought
5 a different thing from food, this is our, our remit is fee free education. Now while I can understand that tuition should, might include food I have a little bit of difficulty in seeing how fee free education necessarily excludes or does exclude food. Is food part of fees, not normally?

ADV. SIYO: Not normally Chairperson.

10 JUDGE: Is accommodation part of fees, it might be I do not know?

ADV. SIYO: It seems to be.

JUDGE: But we are contemplating the question of how you provide students education without fees, now that suggests that it is something that they give in return for their education, now they do not give
15 accommodation, and they do not give food, they do not give computers, fee free suggests that from the side of the supplier he is supplying education without fees, now he does not supply food, he does not have supply food.

ADV. K. PILLAY SC: But Mr Siyo I think in this context you are tying it
20 into the right to dignity and questions of full access, what does access really mean, what does availability really mean, that is where your submissions become quite critical obviously we would like to hear that in set 5.

JUDGE: Anyway there are all sorts of difficult questions which arise if
25 one wants to be strict about these things.

ADV. SIYO: We do state, if I may mention to the commission at the end of our slide that we would also be available to provide further submissions in subsequent sets.

JUDGE: Thank you.

5 ADV. SIYO: Thank you. Just picking up where we left off, SLSJ model is three fold, a waiver of application fees, a review and possible standardisation of the admissions policy of institutions with an aim of redressing the injustices of the past, the implementation of a sliding scale system for further education funding as the redistributive measure,
10 SLSJ also proposes interim measures, institutions should waive all application fees, the zero percent increase in registration and tuition fees should be extended, graduates who due to current financial difficulties and historic debt are unable to graduate should be urgently assisted.

ADV. K. PILLAY SC: May I just ask Mr Siyo the SLSJ does not seem to
15 draw a distinction between tuition fees and NSFAS funding which comes from the state so in other words you have put it at the level that there should be no application fee and no tuition fees but you have not addressed the question of NSFAS funding whether it should be extended or whether the scope of NSFAS funding should be extended should the
20 model be changed and maybe you would like to deal with that.

COMMISSIONER KHUMALO: Sorry before you answer, is an application fee you mean registration fee or something different.

ADV. SIYO: But the fee that you pay when you apply, a registration fee comes subsequent from that so when you are actually accepted and
25 have to register into the institution.

COMMISSIONER KHUMALO: And you would not propose that the registration fee also may be waived, the application fee?

ADV. SIYO: At this stage my instructions are simply that there should be a zero degree increase in registration and tuition fees.

5 JUDGE: How much is the, give us an example of how much your registration fee is?

ADV. SIYO: Chairperson from my personal knowledge it seems to vary from institution to institution, it is something that has been publicised over the period of the last year and a half, from my understanding it can
10 be anything from R3500-00 for registration to as much as R9000-00 for registration and anything in between that Chairperson.

COMMISSIONER ALLY: Do you clients not have a ball park figure on what it costs, I think you are being handed something which would be the ballpark figure.

15 JUDGE: Is this registration fee something that afterwards is apportioned to the tuition fees or does it remain entirely separate.

ADV. SIYO: Can I get my understanding of it Chairperson from having been a student is that it is something separate, certainly it may vary from institution to institution.

20 JUDGE: So the application, let us just take it for the moment there is an application fee.

ADV. SIYO: I seem to have instructions Chairperson, my instructions are that registration fees are a percent of your tuition fees that must be paid upfront.

JUDGE: I see.

ADV. SIYO: The figure that I have before me are of two institutions, the first one is R9300-00 from the University of Witwatersrand and the second figure I has is R4500-00 from the University of KwaZulu Natal.

5 JUDGE: I see so it is earnest money.

ADV. SIYO: Yes Chairperson.

JUDGE: In a sense. The application fee what is this just and administration charge?

ADV. SIYO: It appears to be just an administration ...[intervenes]

10 JUDGE: How much is the application fee.

ADV. SIYO: May I take an instruction Chairperson.

JUDGE: Yes please.

COMMISSIONER KHUMALO: I do not know Judge is it not, Advocate under the central application is it that figure where you apply to the
15 system to be, and that is the payment you make?

ADV. SIYO: That is correct commissioner, my instructions are that the University of, that is the only institution I could get a quote from, the application fee is through R350-00.

JUDGE: I see.

20 COMMISSIONER KHUMALO: You may want to check that subscription to that central application where you pay for application maybe in a selection of varsities and then you get taken to the one, I do not know if it is as nominal as that I am not sure.

JUDGE: But in any event that fee is a separate application fee which

does not get allocated to your tuition fee.

ADV. SIYO: It does not Chairperson you may be rejected from the institution and the money does not come back.

JUDGE: I see.

- 5 COMMISSIONER KHUMALO: So does this, in the application fee stage they maybe implicate issues of access because if I want to apply to three or more institutions and have to keep paying R350-00 might add up to quite a bit is it not?

ADV. SIYO: It appears to be a burden commissioner yes that is right.

- 10 COMMISSIONER KHUMALO: And they are not the same these fees of course per institution it depends where you are applying UCT will not be the same as Forte.

ADV. SIYO: That is right commissioner.

- JUDGE: But you are submitting that the application fee shall be waived
15 for all candidates irrespective of whether they can afford to pay the application fee or not.

- ADV. SIYO: I think the difficulty with that is that there is no way of assessing but with the proposed sliding scale at least there is a way of assessing a student would have been admitted and so on and it
20 becomes a bit easier once certain documents are in and so on at any other stage it is just individuals making submissions and it would be quite difficult.

COMMISSIONER KHUMALO: So the sliding scale that you suggesting is it is a sliding scale of tuition fees or a sliding scale of NSFAS funding?

ADV. SIYO: My understanding is that it is a sliding scale of tuition fees.

JUDGE: Sorry what does this mean a sliding scale system for further education funding as a redistributive measure, what does that mean?

ADV. SIYO: We addressed the issue of the sliding scale and
5 ...[inaudible] apologies we addressed the issue ...[intervenes]

JUDGE: Ja but can you not tell me quite quickly what it means?

ADV. SIYO: I would be quite happy to do that Chairperson. So the sliding scale envisages that students who can afford should pay and students from disadvantaged backgrounds should not pay fees.

10 JUDGE: Yes okay but that I understand, what is for further education funding?

ADV. SIYO: In other words.

JUDGE: What does that mean?

ADV. SIYO: That is the, it is a policy or a formula that the state may
15 want to take into account when determining whether the fees of the student should be paid or not or any fees that are already associated with the access to education Chairperson.

JUDGE: No doubt you will tell me further, and redistributive measure, what does that mean?

20 ADV. SIYO: Redistributive measure it simply means that students who can would be effectively subsidised and those that who cannot afford to pay, in very basic terms.

JUDGE: Alright thank you.

ADV. K. PILLAY SC: Maybe for the purposes of supplementary

submissions purely, when you consider this issue you would apply your mind to where NSFAS funding comes in, so in other words if you have a sliding scale somebody has to pick up the cost of educating that particular student and the question is who should, should it be the
5 institution itself or the state and the state through NSFAS funding.

ADV. SIYO: That is fine commissioner.

JUDGE: And you said you would in due course deal with what is mean by fee free, you also deal with the question of whether fee free allows you to say to the student you do not pay while you being educated but
10 you will pay when you can afford.

ADV. SIYO: My submissions Chairperson is that our ...[intervenes]

JUDGE: Do you deal with that?

ADV. SIYO: We do and it is intrinsically linked to the sliding scale, that is how we would interpret what fee free would mean, in other words it is that
15 ...[intervenes]

JUDGE: Well I am not sure whether you have student A who is a pauper when he starts off and student B who is a millionaire when he starts off and when they are both earning R50 000-00 a month they should be treated differently, I am not sure how you have a sliding scale for that but
20 anyway?

ADV. SIYO: It would be a continuous assessment Chairperson so that we, to cater for instances such as those.

JUDGE: Well perhaps you will come to it yes.

ADV. SIYO: ...[inaudible]

COMMISSIONER ALLY: Mr Siyo your mic was off.

ADV. SIYO: Apologies commissioner. Preliminary recommendations and remarks in conducting its hearings, the fees commission should make publicly available through its website and its seat all written
5 submissions I think we have addressed this, I will go straight past that. Seek where possible to facilitate public education and awareness ...[intervenes]

JUDGE: I am sorry you cannot just go past it you say that we should make public or recommendations submitted to the President, I do not
10 think that could possibly be so, I owe a duty to the President and I certainly do not owe it to you, the President has appointed me to do a particular thing and when the President receives my report he can decide whether he should publish it whether he will not, I certainly cannot send you a copy before I send it to the President or even when I
15 send I to the President.

ADV. SIYO: This is, I think this is something that relates only to the reports and I accept the commissioner's views insofar as the reports that ought to be sent to the President are concerned. Seek where possible to facilitate public education and awareness and its processes through
20 among other things, radio broadcasts, information know it is posted on its website and live streaming and compiling its preliminary report to the fees commission should consider reporting to the extent possible on the lived realities of perspective and current students and the impact that the extensions of the timeframes of the fees commissions terms of reference
25 may have on stakeholders.

JUDGE: Now which preliminary report are you referring to?

ADV. SIYO: It is referred to in the ...[intervenes]

JUDGE: You mean the one that must be submitted by 15 November.

ADV. SIYO: Yes.

5 JUDGE: Well you must bear in mind that this commission is working to a structure and prior 15 November it will have completed three of the eight sets so it is difficult for one to commit oneself at this stage as to in what condition the state of knowledge of the commission will be so as to answer any of those particular requirements, if you understand me, so I
10 hear what you say but I am not sure that it would be feasible.

ADV. SIYO: I understand what you are saying commissioner and my submission would be that it is obviously something that is permitted to the extent that it is possible, if it is not possible then it is something that should not happen.

15 JUDGE: Yes, the evidence leaders may consider, the evidence leaders may consider that these matters that you mentioned here are matters which should be dealt with before the preliminary report is submitted to the President, that we can ask them to consider and if they can cover those things then they can be included, yes thank you.

20 ADV. SIYO: When the commission signs.

JUDGE: Yes but I thank you for the suggestion, yes.

ADV. SIYO: Okay, alright the next point ...[intervenes]

COMMISSIONER KHUMALO: Judge on the last, was this submitted before the date of the, was announced so I thought maybe you are going

to tell us which other report, preliminary that you had in mind or a suggestion, because I think these submissions came long before the extension was granted.

ADV. SIYO: There are, what is contained there are submissions
5 contained in the written submissions which were filed before the extension.

COMMISSIONER KHUMALO: Yes because there was ...[inaudible] at that time of the, to the preliminary reports so I just want to know if you had some report in mind that, other than what the Judge is suggesting at
10 the time of submission.

