

CHAPTER 7

SELECTION OF PRIME CONTRACTORS – CORVETTES

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CHAPTER 7

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7.1 THE PUBLIC PHASE OF THE INVESTIGATION

- 7.1.1 During the public phase of the investigation, the former Chief of the S A Navy, Vice Adm R C Simpson-Anderson testified that during the Second World War the Navy acquired over 80 vessels within a time span of 6 years. These were primitive vessels converted from commercial ships. After the war a number of warships were transferred to the SA Navy from the British Royal Navy, including destroyers and frigates.
- 7.1.2 In the 1960's the Navy acquired three new frigates and a second hand supply ship, followed by a survey vessel. In the 1970's three new submarines and nine high-speed strike craft were acquired. The destroyers and frigates of the Navy were phased out due to age and technical obsolescence and by mid 1980 none was left. In 1991 a frigate replacement project based on a staff target requirement approved in 1980 was cancelled before building commenced.
- 7.1.3 The Navy thus entered the 1990's with nine strike craft nearing the end of their design life of 15 years. Three submarines, over 20 years old, and support vessels and mine counter vessels were still in use. The Navy had lost its capability to operate effectively in our very rough sea conditions and also the capability to operate maritime helicopters at sea.
- 7.1.4 In 1993 the Naval Board (Chaired by the Chief of the Navy) decided to address the problem. The surface ship issue was first. Project Sitron was launched. Due to budget constraints certain requirements were cut and it was decided to opt for patrol Corvettes rather than frigates.

- 7.1.5 Project Sitron went through all the prescribed project phases and findings. Recommendations were presented to Cabinet in May 1995. Cabinet, was however, not ready to make a decision in this regard. The former Minister of Defence was, at the time, concerned about the issue of block obsolescence of the main equipment of all the arms of service. He thought of the idea of countertrade (off-sets or industrial participation). This, *inter alia*, led to the concept of a strategic defence package that would benefit the SANDF as a whole.
- 7.1.6 The force design of the Defence Review included four patrol Corvettes. During the time of the Defence Review the Navy refined the technical specifications for the Corvettes and submarines and invested in technology retention programmes for possible components and subsystems that could be included in the proposed new vessels.
- 7.1.7 Requests for Information were sent to the shipyards on the shortlist of project Sitron (Corvettes) after the principle of the acquisition of the Strategic Defence Packages was approved by Cabinet on 23 September 1997. Responses were to be made by 31 October 1997. The value system used was 100 points each for technical evaluation, NIP and DIP evaluation and financial evaluation. The Navy was involved in the technical evaluation system only.
- 7.1.8 The Acquisition Division of the Department of Defence was established in 1998 and projects were transferred to this division. The teams and project staff were transferred with the project to the Acquisition Division. The Project Control Board (PCB), with the Chief of Acquisition as Chairperson, was established. The Chief of the Navy and Chief Executive Officer of Armscor were senior members of this Board. The PCB controlled all projects and all high-level project decisions were forwarded to it. Issues affecting the technical baseline were first referred to the Naval Board for ratification before a final decision by the PCB could be taken.

7.2 THE FORENSIC INVESTIGATION BY THE AUDITOR-GENERAL

7.2.1 Background

7.2.1.1 In 1997 DoD in terms of the MoD policy entered into partnership proposals in respect of the procurement of armaments with the following three countries:

- United Kingdom
- France
- Germany

It is a requirement of the MoD policy that there must be a security agreement between the South African Government and the offering country. No evidence of the existence of such an agreement with Spain could be found.

7.2.1.2 On 23 September 1997, MoD distributed RFIs to eleven countries for the procurement of the SDP.

7.2.1.3 Thirty-seven responses were received from nine countries. The RFIs were evaluated subsequent to 31 October 1997 and a short-list of four bidders for the Corvettes was compiled. The short list of 4 bidders consisted of the German Frigate Consortium (GFC) of Germany, Bazan of Spain, GEC of the United Kingdom and DCN International of France. On 13 February 1998 RFOs were sent out to the short-listed bidders and their offers were submitted by the due date of 12 May 1998. An evaluation process was then performed in terms of which the four bidders were evaluated on the basis of:

- Military value and performance of the products.
- Financing of the products.
- Industrial participation offered.