ADV. SIYO: There seem to be uncertainty as to whether there would be any preliminary reporting that would be involved and I think out of caution it was slipped into the written submissions.

COMMISSIONER ALLY: No I do not think so, if you read the terms of
15 reference, the term of reference go into that there will be an interim report where necessary so you probably got the interim report from that term of reference and put it in. The question that is being posed to you whether it is feasible and practicable in the circumstances of the structure of the commission at present and those are two different areas
20 and as indicated by my fellow commissioner it could have come into your submission through having regard to the beginning of the term of reference and not when the structure was published.

ADV. SIYO: Yes, commissioner I do not have any further instructions in respect of that.

25 COMMISSIONER ALLY: No problem.

ADV. SIYO: The President and the Minister are not precluded from moving as expeditiously and effectively as possible towards full realisation of the right to further education and acting in the best interest of students pending the final recommendations of the fees commission.

5 JUDGE: Well you can write a letter to the President today saying that that is the case it is perfectly true, they can do the, the government can do precisely what it likes irrespective what we may or may not say, yes certainly.

ADV. SIYO: Indeed Chairperson indeed. Final point, proposed further
10 presentations, having regard to the structure of oral hearings document SLSJ is available to make further presentations on set 3 funding streams, particularly paragraphs 8.3 and 8.6. Set 4, student funding particularly paragraphs 10.5, set 5 the meaning and content of the fee free higher education and training. Set 7 the socio economic and
15 financial implications. Set 8 the feasibility of providing fee free higher education and training in South Africa.

ADV. K. PILLAY SC: I have not doubt that you will want a role in set 2 as well but we will engage with you on that issue.

ADV. SIYO: Yes thank you commissioner. Chairperson that is the
20 conclusion of my submissions here today.

JUDGE: Yes thank you that has been a useful introduction thank you. It has raised a number of interesting questions as well and we were not, we could not expect anything more from you in an introductory sense than you have done thank you.

25 ADV. SIYO: Yes, thank you Chairperson.

ADV. K. PILLAY SC: Thank you Chair we have no further questions for SLSJ.

JUDGE: Well we look forward to your participation if you are able to at a later stage, thank you.

5 ADV. SIYO: Indeed Chairperson thank you.

ADV. K. PILLAY SC: Thank you Chairperson the next presenter is the University of North West and I think if we can just adjourn for five minutes just to give them an opportunity to take their places.

JUDGE: Thank you yes, we will adjourn for five minutes.

10 **HEARING ADJOURNS**

HEARING RESUMES

JUDGE: Ms Pillay?

ADV. K. PILLAY SC: Thank you Chairperson. The last presenters, the last presentation for the day is from the North West University and we have four presenters from the university. The first is Professor Dan
15 Kgwadi, who is the vice Chancellor, we have Ms Elmarie de Beer, who is the Executive Director Finance and faculties, or sorry, facilities. We have Ms Annexe Moolman, who is a senior lecturer, and we have got Ms Lerike Jacobs, who is a senior lecturer as well. That is over to you Professor Kgwadi.

20 JUDGE: Thank you. Are you all four going to do the presentation, or is one of you simply going to lead it?

PROF. KGWADI: All four, as there are different parts of the presentation.

JUDGE: Alright, thank you, if you would like to proceed.

PROF. KGWADI: Thank you Commissioner. What I will do is just to

give you a quick introduction of, just to put the perspective of the North West University in the sector, I will quickly just go through that and I will take the information as submitted to you also as read, Commissioner. I am just, on the first slide there we are just giving you the size of the

5 North West University, in terms of student numbers, we are looking at about 72000 student, making us almost the second largest university in the country.

JUDGE: How many did you say?

PROF. KGWADI: 72000.

10 JUDGE: Good heavens.

PROF. KGWADI: And of the 72000, Commissioner, 40000 of those are contact students whilst 32000 are distant students. So that is the situation as it is there, Chair. And the slide that we also presented there to you Chair, was just to also indicate our research output, you see how

15 the university has been performing from 2013 until present, and the next also will be the slide on staff members where ...[intervenes]

JUDGE: I am sorry to interrupt you. When you speak about distant students, do you mean that these are correspondent students as Unisa?

PROF. KGWADI: I would say, yes.

20 JUDGE: Thank you.

PROF. KGWADI: And with regard to staff there, Commissioner, you will see we are currently about almost 4000 staff members, there is 3870 some, and in terms of research you will see how we have been performing in terms of the graph there, since 2006 until 2015, the graph

will show a very good steady increase in our research output, and you will see how we have been performing in terms of articles, conference, proceedings and books. So there has been a very good steady growth for the university.

5 The next graph, Chair, is just trying to show you where we are and how we perform relative to the sector. In terms of research output we are basically part of the top seven universities in the country and this is as far as the last audited figures of 2014.

 The next graph there, Commissioner, is just to show you our
10 research output, you know per institution, and also how we, in terms of percentage how we compare with other universities in the sector. So there is a good contribution that we are actually making as far as the core business and how productive we are as a university at the moment. That is, I think ...[intervenes]

15 JUDGE: Sorry, can I just locate you, you are the bright red, are you not? Yes, yes, I see. Thank you.

PROF. KGWADI: Did you manage to find us Commissioner?

JUDGE: Yes, thank you.

PROF. KGWADI: That is enough, I think. That is just the context we
20 wanted to bring of this university presenting before you here, Commissioner, and we can now go on to the details of ...[intervenes]

JUDGE: Before you go on to the impact of subsidy and the next round of presentation. In your staff we have heard submissions or representations about academic staff versus admin staff.

PROF. KGWADI: That is right.

JUDGE: If you can give us the percentage differentiation, if any?

PROF. KGWADI: Yes.

JUDGE: And then what impact, if any, did any mergers from the time of
5 2005 to now had on that staff ratio as to student academic ratio as well
as your administrative staff that you had brought in from other centres
that you had merged with?

MS DE BEER: It is about 1 to 2 ...[intervenes]

PROF. KGWADI: Can you take that?

10 MS DE BEER: Okay.

PROF. KGWADI: Ja, I will ask Elmarie to take that one quickly.

MS DE BEER: Through you Chairperson, the ratio between academic
staff and support staff, is about 1 to 2. For every one academic staff
member there will be two support staff members. With regard to the
15 question after the merger. After the merger the student/staff ratio did not
change dramatically, because you must understand that it was a full-
blown university that we merged with. And because of the geographical
challenges that we have, the two campuses are about 300 kilometres
apart from each other there were not much change with regard to the
20 student/staff ratio.

JUDGE: Sorry, which university did you merge with?

PROF. KGWADI: The universities that merged with the previous
University of the North West based in Mafikeng, or the old University of
Bophuthatswana so to say, and the Potchefstroom University for Higher

Education, and then we did of course take some aspect of the old Vista campus that was based here in Vanderbijl.

JUDGE: Yes thank you?

MS DE BEER: Thank you Chairperson, I am Elmarie de Beer, executive
5 Director finance and Facilities. I am going to give you a bit of
background with regard to our finances for our university, so that you
also understand the context where we are coming from, and why we
propose what we propose. If you look at our income mix, you will see
there were a steady decline in subsidy over the last number of years and
10 it was then replaced by a steady increase in tuition fees. The increase in
tuition fees is a mix of annual inflation related increases, but also growth.
So it is not only annual increases, but it is also with regard to growth.
That increase there.

Having said that though, while the tuition fees increased as a
15 source of income, so did the bursaries. So bursaries are a mix of NWU
funded, North West University funded bursaries, NSFAS funded and also
external funders. You will see the three different sources there, that is
the make-up. So we can therefore clearly see that it was not only an
increase in fees, but also a significant effort to subsidise the fees by
20 means of bursaries.

For our university ...[intervenes]

JUDGE: Might I just ask, by bursaries do you mean bursaries which are repayable, or are these out-and-out gifts?

MS DE BEER: No, it is bursaries, it is not a loan. So it is not repayable,
25 apart from the NSFAS portion, that the portion of that will be refundable

as an NSFAS loan. But with regard to external bursaries, funded bursaries, and our own internal funded bursaries, it was a bursary, not a loan. Okay. If we then ...[intervenes]

FEMALE SPEAKER: Just a question. On the previous slide, which one
5 is funds and which one is total? The blue looks the same?

MS DE BEER: The total will be the purple one on top, that is the three added.

FEMALE SPEAKER: Okay.

MS DE BEER: Ja, okay. If we then look, express our bursaries as a
10 percentage of both, tuition and residence fees you will see that NWU managed to cover close to 60 percent on average of all fees since 2009 until 2014. Now we would like to do a case study for the sector as well with regard to this ratio. I think that would be very interesting if you see for us, 60 percent of tuition fees and residence fees are covered by
15 these bursaries.

So for NWU, we had to ask the question whether the 0 percent fee increase for 2016 was indeed a financially sound decision, since only 40 percent not covered by bursaries actually benefited by the 0 percent fee increase. But we recognise the fact that finances ...[intervenes]

20 FEMALE SPEAKER: Just on the 40 percent, what is the demographic of their financial situation, that 40 percent?

MS DE BEER: I do not have that analyses with me. I can get it and send it on to the commission if you want me to. I can do that. Okay. So ...[intervenes]

JUDGE: I take it that MC is Mafikeng Campus?

MS DE BEER: Yes. That is our three campus ...[intervenes]

JUDGE: And PC is Potchefstroom and ...[intervenes]

MS DE BEER: And Vaal.

5 JUDGE: And Vaal, yes, thank you.

MS DE BEER: Ja, ja, so although we did question the financial soundness of the 0 percent fee increase we also recognise the fact that finances was not the only factor that was taken into consideration when the decision was made.

10 I take the slide as read. But that is just to indicate what we put in place to make sure that students can register, to assist them as far as possible, and all these assistants was towards not making a first payment. So whether you have proof of a bursary, or a finance by a bank loan or edu-loan or real-pay instalments, that is all that we put in
15 place to ensure that students can come and register without having the first payment ready.

That is what we have done now for the registrations now in 2016. There you can see it continue. We considered individual student cases, there were a committee that looked after the motivations, that took into
20 consideration academic performance. If there were only a few modules outstanding before the completion of the degree, needy students that qualify for merit bursaries that would cover the first payments and so forth.

So we really did extensively put measures in place to make sure

that as many students can register at the beginning of this year, and we are very glad to say that our registration process went very well. NSFAS, the additional funding for the first entrance make a huge contribution towards the success of the registration period. The only

5 ...[intervenes]

JUDGE: So how many bad debts do you have in relation to the registration fee?

MS DE BEER: I will - it is in the slides, I will come to the bad debts. So

...[intervenes]

10 JUDGE: Ms de Beer, just before you continue. You will have heard from SLSJ in respect of application fees, can you tell us what your situation is at North West, whether there is an application fee or, as the question was posed by my fellow Commissioner, whether there is a central system that deals with Applications. How does it work in your

15 university.

MS DE BEER: Chairperson, through you, we do charge an application fee. It is R150.00 per student. It is managed per campus. It is purely because of geographical reasons, at the central point per campus.

JUDGE: And how is this R150.00, what is the purpose of the R150.00?

20 Is it merely an admin fee to pay the person that is capturing the data, or what is the purpose of that application fee?

MS DE BEER: It is merely an administration fee. Okay, as I indicated, NSFAS did contribute to our registration period at the beginning of the year. The only concern is that we have not received any funding with

25 regard to the first entrance yet, and it is already August. So that is a

huge concern for us.

JUDGE: How can this be?

MS DE BEER: With regard to the additional funding for first entrance, we have not received any payment yet.

5 JUDGE: When did you submit a claim?

MS DE BEER: At the due dates, in February, and we followed up and so forth and the answer that we got from NSFAS is that they are waiting for the money from the Department of higher Education and Training. So ...[intervenes]

10 JUDGE: No, I am sorry. What would the - what would the amount of your claim be?

MS DE BEER: I think it was close to R100 million.

JUDGE: R100 million is small in the bigger picture.

MS DE BEER: Ja. Maybe for 26 universities. For one fish in the sea it
15 is a lot of money.

JUDGE: No that I understand. But in the bigger NSFAS picture it is small.

MS DE BEER: Ja. They did not, NSFAS indicated that they did not get the allocation yet.

20 JUDGE: Have they indicated to you when they are likely to have this allocation?

MS DE BEER: Unfortunately not.

FEMALE SPEAKER: And the impact of the non-payment on the university and its finances?

MS DE BEER: We need to stand in, in terms of cash-flow. We had to provide students with books and accommodation fees and also meal fees, because it will be unethical to register the student and then leave him in the cold.

5 FEMALE SPEAKER: So all the students that qualified for NSFAS funding have been taken care of. I mean they have been accommodated and they have been given allowances, etcetera?

MS DE BEER: As far as the enrolment allowed. So we did not over-enrol. But we enrolled until we complied with our enrolment target.

10 JUDGE: Might I ask you, is this delayed payment by NSFAS common? Does it happen every year?

MS DE BEER: It was, in the past it was a normal thing that we received payments late. It did improve significantly after the last few years. With regard to the current allocation that they indicated before the additional
15 allocation, we received it in time, and we are very happy with that. It is only with regard to the first entrance, additional funding that was announced by the minister, and they did not get the allocation as yet, to distribute it to the universities ...[intervenes]

JUDGE: And do you know whether this is a shortcoming which is
20 suffered by all your fellow universities?

MS DE BEER: I can confirm that, yes Chairperson.

JUDGE: Yes?

MS DE BEER: Okay now also, just to put this slide into perspective. We prepared a break-even budget on a cash flow basis. Now here we

indicate that apart from the subsidisation from bursaries, we also cross-subsidise expenses by means of external funding and investment income.

There you will see the shortfall after the 0 percent fee increase
5 was about R200 million on income stream [1], that is tuition and subsidy fees, and it was cross-subsidised by income stream 3 and 5, which is external funding and also income stream 4, which is investment income. So apart from the subsidisation of fees by means of bursaries, we also have subsidisation of costs by means of external funding and investment
10 income.

FEMALE SPEAKER: Sorry Ms de Beer, if I could just ask you just to explain your income streams, again, because it is different from the usual that we understand, the three income streams?

MS DE BEER: Okay, income stream 1 will be tuition fee income and
15 subsidy income from the Department of Higher Education. Income stream 2 is a government funded research. Income stream 3 is external funding, that is by means of consultation fees, things like that. Income stream 5, also external funding, but it is foreign income, so it is not from South Africa. Then income stream 4 is investment income.

20 Okay. This is just to show the impact of the 0 percent fee increase. The impact on North West University, we had a shortfall of about R40 million on tuition fees after the 0 percent free increase that we had to stand in for. 75 percent was covered by the Department of Higher Education. If we then work from the assumption ...[intervenes]

25 JUDGE: 75 percent of the R45 million?

MS DE BEER: 75 percent were covered.

JUDGE: Of what?

MS DE BEER: Of this total shortfall of R178 million. So we had to stand in for the difference. If we then work with the assumption, it is just a
5 scenario, that we can increase fees for 2017 and 18 with 9.5 percent -
and I do not believe is possible, and we had phased in premiums. If we
cannot continue to implement those and we get no further subsidisation
from the Department, over the three years we will have a shortfall of
R222 million with regard to our original annual performance plan.

10 So that is just the significance of a 0 percent fee increase again.

JUDGE: So what are you doing in order to offset that?

MS DE BEER: Currently we are building three scenarios. One that we
call the high-road scenario. That is if we can actually increase fees with
the higher education inflation related increase. We have a middle-road
15 scenario, that will be a CPI related increase and then a very low-road
scenario, that will be a 0 percent fee increase. The very low-road
scenario will have huge implications. It will most probably include things
like retrenchments, quality will suffer, and so forth.

FEMALE SPEAKER: Ms de Beer, can I just understand, the scenarios
20 that you have just taken us through, are those in your presentation?

MS DE BEER: No, that is just what we are working for next year, as
part of our budget process.

FEMALE SPEAKER: Alright, but you have not put those scenarios
before the commission?

MS DE BEER: No we did not, I just mentioned it.

FEMALE SPEAKER: Okay, are those available? Can we get copies of the different scenarios?

MS DE BEER: It is still work in progress, but it will be finalised in
5 October this year. Okay. With regards to bad debts, Chairperson, that
you touched on. Since the announcement in October last year and the
expectation that was created in the sector of fee-free education our bad
debts increased significantly. You will there see bad debts as a
percentage of our tuition fees increased from the original 2.8 percent that
10 we provided to 4.8 percent immediately, within a few months.

JUDGE: Now to what do you attribute that?

MS DE BEER: I think it is the expectation of a fee-free education. And
we got messages like, should I now pay if it is going to be free one of
these days.

15 JUDGE: It is like the toll roads.

MS DE BEER: Ja.

JUDGE: Yes, carry on.

MS DE BEER: Okay, then just to indicate to you, the budgeted income
mix, if you take 2015 and 16, and you do a projection for 2017 to 18, if
20 there is no change in the funding framework you will see a steady
decline in subsidy again and a steady increase in tuition fees again. So
we will be on the same road. So therefore change is definitely needed.
The need for change is most probably the one positive aspect of all that
happened in this sector since October last year.

So what we are going to present to the commission, is the concept that fee-free education is not viable for South Africa, and that we should rather look at subsidised education. Subsidised education meaning not only with regard to fees, but the total cost for a student to attend a higher
5 education institution.

JUDGE: Well before you get there, how do you understand fee-free education?

MS DE BEER: Fee-free education, we understand it as no tuition fees will be charged. But what we present is to steer away from tuition fees
10 and fee-free with regard to tuition fees, and rather talk about a subsidised higher education ... [intervenes]

JUDGE: I hear what you say, but I am trying to understand. Is the finance provided by NSFAS fee-free or not?

MS DE BEER: No, it is a subsidy.

15 JUDGE: You call that a subsidy?

MS DE BEER: Yes.

JUDGE: I see. It is fee-free while the student is at university. So as far as you are concerned it is fee-free?

MS DE BEER: I believe nothing is free. Somebody else is paying for it,
20 so it is subsidised.

JUDGE: That may be, yes. But as far as the student is concerned, it is fee-free while he is at university?

MS DE BEER: Ja, but what we propose is that we should not go the route of free-free, but rather towards the road of subsidised education.

While the student is at the university it will be fee-free, but there will be a portion that is repayable in terms of a loan, and that is what we want to present to the commission today.

JUDGE: Is this now something different from the NSFAS model?

5 MS DE BEER: It is linked to the NSFAS model. It is a revised NSFAS model.

JUDGE: Alright.

MS DE BEER: Okay Chairperson, if I can introduce Annexe Moolman, the senior lecturer, to take us forward.

10 JUDGE: Just a moment, please. Yes, thank you Ms Moolman?

MS MOOLMAN: Chairperson, if you allow me, I would like to start off with a quote by Nelson Mandela, and he once said: *“Overcoming poverty is not a task of charity, it is an act of justice. Like slavery and apartheid poverty is not natural. It is manmade and it can be overcome and eradicated by the actions of human beings. Sometimes it falls on a generation to be great. You can be that great generation. So let your greatness blossom.*

15

I think that was the starting point of this whole problem that South Africa is currently sitting with. We are faced with a high rate of poverty in South Africa, that is linked to the high rate of unemployment, and I think the higher education, contribution that education can give towards unemployment can be very significant.

20

If we just look at table 4 that I presented there, currently the educational level is totally, directly linked with the unemployment rate,

where the population that has got less than a matric, they suffer 29 percent unemployment rate, where people with at least a degree has about a 5 percent unemployment rate, and Steven Kovy says that we should start with the end in mind.

5 That is why I chose to look at the United States of America. They have currently the strongest economy in the world, and when we look at their education level in their population, you will see that it is directly opposite to the case that we have got in South Africa. At the United States of America the population level that has got less than a matric is
10 only 7.9 percent and the people with a degree is 38.8 percent, whereas in South Africa almost 61 percent of the population has got less than matric. Then if you compare ...[intervenes].

JUDGE: Yes, that is after 250 years of democracy. Ours is after 25 years of democracy. So how can you compare the two?

15 MS MOOLMAN: Yes, no, I believe that the two are definitely not comparable, but I do - that is what we should strive towards, and that is going to be a very, very long-term goal.

JUDGE: Alright.

MS MOOLMAN: Yes, thank you. If you compare the two, table 5 and 4
20 that I presented, you will see that the unemployment rate and the education level are definitely directly linked, and that is why on the next line I explained that higher education definitely addresses employment at a high level, and if we can address employment and we have got a quality work-force then definitely we can address the quality of the
25 products and services, and products and services is the only way that

you can generate income, and therefore, if we have got high quality products and services we can generate and improve the economy that we have currently got.

As soon as there is a stronger economy the people will earn more
5 and the people will need to start paying tax, there will be more people that need to pay tax, which will then lead to a bigger tax base at the end of the day. Currently the individuals and corporations amount for almost 60 percent of the South African tax revenue. As soon as we can increase the tax base there will be more distributable funds that
10 government can allocate to different sectors. Including the Higher Education sector.