7.2.1.4 The Corvette bidders were requested to bid only for the ship platform. The Combat Suite, which is the weaponry system of the Corvettes, was to be subcontracted to South African entities to the extent of 60% of its cost which had a ceiling amount of R1 471 billion. The preferred bidder was to enter into a teaming agreement with a local arms manufacturer for the purposes of supplying the Combat Suite.

7.2.1.5 The three evaluation criteria were to be consolidated in terms of the following formula:

$$BV = \frac{M + IP}{F}$$

M is the technical/military value index
IP is the industrial participation index, and
F is the financing index.
BV is the best value

This formula was subsequently changed to: $BV=M+IP+F$ at a SOFCOM meeting. The reasons furnished by DoD for changing the formula appear to be sound.

7.2.1.6 Based on the consolidated evaluation results, GFC's Meko A200 was selected as the preferred Corvette at a cost of R6 001,25 million and a contract was entered into with them on 3 December 1999.

7.3 EVALUATION PROCESS

7.3.1 Introduction

7.3.1.1 The bidders were evaluated in terms of the evaluation criteria mentioned in paragraph 7.2.1.5 above.

7.3.1.2 Value systems were compiled for each of the main criteria and the evaluation was to be performed strictly in accordance with the relevant value system.

During the forensic investigation of the process, the relevant value systems (the details of which are set out below) and the actual process followed in the evaluation, as set out in the evaluation reports and other relevant documentation, were considered.

7.3.2 Details of investigation performed in respect of the evaluation process

7.3.2.1 The following investigation procedures were performed with regard to the evaluation documentation and process:

- (a) The activities evaluated as *per* the available evaluation worksheets were compared to the activities stipulated in the value systems. No exceptions were noted in this regard.
- (b) The available worksheets were reviewed in order to ensure that the evaluators approved the worksheets. No exceptions were noted.
- (c) The mathematical accuracy of the scores allocated was re-evaluated to ensure correct application of the formula.
- (d) The values as indicated on the evaluation worksheets were compared to the values as per the bidders' offers, where applicable.
- (e) The summarised evaluation worksheets were reviewed to determine the correct incorporation of the correct values on the individual worksheets. No exceptions were found in this regard.
- (f) The percentages of DIP values given as against the contract, platform, and Combat Suite prices were re-evaluated to ensure that the scores given are in compliance with the percentages as stipulated in the DIP value system.

- (g) The final ranking and normalisation of the scores was re-performed to ensure the accuracy thereof. No exceptions were noted in this regard.
- (h) Consultations were held with certain individuals who were involved in the evaluation process.

7.3.3 Technical value system

7.3.3.1 Preparation & approval

- (a) The Project Officer: Capt J E G Kamerman [now Rear Admiral (JG)] compiled the technical value system for the Corvettes on 8 May 1998. The Chief of Naval Staff Plans: R Adm A N Howell signed it off on behalf of the responsible authority on the same date.
- (b) The Chief of the SA Navy: V Adm R C Simpson-Anderson approved the value system for issuing on 11 May 1998.

7.3.3.2 Description of the value system

- (a) The system is divided into the following two phases:
 - (i) Critical performance filter (CPF)

This phase sets out the critical minimum performance criteria as specified in the ship platform requirement specification. These minimum criteria must be complied with for eligibility for further evaluation.

(ii) Relative military performance evaluation (RMPE)

This phase is a measure of the relativity amongst the various offers that have satisfied the first phase. The phase is made up of 44 functional characteristics, which are grouped into 12 functional groups for the evaluation of the ship platform. Each characteristic has several evaluation criteria that are scored.