JUDGE: Ms Moolman, what do you say to people where there, say you have got graduates that are walking the streets, you have got vacancies in departments that cannot be filled whilst there are graduates in the
15 street? And how do you see yourselves bridging that gap. Because from where I am sitting it would mean the education you are giving is not of quality that is needed out there in the industry. How do you address that? And perhaps not directed to what is needed. The quality may be fine, but it is not directed to the need for jobs.

20 MS MOOLMAN: Through you Chairperson, if I can maybe just ask you just to rephrase the question?

JUDGE: Okay. In your scenario or your submission you indicate how employment is linked to graduation and graduates.

MS MOOLMAN: Yes.

25 JUDGE: I am putting the scenario to you that you actually got graduates

in the street and not employed.

MS MOOLMAN: Yes.

JUDGE: So how do you cater for that, and the Chairperson has indicated it might be that it is not the quality but that that, those people
5 you are educating, are not educated in the skill that is needed in the industries out there that need them.

MS MOOLMAN: Yes. If you will allow me, then I would Prof Dan to answer this one.

PROF. KGWADI: Yes. I think you have it right, Commissioner, it is true
10 and though it might be sensitive to also say, you know, we need to consider the weeding out process of type of degrees that you offer at universities. There are some degrees that really would not end up at a job level, and that is the reality that I think we need to really consider. But as I would always say, sometimes there are degrees that are for
15 teaching our students how to kill dinosaurs. That have really long gone extinct. There is academic debate to that as well, should you really just teach a student because he is going to get a job, or it is a knowledge of interest to that particular student.

So perhaps what we need to address is much more of career
20 guidance. To, even if we are to talk about the poor, to really say, and this one you can attribute it to me, it is sensitive to say, can you allow a poor student to pick up any course, without really giving clear career guidance, and as to how that particular program of study can help the student to break the cycle of poverty. I think these are some of the
25 issues that we need to engage in.

MS PILLAY: But Ms Moolman, I understand the submissions you are making to be in the context of both higher education and Tvet colleges. Because it refers to both higher education and training?

MS MOOLMAN: Yes, it does include everything and we have included in
5 our presentation that we would like the whole education sector to be addressed and not only the higher education sector.

JUDGE: Is it your submission that more emphases should be given to Tvet?

MS MOOLMAN: Chairperson, it is included in our proposal that more
10 focus should be given on vocational training and Tvet colleges. You will see later on in the presentation that we, there is a very, very low graduation rate at universities currently, it is only 15 percent, and we submit that a lot of the students at universities currently maybe do not, may not be ready for university and those students can maybe perform
15 and succeed at Tvet colleges rather than at university.

Thank you. If we look at the diagram that I have just added there, I just wanted to highlight that job opportunities is definitely a problem. But I feel that this is an ongoing process, and if we can intervene at any place then we will be able to improve this process, so that we ultimately
20 can improve the economy with the help of more funding to higher education institutions.

The viability of fee-free higher education, we just did a mathematical calculation to see whether this would be viable. We took the 2015 tuition fees and we found that it is anything between
25 R25 000.00 and R64 000.00, and therefore averaged it at about

R45 000.00 and then unfortunately the only available student numbers that we could find was for 2013, which was 983700 students.

Taking those students and the average cost of the tuition fees it will cost government about R44.4 billion to achieve tuition fee every
5 intake.

JUDGE: That is with the existing numbers?

MS MOOLMAN: Yes.

JUDGE: It does not include those who may have been left out for other reasons?

10 MS MOOLMAN: Yes, yes.

JUDGE: Yes alright.

MS PILLAY: And that is per year?

MS MOOLMAN: That is per year. That is per year. So this obviously is based on the 2013 out-dated student numbers. So this excludes the
15 growth objective of the government to increase the student numbers to 1.62 million. It also excludes any funding related to accommodation, to travel, to books, to any of those related fees to students. So that is only the ...[intervenes]

JUDGE: I am sorry. You have a large base of non-resident students?

20 MS MOOLMAN: Yes.

JUDGE: Yes. Does that not lower your costs?

MS MOOLMAN: In the R44.4 billion it is only the tuition fees included.

JUDGE: I see, yes.

MS DE BEER: But Elmarie ...[intervenes]

JUDGE: Yes, I understand.

MS DE BEER: Chairperson, if I may answer? The resident's fees, the way we manages our residences is that they should be financially viable on their own. So the residence fees that we charge cater for the total
5 cost of the residences and that will include micro-maintenance that we do, say every 10 to 15 years on those residences. So it does not affect, the cost of the residences does not affect the tuition fee.

JUDGE: Do your bursaries include the cost of accommodation in residences?

10 MS DE BEER: It does.

JUDGE: Any anything above that? I mean transport or books or computers or ...[intervenes]

MS DE BEER: The internal funded bursaries, NWU bursaries will not cater for books and meals necessarily. But there are instances, if a
15 student receive a merit bursary it may contribute to those costs as well. But as a standard general principle the bursary will cater for the accommodation in the residences and also the tuition fee.

JUDGE: But not the meals in the residences?

MS DE BEER: There is a fee to be paid. Some of the bursaries will
20 cover for the meals as well.

JUDGE: I see.

MS DE BEER: So there is a combination. It depends on the student that we are, we have in front of us.

JUDGE: I see. And the NSFAS moneys that you get in? Do they, does

that cater for student fees, accommodation, books, transport
...[intervenes]

MS DE BEER: And means.

JUDGE: All of those things?

5 MS DE BEER: And meals.

JUDGE: And meals?

MS DE BEER: And meals, ja. But not for computers. The way we
handle it is, we have got computer labs on the campuses that are
available to the students and they can sit in those labs and have access

10 ...[intervenes]

JUDGE: Sort of an internet café on the campus?

MS DE BEER: Ja, it is more sophisticated than that, but yes.

JUDGE: I see. So there is no student on the campus who does not
have access to electronic facilities?

15 MS DE BEER: No, no.

JUDGE: Yes, thank you.

MS MOOLMAN: Chairperson, table 1 is ...[intervenes]

JUDGE: Sorry, we were talking about it costing the government at least
R44.4 billion to achieve a tuition free education?

20 MS MOOLMAN: Yes.

JUDGE: That appears to me to be a great deal less than some of the
other figures that we have heard mentioned in this commission?

MS MOOLMAN: This is only towards the tuition fees and it is based on
out-dated numbers. So I also think that this is much bigger than the

R44.4 billion. On the next table we have expanded the figure just to include the NSFAS portion that is given to accommodation, meals, books and travel. So this is only for the students that currently qualify for NSFAS funding that has been added. That is another R3.3 billion, and
5 then the other earmarked grants that is received from the government to the universities is the 2.43, the 1.63 and the 2.23 billion and the total is then R54 billion.

So this is still based on 983000 students, and currently the government provides funding of about R36.86 billion to universities, and
10 that just means that there is a current minimum shortfall of just over R17 billion. The money basically, it has to come from somewhere, and if we would like to increase the funding, we can look at the percentage that government currently contributes of the percentage of the GDP, and currently that is 0.9 percent. So that just means that the economy needs
15 to grow by R1.9 trillion to sustain this free higher education. So again this is just for fees and it is related to the old numbers of the students.

If we look at the reality of South Africa's economy currently. South Africa's economy degrees by 1.2 percent in the first quarter of 2016, and the question that we submit is that nothing is free. So the question is
20 just, who is going to pay for the fee-free education ...[intervenes]

MS PILLAY: Can I, may I just ask a question about the previous slide, the one with the table, the viability slide?

MS DE BEER: Yes?

MS PILLAY: Can I just understand the first line, the tuition fees, the one
25 that has got the assumption based on the 2013 numbers, is that meant

to replace the block-ground funding amount?

MS DE BEER: [Inaudible].

MS PILLAY: Because I see you have made provision for earmarked funding, earmark grounds.

- 5 MS DE BEER: [Inaudible]. That is only in addition to the block grant. So we take it from the block grant will increase with higher education inflation, but that is in addition to the block grant.

MS PILLAY: So in other words, what is missing here is block ground funding plus higher education inflation and then all of this?

- 10 MS DE BEER: Exactly, ja.

MS PILLAY: Alright.

JUDGE: Now the infrastructure development and replacement costs, would that come out of the block grant?

MS DE BEER: No, that is an earmarked grant.

- 15 JUDGE: It is an earmark grant?

MS DE BEER: Ja.

JUDGE: Do you mean to say that you only get the R2.43 million for that purpose?

MS DE BEER: Ja for our, that is for the sector, it is not for our university.

- 20 It is billion.

JUDGE: A billion, I beg your pardon.

MS DE BEER: Ja.

JUDGE: What does your university spend on infrastructure per year, roughly? Both new and renovated?

MS DE BEER: It is about - it is now very roughly, from the top of my head, I think it is about 6 to 10 percent of our turnover, which is R4 billion at this stage.

JUDGE: Sorry, is the turnover R4 billion?

5 MS DE BEER: Ja, but it is not a once-off each year. What we normally do is, it is a planned expenditure. So we build up available reserves for that, and then we will invest in infrastructure once we have enough money.

JUDGE: I see. Alright.

10 MS MOOLMAN: Thank you Chairperson. So someone has to pay for the so-called fee-free education. So it can maybe be allocated, re-allocated from other sectors, but the problem is, the other sectors also desperately require the funding from government, and that can really have bad repercussions. It can also be allocated from the tax payers, or
15 we can introduce a graduate tax. But the problem with that is that the current tax payers are already over burdened ...[intervenes]

JUDGE: Well are they?

MS MOOLMAN: Yes.

JUDGE: Depends who you are talking about.

20 MS MOOLMAN: It does. It is an opinion. But ...[intervenes]

JUDGE: Depends on what sector of the tax-payers you are talking about.

MS MOOLMAN: Are you referring to the tax scales?

JUDGE: I am saying, a man who earns R40 million a year may not feel

in the least over burdened, and I am sure he does not.

MS MOOLMAN: Yes, yes, Chairperson, I do agree. But they
...[intervenes]

JUDGE: And the man who earns R500 000.00 a year will feel a great
5 deal more burdened.

MS MOOLMAN: Yes, yes, I agree Chairperson. But they are the
minority in the country.

JUDGE: They are the minority, but they are the minority with the
substantial wallet.

10 MS MOOLMAN: Yes, and they will not need the fee-free education.
The whole presentation that we would like to present to you is focussed
on obviously the poor and then addressing the missing middle gap.

JUDGE: Yes, but I am looking to the people who are going to find their
spending reduced and the economy weakened, and whether they were
15 really be materially affected by all this.

MS MOOLMAN: Chairperson, if you will allow me, I think the whole
thing, and Lerike will also discuss our limitations to the study, due to a
confidentiality we could not get all of the figures from SARS to see who
is in what bracket and who earns what amount in South Africa. So there
20 might be a few 100 people in South Africa that really will be able to
contribute substantially and I ...[intervenes]

JUDGE: I am disappointed that you should think that the numbers are
only a few 100. However.

MS MOOLMAN: Chairperson, yes, thank you. Maybe a few hundred for

the ones earning millions plus. It just depends on the tax payers and we do not have all of the information for that.

JUDGE: I understand,.

MS MOOLMAN: But the majority, and that is what we focussed on, was
5 to see how does the majority of the tax payers feel currently, and in
general the tax payers do feel overburdened and that they will be paying
for somebody else's education. But then if we further reduce the
spending of the general spending of the tax-payer then that will obviously
lead to a weakened economy which can shrink that process that are
10 referred to in the first graph.

The government basically has got a said amount of funding available that they can distribute to the different sectors. So the funding that will be distributed to the different sectors, including the higher education will only be determined by the priorities set by government and
15 we, as a university, feel that fee-free higher education is not viable in
South Africa, and what about fee-free education for the poor. I definitely
think that this is a big problem in the country, but we feel that the missing
middle is also a problem that needs to be addressed.

JUDGE: Well that at least, in this you are showing common cause with
20 everybody else here. Yes?

MS MOOLMAN: Thank you chairperson.

JUDGE: And so where do we go from there?

MS PILLAY: And what is your submission on how do we identify the poor and the missing middle?

MS MOOLMAN: Yes, Lerike is going to expand on the proposal that we have set forth for the missing middle.

Next, just quickly about the governmental objectives for the higher education institutions. The objectives includes substantial growth in the enrolments currently at universities. By 2030 they would like to see about 1.62 million students at universities and would like to see that doctoral qualified staff increase to about 75 percent, and the annual enrolments for doctoral students to also triple, almost triple to 5000 students, and basically that is going to put a lot of pressure on the higher education institutions in terms of infrastructure and the administrative systems to handle that amount of students.

We would also then, we need to place emphasis on recruiting and training and retaining high quality higher education staff. So all of that will definitely require significant funds from the higher education institutions. On top of the growing enrolment government also would like to see improved quality education, but also innovation through research. Which we feel is awesome goals and it is very, very well presented objectives to reach towards, but it is going to require significant funds.

Further pressure that is put on universities is the law graduation rate, as I said earlier South Africa only has a 15 percent graduation or a throughput rate, the students that enrol, only 15 percent of them graduate at the end of the day, and comparing that to the international norm of 25 percent it is substantially lower.

The problem, and that is where I would like to lead ...[intervenes]

COMMISSIONER ALLY: What does North West University think the

reason for that 15 percent is?

MS MOOLMAN: Through you Commissioner, from what we found is that a lot of the students are not prepared for universities and we really find that the schooling system has got a big impact on the first-year students,
5 the entrance into the university.

COMMISSIONER ALLY: And the quality of lecturers, there is no blame to be placed on universities themselves either?

MS MOOLMAN: I would, Commissioner, never say never, definitely. But I think that is, it is going to be hard to pinpoint. But definitely there is a
10 lot of control at university to oversee the quality of the staff. So although that might be part of the problem I do not foresee that that will be the biggest part of the problem.

JUDGE: Well the next question, flowing from what my brother says there is, what are, what is the North West university doing about improving this
15 15 percent rate?

PROF. KGWADI: Ja, we have got a lot of intervention programs, Chair. Firstly of saying for the students that are not well-prepared for degrees, in the interest of improving access we do admit them into what we call, extended programs. So instead of a three-year they would go on a four-
20 year degree. So that on its own addresses the issue of access. Because we do not want to ...[intervenes]

JUDGE: Are these successful programs?

PROF. KGWADI: Very successful.

JUDGE: They are?

PROF. KGWADI: They are very successful. I think, actually we [inaudible] the figures ...[intervenes]

JUDGE: So then why is there still a low graduation rate if they are very successful.

5 PROF. KGWADI: Yes, that is why I said - then there are also the drop-out rates that is due to financial reasons. That we cannot leave out of the picture. That finances do leave some of our students having to drop out from first year. But then those students do not necessarily like to go on an extended program. Even those that you might recommend for the
10 extended program, though they qualified for the three-year degree program, they would still want to insist on going on a three-year degree, and as a result end up then taking a little longer in the system. That is just the nature of students.

But we do have intervention programs that we need to keep on
15 improving and then see how we can get those figures.

JUDGE: A large number of NSFAS students drop out?

PROF. KGWADI: Oh yes.

JUDGE: Or do not graduate?

PROF. KGWADI: That is right.

20 JUDGE: Why is that, and what are you doing about that?

PROF. KGWADI: The preparedness and career guidance, Chair, I must tell you, this is very serious. We realise that a student ends up coming to a program just because he do not want to see himself at home, and he goes into the next available program. He want to study for BA in

Anthropology, when he does not even know what it is all about. Then later on he realise halfway this is not me.

Career guidance is very important, and I think we have got to take, pick up this a lot earlier to avoid this drop-out because of ill-informed
5 careers.

JUDGE: But do you not think that more intervention is needed from universities at the initial stage, to say, we do not think A, you are university material, or B that you have chosen a course which is going to help you now or in your future life, or C, your results simply are not good
10 enough?

PROF. KGWADI: The results may be good, but a student enters a career that from the face-value the results are good enough to enter into that program. But whether the student is suitable, that is a career fit for that student, is something that has to be determined a lot earlier than at
15 the entry point of the university.

JUDGE: What are you doing about that? Have you got career guidance [inaudible]?

PROF. KGWADI: Yes, yes we do. But what I still want to insist is too late already at that stage. This must start at basic education, the school
20 level must address this, to avoid this unfortunate situation at the university level.

FEMALE SPEAKER: Prof, what is the numeracy rate of [inaudible] percent of grade 9 pupils is it [inaudible] where does that come from?

MS DE BEER: We found it - it was in Stats SA, that is where we got the
25 information from.

FEMALE SPEAKER: And it is like that? It is that, or does it fluctuate, or?

MS DE BEER: That is currently the numeracy rate of the grade 9.

JUDGE: I am not sure what a numeracy rate of 9 percent means, of 11
5 percent mean? What does it mean? That 11 percent can count up to 10, or what does it mean?

MS DE BEER: I think it is in terms of the government exam that they write. Because at the end of grade 9 all scholars has to write a test that is the same throughout the country, and they base it on that test.

10 JUDGE: That means that these people are obviously not persons who can go into a university degree involving maths or science, I would assume?

MS DE BEER: Chairperson, yes.

JUDGE: Do you let them into maths or science notwithstanding?

15 MS DE BEER: Just repeat, sorry?

JUDGE: Do you let such people into courses involving maths and science?

MS DE BEER: No. definitely the university has got the prerequisites that they have to meet. We just say that the schooling is a big problem.
20 But those students will definitely not be allowed into university, because they would not have the required ...[intervenes]

JUDGE: Then it should not have a significant impact on what they do at university, because they are not doing courses which involved numeracy.

MS DE BEER: Chairperson, we can just add here that the targets from

the department with regard to set students, we can actually not meet them. There are not enough students in the system to meet the said targets, to have enough students to qualify in the said directions.

JUDGE: Just give me an example, please?

5 MS DE BEER: If the numeracy rate of the scholars are so low and the prerequisite to enter a said program at the university exclude them then they will be defaulted back to other programs.

JUDGE: Then they would not get into it. Yes, that is right. So? But then they would not have the problem with numeracy, and so that should
10 not hinder them in the course of their university studies?

MS DE BEER: Ja. You will also see that we argue in our submission that the school system is actually failing us. It is the poor quality of the student, on face value if they get their results from the schooling system they do qualify for the university but then ...[intervenes]

15 JUDGE: Oh, now you are coming to it.

MS DE BEER: Ja, so we argue that the school system is actually failing us and putting students through to ...[intervenes]

JUDGE: So you say the standards are bogus?

MS MOOLMAN: The standards - sorry, just say again?

20 JUDGE: The standards are bogus? They are false standards that the schools are issuing?

MS DE BEER: I do not want to say people are issuing false results or anything like that. But the quality ...[intervenes]

JUDGE: Misleading?

MS DE BEER: The quality of the schooling system, I do not think much, the requirements of going to a university. So that ...[intervenes]

JUDGE: But nevertheless you accept these at face value?

MS DE BEER: Can we then tell a student you do have the, you do meet
5 the requirements but we do not think you are suitable?

JUDGE: Well you do think they are not suitable, do you not?

MS DE BEER: Yes, we are. So that is why we say, you should also start at the schooling system to improve that. That will also alleviate the problems that we experience at the higher education level.

10 JUDGE: Well I find this a bit sad that you know that they had no runs on the ladder, but you still allow that student to climb the ladder.

MS DE BEER: With respect, Commissioner, if that is the requirements and they come with the certificate to us, who am us, or any university then to say we do not believe in your results?

15 MALE SPEAKER: Okay, let us try ...[intervenes]

JUDGE: But the whole thing is based on a false premise then, that you are having students, that you are bringing students into the system who can meet the requirements and are likely to qualify, when you know perfectly well they are not going to?

20 ADV. K. PILLAY SC: Ms De Beer, is there not a transformation imperative that needs to be taken into account as well, which may, in itself, place a further obligations on universities that we need to take into account. That by enlarge the kind of students who would be primarily NSFAS students are black students and that there is a need for

universities to introduce those students to certain fields of study, to admit those students into certain fields of study?

PROF. KGWADI: Chair, I think it is really a fact that when you consider a typical township graduate, student, with a student that comes from a
5 Model C school. Firstly, just the reading and writing literacy level is just completely different.

JUDGE: Ja, I know, I appreciate that. That, to some extent, you can amend by having the - what are these programs called where you prepare them for a year as well?

10 PROF. KGWADI: Yes.

JUDGE: And you are doing that, I know.

PROF. KGWADI: We are doing that.

JUDGE: Good. But there must be a group which you should be saying are better suited to Tvet?

15 PROF. KGWADI: Of course.

JUDGE: And do you in fact send people away on that basis when they come?

PROF. KGWADI: We do. We do send them away. But I think what we need to do is, just to get students being able to identify their capacity,
20 their ability better. So instead of us forcing them through the university channel the rhetoric, I mean the narrative must change out there, so that we can actually look at Tvet, and this is part of our submission to say, we have got about one third of the students in universities, in the sector, who really do not belong there, and they could actually belonging to Tvet

colleges.

COMMISSIONER ALLY: If you go back in the chain, what input do you have at your particular level and your colleagues in the other universities into the basic education system. You say advocational guidance in the schooling system is failing. You know that. What then is being done on your level with regards to that? Because the Chairperson is putting to you that you know X does not qualify for the course that he has applied for, he qualifies ...[intervenes]

JUDGE: He qualifies [inaudible] substance.