7.3.3.3 Actual evaluation

- (a) The evaluation was performed at DoD from 12 May 1998 to 29 May 1998 by the Naval Evaluation Team, led by Capt (SAN) J E G Kamerman, with R Adm (J G) A N Howell acting as co-ordinator and Mr Shaik as co-ordinator between the military, industrial participation and financing evaluation teams.
- (b) The technical evaluation results were presented to, and were ratified by, the Naval Board on 18 June 1998.
- (c) According to the evaluation report, a total of 15 clarification questions were sent to the bidders during the evaluation process. Care was taken to prevent any improvement or modifications being made to the offers received.

7.3.3.4 Evaluation results

- (a) The proposals were evaluated for military performance to obtain a weighted score out of a maximum of 1 080 points. The overall technical evaluation result was as follows:

Country/Offeror	Score out of 1080	Ranking
United Kingdom GEC F3000	649.9	4
Germany GFC MEKO 200	790	2
Germany GFC MEKO A200	810.5	1
France DCN PATROL CORVETTE	618.3	5
Spain BAZAN 590B	766.6	3

- (b) The calculation of the scores on the individual evaluation worksheets was re-performed and no major discrepancies were noted. As can be seen in the table above, GFC Meko A200 was ranked first.

7.3.3.5 Non-conformance with critical minimum criteria

- (a) According to the technical evaluation report issued on 25 June 1998, some bidders proposed ship platforms that did not conform to the critical minimum performance criteria, as stipulated in the value system. The platforms in question were:
- (i) The patrol Corvette of DCN failed the minimum ballistic protection requirement. This could apparently be corrected with a slight cost implication.
 - (ii) The F3000 of GEC failed the specified radar signature and the minimum ballistic protection requirement. The former could apparently be corrected with major cost and redesign implications whilst the latter could be corrected with a slight cost implication.

- (iii) The Meko A200 of GFC failed the specified engine compartment vulnerability separation requirement due to the CODAG-WARP design. The design apparently affords other compensating vulnerability advantages and did not need to be corrected.
- (iv) Despite these non-conformances, the above offers were nevertheless evaluated in the second round. No evidence of approval of such a decision could be found during the forensic investigation. Upon enquiries made to the co-chairperson of SOFCOM, Mr Shaik, regarding these non-conformances, indicated that he was not aware of these failures to conform. He referred the investigators to the technical evaluation team.
- (v) Only Bazan complied with all the minimum technical performance criteria.

7.3.4 Industrial Participation

The Industrial Participation requirement comprised two parts, namely Defence Industrial Participation (DIP), and National Industrial Participation (NIP).

7.3.5 Defence Industrial Participation value system

7.3.5.1 Preparation and approval

- (a) Mr J J van Dyk, Manager: Countertrade Division of Armscor, compiled the Defence Industrial Participation value system. It was accepted, endorsed and approved by Mr H de W Esterhuysen: General Manager: Aeronautics and Maritime of Armscor and Mr Shaik.

- (b) In terms of the evaluation instructions, Mr Van Dyk would be the DIP team leader and Mr Shaik would act as auditor and moderator for the DIP process. Three evaluation teams were to be appointed and these were to operate in parallel. Messrs Shaik and Hirsch of DTI were to discuss and agree on the respective evaluations done before they were summarised by Armscor Countertrade Division into a combined output.
- (c) Mr Van Dyk, would act as team leader, co-ordinator, and mentor for all three evaluation teams.
- (d) In order to progress to the second round of the evaluation, each bidder had to have:
- Signed the “confirmation by bidder” form.
 - Furnished a detailed business plan.
 - Provided an undertaking to provide a bank or sovereign guarantee to the value of 5% of their commitment.

7.3.5.2 *Evaluation aspects and weights*

- (a) Conformance and compliance

The Defence Industrial Participation requirements were valued in terms of the following components:

Component	Required %	Scoring
Value of commitment (DIP)	50%	Less than 45% = 1 Between 45% and 55% = 5 More than 55% = 10
Value of direct DIP	Corvette platform value = 10% Combat suite value = 60%	If full % or more is offered = 10 For 1% – 10% less than required = 7 For 11%-25% less than required = 3 For 25% or more less than required = 0
Total value of local participation (consists of activities as contained under par 8 of value system)	45%	Between 40% and 50% = 10 For 20% – 40% = 5 For less than 20% = 0
Total value of technology transfer	8%	Between 6% and 10% = 10 More than 10% or less than 6% = 0
Total value of global integration (Exports)	10%	Between 8% and 12% = 10 For 5%-7% less than required = 5 For 5% or more less = 0
Total value of empowerment	20%	Between 18% and 23% = 10, subject to provisos on par 7.1.7 of value system For 18% or less = 0
Total value of investments (Investments must at least be for 5 years)	12%	Between 10% - 14% = 10 i.e. >5yrs Between 10% - 8% = 5 i.e. >3<5 yrs Less than 8% = 0 i.e. <3 yr.
Total value of marketing/promotion	2.5%	Between 2% and 3% = 5 Any other percentage = 0
Contribution to job creation	None	None

7.3.5.3 DIP evaluation results

- (a) The DIP evaluation results regarding the activities offered by the bidders for the Corvette programme were as follows:

Strategic Defence Packages

Joint Report



	GEC Rm	DCN Rm	GFC Rm	BAZAN Rm
Total contract value	863 600 000	903 600 000	846 964 133	737 053 000
Total platform value	550 000 000	590 000 000	533 364 133	423 453 000
Total Combat Suite value	313 600 000	313 600 000	313 600 000	313 600 000
Total value of DIP @50%	967 000 000	377 450 000	255 962 000	676 000 000
Total value of direct DIP	440 000 000	247 950 000	249 464 000	269 400 000
Total value of platform element	42 000 000	59 950 000	61 464 000	81 400 000
Total value of Combat Suite	188 000 000	188 000 000	188 000 000	188 000 000
Total value of indirect activities	527 000 000	129 500 000	6 498 000	406 600 000
Local industry participation	230 000 000	311 950 000	249 464 000	365 000 000
Value of technology transfer	210 000 000	500 000	0	10 000 000
Value of globalisation	527 000 000	65 000 000	6 498 000	301 000 000
Job creation	10 093	5 026	3 413	8 880
Overall normalised ranking	92	96	81	100

7.3.5.4 The results of the forensic investigation

- (a) Several calculation errors were found in the scores allocated to certain bidders. The differences in the calculation are set out below:

	GEC	DCN	GFC	BAZAN
Conformance and compliance <i>Paragraph 12.2.5.1</i>	4.09	4.36	4.09	5.45
Sectoral development <i>Paragraph 12.2.5.2</i>	8.00	7.82	5.31	7.83
Average score	6.05	6.09	4.70	6.64
Normalised score per our calculation	91	92	71	100
Ranking per our calculation	3	2	4	14
Normalised score per evaluation <i>Table 5</i>	92	96	81	100
Ranking per evaluation	3	2	4	14
Change in normalised score	-1	-4	-10	0

Note: Paragraph references in table refers to annexure A and C of Dip value system.

- (b) As evident from the table above, no change occurred in the final ranking. In terms of the calculation performed during the forensic investigation, the normalised score decreased for DCN, GEC and GFC by 4, 1, and 10 points

respectively. This change did not have an effect on the final consolidated ranking where the three evaluation criteria were combined.

(c) Non-conformance to critical criteria

(i) GFC did not comply with the minimum criterion specified in the DIP value system of providing a bank or sovereign guarantee to the value of 5% of the DIP commitment. GFC should have been disqualified from proceeding to the next round of evaluation. The said guarantee, according to one evaluator, was submitted only on 6 June 1998 after GFC had been requested to do so by the co-chairpersons of SOFCOM. Despite this non-conformance, GFC proceeded to be evaluated in the next round after SOFCOM's chairpersons approved a request by Mr Van Dyk to allow GFC to comply with this requirement.

(ii) This was clearly a deviation from the value system instructions. Had it not been for this late submission of the guarantee, GFC would not have proceeded to the second round of evaluation and would therefore not have won the bid for the Corvettes. According to DoD, the decision to allow GFC to submit the guarantee after the tender submission date, was taken in terms of the tender rules and RFO documents. The specific paragraphs referred to by DoD in the RFO are the following:

"2.1.3 The buyer reserves the right to deviate from the prescribed rules applicable to prospective contractors (K-STD-0010) in any case where such deviation is deemed justified.