10 COMMISSIONER ALLY: Correct, and yet, you still allow it. Is it 1 for the reason that you need a certain number of students at your university, or one of the reasons is constitutional in nature in the sense that the person presents you with the qualification and has the entrance requirements and you feel obligated therefore to allow the person to do the course
15 irrespective.

FEMALE SPEAKER: Just before you respond Prof, can I just ask, do you have a way, other than the results that you have in front of you, to assess the capability of a student before you admit them? Or you only see the child, once it is with you, that this child possibly did not have this
20 and then you introduce measures? Is that what happen?

PROF. KGWADI: Ja, we really do not have entrance exams for most courses.

FEMALE SPEAKER: So you only rely on what is prima facie?

PROF. KGWADI: We rely on the point system and then on the results.

FEMALE SPEAKER: Yes, no, I think that is fine. But I think maybe in the next submissions we will get something to the effect that what systems are there to assist that schooling gap between varsity and [inaudible], and that becomes part of our submissions.

5 PROF. KGWADI: Okay.

FEMALE SPEAKER: Thanks Prof.

MS PILLAY: And also Prof, how those transformation initiatives are being funded, and how that funding inter-relates to the demand for fee-free higher education and training.

10 PROF. KGWADI: Okay, thanks.

MS DE BEER: Chairperson, just to add to the initiatives that we take at the university, like Prof Dan said, the extended programs that we got, we also have SI student intuition that they basically assist the students with extra classes, and then from our school of accounting we have a Fazile
15 Dabe[?] project, where we take on the teachers, and some of the students as well, in the whole district of Fazile Dabe, and we give them extra classes on Saturdays and that we see as our community service, and that is specifically for accounting, and we found a lot of success in that, in the previous year they were number 1 in accounting in the
20 country.

JUDGE: And do you succeed in getting them into firms eventually?

MS DE BEER: Some of them do not decide to become accountants at the end of the day, but some of them do come to our university. This is a new project that we have started. It has only been run for two years
25 now, we are busy with the third year. So there is no - we cannot prove

the success in terms of going, getting them into accounting firms yet.
But we are focussing on that.

JUDGE: Thank you.

MS JACOBS: And then just to look at the Higher Education's funding. If
5 you compare 2000 to 2012, you will see that the ratio of, proportion of
student fees have increased quite substantially between 2000 and 2012,
and the government funding has decreased from 49 percent to 40
percent as a proportion of total university income, and that is why
universities were forced to increase the student fees with abnormal
10 rates. The student numbers also increased quite substantially, by 70
percent during the past 14, 15 years, and the total state finance for
universities as a proportion of GDP increased by only 25.4 percent.

The total state finance for universities as a proportion of total
state expenditure decreased by 9.8 percent for the same period. So
15 basically what we are submitting is that the real-term government
funding per student has significantly decreased, and that is also
displayed in graph 1 where the top line is basically the increase in
university fees from 2009 to 2013, and then the increase in the total
subsidy per student you will see is, especially in some years, quite
20 substantially lower than the increase in the university fees, That is on an
annual rate, so compounded that will definitely have a severe impact on
universities.

Table 3 then also presents the annual increase rate in cost of
education, and as you can see, it was as high as 9.3 percent in 2015,
25 and when we compare that to the average inflation rate of South Africa it

is, we can really understand the frustration of the students and/or the student's parents that need to pay this abnormal rate, increase that is levied by the universities.

But when we look at the internal inflation rate of North West
5 University for example you will see that that is also quite higher than the
average inflation rate of South Africa and if we take 2015 as an example
where the internal inflation rate was 9.25 percent in comparison with the
average inflation rate of 4.51 percent, the reason is just that the cost at
University was so much higher than the inflation rate or the increases in
10 the cost, the computer costs for example the software and the hardware
increased by 20 percent in that particular year mainly because of that the
hardware and the software needs to be imported and the South African
rand is not very strong at this moment. Books also increased by 11
percent, cleaning costs by 10 percent so it is much higher than the
15 average rate of inflation.

JUDGE: Is there a move to replace books with online material?

MS JACOBS: Commissioner yes definitely and our University is also
busy with a lot of initiative projects where we are also replacing the study
guides with e-guides for example and were trying to make as much as
20 possible in available in an electronic format. Okay and then lastly I
would just like to conclude to say that the process that we proposed a bit
earlier if we just focus on the improved education levels of the
population, as we said it starts at schools but not only schools, also
focus on Tvet colleges and vocational training because we really also
25 need the higher skilled or the semi-skilled workers in the workforce as

well that is properly qualified and that will also reduce the cost of graduates for University's if we can improve the schooling system and focus on the Tvet colleges. And with regards to the funding that higher education institutions require unfortunately there is a bit of a leakage in
5 the tax pool that is distributed ...[intervenes]

JUDGE: We need more plumbers for that.

MS JACOBS: We do commissioner. The main leakages that we have identified is corruption and inefficiencies, in 2009 the government corruption totalled R70 billion and then an estimate of about 20 percent
10 of the GDP is lost to corruption annually so if we can address that problem then there will be a lot of more distributable funds for sectors including the higher education sector.

JUDGE: But that is whistling at the wind, you have no control over that that all.

15 MS JACOBS: Commissioner if I can state and I feel in a way that if we have an increased level of qualified people in the workforce and in the country, it also addresses the self, the proudness of the, the pride of people and maybe it will have an effect on the corruption, I hope so.

JUDGE: Yes it may but it is likely to be very long process.

20 MS JACOBS: Most definitely.

JUDGE: Yes.

MS JACOBS: We have just identified that that is something that definitely needs to be addressed and secondly the inefficiencies as well and just as an example the Seta funds that currently is available and that

is millions that is available we feel if that can also be applied more effectively ...[intervenes]

JUDGE: Which funds were those?

MS JACOBS: The Seta funds.

5 JUDGE: Oh I see, yes you say these millions are available do you, is this because you listened to the previous witnesses?

MS JACOBS: Commissioner there is funds available and ...[intervenes]

JUDGE: Have you done any investigation of that?

MS JACOBS: We have not focused on that, we have just identified that
10 as a possible inefficiency where we can maybe reallocate government priorities.

COMMISSIONER KHUMALO: Where does it say in the ...[intervenes]

MS JACOBS: No, no, no that was just another example that I was thinking about today, the Seta funding in addition to the social grant and
15 by saying the social grants I am not meaning that I do not want to step on toes with the social grants but I do feel that most of the people that are unemployed are the people that do not have the education level so maybe if we can increase the funding to the higher education sector we will have decreased unemployment and then there will be less social
20 grants that needs to be paid by government which will give more distributable funds to higher education sector.

JUDGE: University's have a representative body that discusses matters with the Ministers do they not?

MS JACOBS: Yes commissioner.

JUDGE: Have they ever taken up the question of the Seta fund with the Minister?

PROF. KGWADI: I think I gave on a very sensitive because indeed yes the Minister did also divert some of the funds from some Seta's to fund
5 the higher education sector, part of the budget was used, there is a communication and sharing of resources to and fro from the Seta's.

JUDGE: I see, yes.

MS JACOBS: Chairperson and then I would just like to hand over to Lerike to suggest our proposed framework.

10 JUDGE: Thank you.

MS JACOBS: Chairperson I am Lerike Jacobs senior lecturer from the North West University Vaal Triangle. If you would allow me I would like to present our framework that we want to propose.

JUDGE: Yes.

15 MS JACOBS: I just want to emphasise on the fact that the information that we used is only used as a guideline to, as a starting point to develop the framework that we want to present.

JUDGE: Yes.

MS JACOBS: Therefore we looked at the current contributions from the
20 government to the NSFAS and then as a guideline we want to see what is the challenges that the current NSFAS framework have then we examined other countries to see what is happening there and then we developed our framework after that. Currently 24 percent of funding that is received from government is allocated to the NSFAS and NSFAS

distribute these funds to poor academically illegible students.

JUDGE: Well this is actually quite an interesting figure that in 2010, 72 percent of NSFAS students did not become graduates.

MS JACOBS: Yes.

5 JUDGE: Now if the problem was lack of finances and these NSFAS students are students who were fully funded in the sense of receiving not only tuition fees but transport, accommodation and food as well, allowing for family difficulties and all that sort of thing, quite a substantial proportion of those students seem to have failed not from reasons
10 related to like a fund.

MS JACOBS: Yes again Chairperson we would like to refer back to the schooling system that they are not capable to manage and to achieve all the requirements needed to get the degree.

JUDGE: Yes.

15 MS JACOBS: Okay then I want to first go to the next bullet, bullet number 3 and leave bullet number 2 for now. Another challenge that the current NSFAS framework have is low repayments, the terms of repayment is not very clear on the internet and on the contracts of the students and it is a very long process to repay after the student have
20 graduate.

JUDGE: Oh by lower repayments you do not mean low recovery?

MS JACOBS: No.

JUDGE: Oh low repayment from the students side.

MS JACOBS: Yes, yes.

JUDGE: Yes I see.

MS JACOBS: Okay and then also recovery is very low, only about during 2014/2015 year there was only about 3.5 percent of the funds recovered for NSFAS.

5 JUDGE: Yes well I assume that NSFAS will come or somebody from it will come and explain to us what the logic is of allowing or suggesting that anybody should repay over 45 years.

MS JACOBS: Yes.

JUDGE: And what the prospects are of persuading anybody to pay for
10 45 years.

MS JACOBS: Yes.

JUDGE: Because it does not seem to be very practical.

MS JACOBS: No not at all.

JUDGE: Yes.

15 MS JACOBS: Yes and that is only capital that is not even interest, that is only capital repayment and not interest.

JUDGE: Yes.

MS JACOBS: Okay then I want to place emphasis on the bullet point number 2 is the missing middle where you need to earn R120 000-00 or
20 less to get the NSFAS loan to study so this students do not have the opportunity to come and study as they do not get to the requirements of he NSFAS loan and most probably will not get a loan from any current bank.

JUDGE: Do you find that numbers of these students actually come to try

to get into your University?

MS JACOBS: Yes.

JUDGE: You do and what do you reject them on the basis of lack of funds and the fact that you have not got bursaries for them?

5 MS JACOBS: Yes.

JUDGE: And can you, have you any idea how much, how many a year that might be who are unsuccessful applicants who would otherwise qualify to be there?

MS JACOBS: No.

10 JUDGE: No, alright.

MS JACOBS: We examined other countries like Australia and Norway and why we chose Australia and Norway is because people of meaning that these two countries are fee free education countries which is not actually the truth as Norway do not ask tuition fees but they ask a
15 semester fee and Australia make use of a combination of government funding, student fees and loans.

JUDGE: Yes.

MS JACOBS: And then this Australia basis is quite the same as NSFAS where it is interest free for the time that you study but Australia base
20 their charges on an index adjustment in terms of the CPI every year. Okay so the framework that we are proposing is that we want to use NSFAS as a guideline for a government loan and then we want to formalise requirements to qualify ...[intervenes]

JUDGE: What does it mean, what do you mean by guideline for a

government loan?

MS JACOBS: When I get to my next slide I will go into detail if it is fine with you Chairperson.

JUDGE: Alright.

5 MS JACOBS: Then we want to formalise requirements to qualify for the government loan, then we want to also reward the students with a merit if they need to be and if they deserve this merit, we want to enforce repayment terms and then we want to make use of SARS to collect the repayments from the students.

10 JUDGE: Now just a moment, this sounds to me very much like the proposal put forward by Dr Gun, is that his name, the gentlemen from the University of Cape Town, no not Gun.

MS JACOBS: I do not have an idea.

JUDGE: Okay it does not matter for the moment, what is, you say this is
15 available to all students, is this to say that everybody who wants to go to University may qualify for this?

MS JACOBS: Yes commissioner we say that because there is no definition for the missing middle at this stage so we do not know what is the maximum amount that the missing middle student can qualify for.

20 JUDGE: Alright.

MS JACOBS: So we need to address throughout.

JUDGE: So let me understand you, so the people who can apply for it are the poor, the not so poor and the not poor?

MS JACOBS: Yes.

JUDGE: Alright so it is everybody right.

MS JACOBS: Okay, then the idea that we have is to work with the SARS tax tables.

JUDGE: Yes.

5 MS JACOBS: Because we have a very good system, a tax system in South Africa we thought that we need to use the tax tables and currently the 2016 tax tables to allocate percentages into each bracket for what a student can qualify for, we want to show through this tax table that we need to indicate it must be for both parents, not only one but both
10 parents, to see if we, if they fall into a bracket where they need to qualify.

JUDGE: So you are now looking for a means test?

MS JACOBS: Yes, yes.

JUDGE: Why bother with a means test surely you allocate to the people who need it first and the people who need it least to get it last.

15 MS JACOBS: Yes but we do not know what is the missing middle at this stage so we need to see where we need to allocate funding to what student and not just to the maximum of R120 000-00 per household income.

JUDGE: Yes but you know that if a person is the son of a policeman for
20 example you probably would not have to enquire too far, he may be very lucky and have a rich grandfather but he is likely to be one of those persons that needs assistance.

MS JACOBS: Definitely Chairperson because also a person like that does not really qualify for all of the other grants that is available due to

the income bracket that the students parents fall in.

JUDGE: Yes alright.

MS JACOBS: Then we also just want to see, place emphasis on the fact that we do not just want to give 100 percent tuition fee but that we want
5 to make it a subsidised fee for all the things that a student needs like tuition fee, accommodation, meals, books and travel.

JUDGE: Alright so it is a broader based tuition fee.

MS JACOBS: Yes.

JUDGE: Yes.

10 MS JACOBS: Okay countries like the UK also use the government to, the tax system ...[intervenes]

JUDGE: Sorry which one are we on now table 10, let me just go back to table 9 for a moment, why do you want merit bursaries at all?

MS MOOLMAN: Chairperson if I may answer on her behalf, it is to
15 increase through put rates.

MS JACOBS: Yes.

JUDGE: Well if you have got everybody on a loan scheme why do you want merit bursaries?

MS JACOBS: Chairperson if we do not have the required through put
20 rate that student will take up a place of a potential student, there are just so many seats in the University's available so there is a cap on the availability of how many students a University can take on, so if a student is sitting in the system for too long he is taking up a seat of a deserving student that should now wait for him or her to get out of the

system so we really want to have a incentive scheme to get the students to perform and get them out of the system.

JUDGE: Alright thank you.

MS JACOBS: Chairperson and also that represent a portion of fee free
5 education if a student works hard the loan that he gets can be converted into a bursary.

JUDGE: Yes it can I understand that but it is more likely that the wealthy student is going to qualify is it not because he has got the better basic and secondary education, he is the person more likely to qualify for the
10 merit bursary.

MS JACOBS: Chairperson the merit bursary will be a percentage of the loan that he got and if it is a rather wealthy student the loan will be very minimal if there is in any case a loan at all for that specific student.

JUDGE: I thought it was merit.

15 MS JACOBS: Ja but the merit bursary will be calculated on the percentage of subsidy that he or she gets, if it is a high income bracket student and that student only qualifies say for a 10 percent loan then the merit bursary will say be 50 percent of that 10 percent so the amount of money will reduce for the wealthy students.

20 JUDGE: I see alright thank you.

COMMISSIONER ALLY: But the conversion is that conversion not taking place now with NSFAS students, so those who show merit that students loan is then converted to a bursary that they do not need to pay, at the moment that is already and therefore should not be part of the proposal

because it is there already.

MS JACOBS: Chairperson if I may through you, we propose that that kind of principle should continue in the new framework that we propose and that we should not exclude it from that.

5 JUDGE: Well there has been a suggestion made in some of our papers that NSFAS gives merit bursaries far too easily or rather gives bursaries far too easily.

MS JACOBS: Yes.

JUDGE: And the result is that they are writing off a huge volume of fees
10 it saves them the trouble of trying to collect them, as soon as a student passes at the end of the year he gets his fees written off irrespective of whether he passes well or whether he passes badly.

MS JACOBS: Ja Chairperson we, although we take the principle forward with regard to our proposal we do foresee it that the requirements should
15 be very strict.

JUDGE: Alright thank you.

MS JACOBS: If we can go onto the next slide to formalise the requirements, here again we agree with what the NSFAS system currently enforce with the APS requirements for an entrance into the
20 University system and also with the requirement for, to continue or to apply again for a next year loan that you need to have ...[intervenes]

JUDGE: I am sorry you have gone ahead of me I was on table 10, when I look at table 10 I see you have a qualifying percentage of loan amount.

MS JACOBS: Yes.

JUDGE: So it is a loan throughout unless it is converted to a bursary.

MS JACOBS: Yes and we only convert the loan into a bursary at the end of the third year, not each year.

JUDGE: Which year?

5 MS JACOBS: End of the qualifying year, usually the third year for a three year degree.

JUDGE: So you mean that the student does not know until the end of the third year whether he is getting a bursary or not.

MS JACOBS: Yes he need to graduate because it is an interest free
10 load it will not have any impact on the funding. Can I continue
Chairperson?

JUDGE: When I have made a note thank you.

MS JACOBS: Okay.

JUDGE: Yes thank you.

15 MS JACOBS: Chairperson currently they convert the NSFAS loan into a bursary each year.

JUDGE: Yes.

MS JACOBS: But we implement to do it at the end of the third year.

JUDGE: And what is the advantage of that?

20 MS JACOBS: They must graduate before they can write off their loan as a bursary.

JUDGE: I see so you do not get a benefit just because you pass one year.

MS JACOBS: Yes you need to graduate before you get the benefit.

JUDGE: There is much to be said for that, yes.

MS JACOBS: Okay so if we carry on with the next slide Chairperson then we agree with the APS requirements for interest, currently it is 26 and we agree that we keep it like that and then also the requirements for
5 continuation of studies.

JUDGE: Sorry what is APS?

MS JACOBS: Yes Admission Point System or Score.

JUDGE: You do agree with that you say, now that seems to be perhaps flying in the face of what was said by the Professor a little bit earlier in
10 recognising that perhaps the admission point system is not meeting the requirements?

MS JACOBS: Yes.

MS MOOLMAN: Sorry Chairperson we do not say the system does not work it is the schooling system, if the schooling system is performing the
15 way it should then the APS score of 26 should be sufficient.

JUDGE: So you mean if the statute stands on feet of clay it is very well so long as it stands up, until you push it over

MS JACOBS: We can consider increasing the APS score until we have confidence in the schooling system again so that may be something to
20 consider.

JUDGE: No you may be quite right that this is the APS requirements I do not know, I just queried that in the light of what was said earlier, alright requirements for continuation of studies yes.

MS JACOBS: Then we suggest that before a student can register for

University entrance they need to obtain an income tax number
...[intervenes]

JUDGE: Sorry whoa, whoa, before that this requirements for
continuation of studies, was 60 percent of modules do you mean in any
5 given year?

MS JACOBS: Yes so if the first year student received a loan, to apply
again in the second year for a loan he need to pass 60 percent of his
first year modules to apply for a loan again in the next year.

JUDGE: If he does not he is out.

10 MS JACOBS: Yes.

JUDGE: No second chance?

MS JACOBS: No.

JUDGE: And in the second year he passes 60 percent now what does
that leave, that leaves I am not sure whether does it leave him with 60
15 percent uncompleted.

MS JACOBS: Yes he need to pass his registered modules 60 of those.

JUDGE: And what does he need to get through the degree then, I am
sorry I am not familiar with the University jargon, if he has passed 60
percent then he has failed 40?

20 MS JACOBS: Yes.

JUDGE: Or he has not completed 40.

MS JACOBS: No.

JUDGE: And then he comes into a second year and he gets 60 percent
again so he has now failed on 80.

MS JACOBS: Yes so it is going to take him longer period to ...[intervenes]

JUDGE: To finish the degree.

MS JACOBS: Yes.

5 JUDGE: And how long can he go on with the degree in your system?

MS MOOLMAN: There are rules in the University that state how long you can be in the system.

COMMISSIONER KHUMALO: I wanted to check your exclusion rules with academic performance.

10 MS JACOBS: Just say again, just repeat the question please.

COMMISSIONER KHUMALO: No I was saying maybe we just checking your exclusion rules for non performance academically, are they still there?

MS JACOBS: Yes.

15 JUDGE: What are they, have not been used recently?

MS JACOBS: Ja, 60 percent per year.

JUDGE: 60 percent per year.

MS JACOBS: Five years for a three year degree.

JUDGE: Okay and if you cannot make it in five that is it?

20 COMMISSIONER ALLY: Just explain to me because I come from the old school and we never had point systems, you either passed first year, second year, third year and then you went onto your following degree and so forth, where does this point system come from and does it not in its own way limit access to students because I must say the SAUS

representations indicated this aspect also, at your point system is a money making game where you pay in terms of certain particular points and the University gains and not necessarily the system so I just want to know historically where this point system came from and the advantage
5 or disadvantage obviously there is advantages from your side but are there any advantages that you see in the system?

PROF. KGWADI: You see for different programs there will be different point systems for entry into a program, that more or less works out to your potential, your ability to succeed in the program you know and an
10 entering point system for engineering would not be the same as perhaps for other programs so that predicts your ability to succeed and therefore perhaps eliminate dropout rate.

JUDGE: But you do not have entrance exams?

PROF. KGWADI: No for some programs ...[intervenes]

15 JUDGE: So on what do you base the point system?

PROF. KGWADI: Grade 12.

JUDGE: Matric results.

PROF. KGWADI: On your matric results.

JUDGE: I see yes.

20 PROF. KGWADI: And on that basis to say you are likely to succeed in this program with these points and then they must say yes there are students that could actually do wonders we know but the points are not all in all in determining ones potential to succeed in an academic program.

COMMISSIONER ALLY: And when did this system come into being?

MS JACOBS: It is the points, the school system not the University system, it is school.

COMMISSIONER ALLY: Well wait let us get clarity, let us get clarity, I
5 know there is experts that might have other things, when a scholar applies, you apply a scoring system to say to the student you can do for instance law you need 36 points, engineering 45 or 20 and so forth, now who determines the score, you have determined the score as a University is that not correct?

10 MS JACOBS: The requirements yes.

COMMISSIONER ALLY: Right now and therefore my question is, when did this particular system come into being in terms of your determination that if you have a score of 36 you will be a good law student going through?

15 PROF. KGWADI: Ja Chair as far as I recall even before the current system there were exemptions and there was some measure that would determine whether you can do medicine or not, just from, it is just that it keeps changing with the requirements as to say you know what is the best way of predicting, the potential for a student.

20 COMMISSIONER ALLY: I recall the medicine system where you had to have maths 60 percent and so forth, if you had an exemption you were allowed to do a degree, do you agree, you could choose whether you wanted to do law, social work, psychology and so forth, you did not have to have certain number of points but you needed to have certain number
25 of subjects for a particular program so it seems to me that somewhere

between 70's and the 90's something happened where somebody decided I have got a better way of determining who can get into University so my question was, historically where did that come from but if you are not able to answer that is fine.

5 COMMISSIONER KHUMALO: Ja, just to assist in the interest of time especially, well I mean others were in the 70's and the 80's in the 90's and A was converted to certain points and they will calculate that at varsity and that will be your entrance point and I believe that is still there but the commissioner is saying that there was a cry from the student
10 union that that system is a money making scheme, I never understood it so maybe in the next set you guys can just advise how it is not you know which is the whole point of the debate ...[intervenes]

MS DE BEER: Sorry can I just clarify something, the students were complaining about the credit based approach with regards to your actual
15 degree so with the NQF you require 360 credits for a degree qualification and they were saying that the allocation of credits per module was what they were complaining about, it is different to the APS score.

MS JACOBS: Can I continue Chairperson.

JUDGE: Yes thank you.

20 MS JACOBS: Okay so bullet 3 we recommend that the student before he register for University need to obtain an income tax number, the suggestion here is so that we can, once the student has finished with his studies and enter in the workforce be able to see when there is address changes and to also collect through SARS then the outstanding
25 repayment amount.

JUDGE: Why should there not be yes an arrangement with SARS that every student who comes into the University is put on the system and as soon as that person registers as a work payer the University is notified ...[intervenes]

5 MS JACOBS: That is what we suggest.

JUDGE: And as soon as he reaches a certain level of income a deduction is made almost like a garnishee order as it were.

MS JACOBS: Yes, when we get to the slide on that we mention about the IT88 that is already in place at the SARS but we will get to that slide.

10 Okay then again on the merit bursaries, like Elmarie mentioned that we want to give the student the opportunity to receive fee free education on merit on the basis that he was granted the loan, the percentage of loan that was granted and we can also split these between scarce skills and the other skills and scarce skills we find as per the government
15 definition.

JUDGE: Yes and so is this the percentage which will be implemented at the end of the degree?

MS JACOBS: Yes so once he graduated the loan can be converted, the tuition fee only.

20 JUDGE: Tuition fee only and what is the other then regarded as an out and out payment, the balance of whether it be ...[intervenes]

MS JACOBS: Sorry as a?

JUDGE: Food, accommodation and transport that will be an out and out payment not recoverable.

MS JACOBS: Yes.

JUDGE: Yes.

MS JACOBS: Then we want to place focus on the, to enforce the repayments, we agree with the current NSFAS ...[intervenes]

5 JUDGE: I am sorry can I just stop you, when I am looking at your schedule here I see that you are offering merit bursaries for people who achieve 50 percent average, that sounds odd to me.

MS MOOLMAN: Ja Chair if I may, this is just the concept that we want to bring to the table it is not necessarily to be this percentages, there
10 should be still, there should still be work done on the exact framework, which percentage and so forth and affordability will also be determined so this is just a concept, I do not think you should look at the percentages as being that is the final percentage proposed.

JUDGE: Thank you.

15 MS JACOBS: Can I continue commissioner?

JUDGE: Thank you.

MS JACOBS: Okay we agree with the current repayment terms of the NSFAS where we say that it is interest free for the period the student is a student at the University so it is a loan at no interest rate but once the
20 student graduates the rate of interest will be 80 percent of the repo rate but then we need to make certain and make it very clear what the repayment terms are or will be, this we cannot at this stage say exactly what the repayment terms need to be, we need to look into that further in a later stage.

JUDGE: Why should he not pay interest, he or she pay interest from the time that he or she becomes able to repay?

MS JACOBS: Yes once he ...[intervenes]

JUDGE: Why should you charge people interest when it is recognised
5 that they are not in a position to repay?

MS JACOBS: Yes that is something to consider thank you commissioner.

JUDGE: I mean you might as well make it from the moment that they leave University.

10 MS JACOBS: Yes.

JUDGE: If you make it from the moment they leave University and there is no prospect of the repaying at that stage and they may never repay this is an empty exercise.

MS JACOBS: Yes.

15 JUDGE: Anyway yes, and it has also been suggested that 80 percent of the repo rate is unrealistic and certainly if you were to charge from the time that they become able to pay there is no reason why they should not pay a full rate rather than an 80 percent rate and the intention must be at least to try and balance the budget I would have thought if one can.

20 MS JACOBS: Yes definitely thank you commissioner we will take that into consideration. Then the collection process, we want to make use as the same basis as the IT88 that is currently enforced by SARS where if here is outstanding amounts the employer deduct that from the salary and pay it over to SARS.

JUDGE: Yes that is what I mean by, yes okay.

MS JACOBS: Yes.

JUDGE: Can I just ask you something, have you considered the possibility of doing away with NSFAS altogether and allowing the state to
5 advance the money and recover the money through SARS?

MS MOOLMAN: No Chairperson we do not want, we do not suggest that that NSFAS should be thrown out altogether but revised NSFAS maybe should be done.

JUDGE: Are you satisfied with the way NSFAS works?

10 MS MOOLMAN: Currently no but we ...[intervenes]

JUDGE: What are your objections?

MS MOOLMAN: Exactly what we have pointed out, the low recovery rate of the outstanding monies that could have been in the system financing other students already so that is most probably the biggest
15 concern.

JUDGE: Are you convinced that they are taking all reasonable steps to recover the monies?

MS MOOLMAN: With all due respect no.

JUDGE: And what about the administration of the funds itself?

20 MS MOOLMAN: I believe there is room for improvement but if you have a improved NSFAS ...[intervenes]

JUDGE: Well was it you who told us earlier that you have not been paid yet?

MS MOOLMAN: Exactly.

JUDGE: Yes.

MS JACOBS: So there is definitely room for improvement, I think the focus was already on NSFAS there is already measures put in place to up the performance of NSFAS also the systems, a centralised
5 application system and so forth so I believe there is changes, huge changes to be made but we do not suggest that we throw out NSFAS altogether but it should be a revised improved NSFAS.

JUDGE: Let me put a proposition to you, I have great difficulties with the Road Accident Fund, not only because I cannot get money out of them it
10 is owed to me but I find a large amount of administrative obstruction let me put it that way, do you find the administration of NSFAS is easy, cooperative that it is over staffed, that it is understaffed, just give me an overview of how you think it is working?

MS JACOBS: Chairperson it will be my perspective and my opinion, it is
15 not necessarily the truth but from where I am sitting if they are not administrating the recoveries and the loan contracts and so forth, each University will need to do that in any case so there will be administrative support needed even if we decentralise the whole system to the University's.

20 JUDGE: Although if you do it through SARS that is not necessarily the case.

MS JACOBS: Exactly, from my point of view for our university specifically I do not want to seem to be bragging but we did it very well in the past and we believe we will be able, if it is decentralised to perform
25 very well with regard to that but I believe ...[intervenes]

JUDGE: No but I am asking you about your view of how NSFAS is working, I just want a general view not a specific view.

MS JACOBS: NSFAS is with regard to the administrative process, if we can handle it at the University it is of all the records of the students and
5 the applications and everything that we need is readily available at the University so it is additional administrative process to send it through to NSFAS and then get the contracts through to them and so forth, so it is additional administration.

JUDGE: Alright.

10 COMMISSIONER ALLY: So the proposal, remember the Chairperson has proposed for instance whether the government in whatever department handled the administration and recovery would it not be better, your proposal as I see it is that the NSFAS administration should revert to the University.

15 MS JACOBS: Chairperson our submission suggests that we should have a revised improved NSFAS system although I believe our University will do very well in terms of the administration of these loans, I do not think we can say it for all University's and in the past there were corruption and leakages at other University's with regard to NSFAS.

20 JUDGE: Yes your core business is not recovering loans, I understand that, yes alright thank you please proceed.

MS JACOBS: Okay then if we continue to the next slide of our closing suggestions, again we just want to bring everything into perspective and just say we need to address the leakages that is in the state and then we
25 need to transform discussions on fee free higher education rather to

subsidised higher education and we need to increase the government funding to University's to preserve and improve quality, higher education services, effectively we need to apply the already implemented national student financial aid NSFAS as means to a sustainable student fee
5 regularity framework and then we definitely need to address the inefficiencies and the current schooling system with the focus on the Tvet colleges and vocational training. Then just to highlight some of the limitations that we had during this study was time constraints and then data availability due to confidential information we were not able to do a
10 calculation to see if this framework will be viable or not.

JUDGE: I understand thank you.

MS JACOBS: We are willing to do that if we receive the necessary information.

JUDGE: Yes.

15 MS JACOBS: Thank you.

JUDGE: Thank you for the trouble you have taken all of you, we appreciate it and we shall do our best to consider it in the context thank you. Miss Pillay.

ADV. K. PILLAY SC: No further questions from our side.

20 JUDGE: Thank you. Any other witnesses for today?

ADV. K. PILLAY SC: None for today, I think we are done for the week.

JUDGE: Well we will adjourn until Monday week when we go to Nelspruit I understand.

ADV. K. PILLAY SC: Next week Monday yes.

JUDGE: Yes Monday week, not next week Monday, yes thank you.

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DAY 3

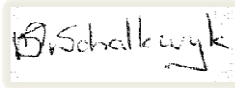
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