"2.10.1 Offerors may submit an alternative offer not strictly in accordance with the requirements, or an alternative offer to satisfy a requirement, provided that all information requested in the RFO is

furnished by the closing date. The alternative offers and deviations from the requirements must be indicated in the offer”.

- (iii) Upon noting non-compliance by GFC with the minimum DIP criteria, Mr Van Dyk sought legal opinion from Armscor’s legal division on 14 May 1998.
- (iv) On 22 May 1998, the legal division issued its opinion, confirming the non-conformances by, *inter alia*, GFC.

On 1 June 1998 Mr Van Dyk issued a memorandum to the chairpersons of SOFCOM requesting, *inter alia*, that they approve the procurement of additional information from the non-complying bidders in order for them to comply. This memorandum was issued notwithstanding the fact that the legal opinion had already confirmed the deviations and that the evaluation team held the opinion that the non-complying bidders should be disqualified.

Upon enquiry, Mr Van Dyk asserted that no consideration was in fact given to the legal opinion.

Also worth noting from the memorandum is the fact that additional information from the non-complying bidders had already been requested at the time the memorandum was issued. Such additional information was new and this amounted to a deviation from the DIP requirements as stated in paragraph 4.7.1 of the DIP evaluation instruction.

There is no evidence from the minutes of SOFCOM that the memorandum directed to SOFCOM chairpersons had, at any stage, been submitted to the entire committee. In the absence of such

evidence, it would appear that the chairpersons took a decision to condone the mentioned non-compliance without the approval of the committee. This decision had a far-reaching impact on the eventual selection of the preferred bidder for the Corvettes, which was GFC. Upon enquiry about this decision, Mr Shaik indicated that this decision was taken by them in their capacities as Chief of Acquisition of DoD and CEO of Armscor. His authority, according to him, vested in his management delegation from DoD.

(d) Deviation from value system

Mr Van Dyk, as Head of Armscor Countertrade, was overall supervisor of the three DIP evaluation teams, chairman of one team, and an evaluator. This led to his performing incompatible functions. DIP values offered by GEC were reduced for evaluation purposes from those offered in the offers. Although reasons were given for such reductions, the DIP value system provided for the evaluation of business plans at face value and this was therefore a deviation from the value system requirement. SOFCOM chairpersons approved the reduction.

DIP and NIP proposals were to be consolidated at 50% each in terms of the minutes of CoD meeting held on 9 February 1998. This was also held to be the case in the legal opinion given by the Armscor Legal Division. The presentation by Mr Van Dyk to the AAC on 13 July 1998 also indicated the same split. However, this was not complied with upon the consolidation of the NIP and DIP to determine the total industrial participation. Instead, the two criteria were simply added together and the average was used to determine the scores for the preferred bidder.

In terms of the minutes of a special AAC meeting held on 13 July 1998 it was stated that the ranking of the Spanish bidder was due to most of their

industrial participation not being of a strategic nature. The DIP value system required that the assessment of all business plans be carried out on the face value of the proposals contained therein.

A portion of the direct DIP to be offered by the bidders was based on the value of the Combat Suite, in terms of which 60% of the value of the Combat Suite was to be offered as a minimum. It was noted that the evaluators used a standard contract value of US\$313 600 000 for all the bidders, resulting in the direct DIP portion of US\$188 000 000 for all bidders. However, this had no effect on the final results. Though the DIP evaluation instruction was clear on this requirement, DoD is of the view that this *"appeared to be an interpretation issue between two sets of documents in the offers"*.

(e) GEC

In terms of the offer by GEC, an amount of US\$670 million was offered for the technology transfer and know-how. It appears, however, that the DIP evaluation team did not approve of this amount, whereupon an amount of US\$210 million was used, being 25% of the contract price offered by GEC. This, according to Mr Van Dyk's memo, is the logistics provision normally applicable to projects of this nature. Upon request, SOFCOM chairpersons approved the use of the adjusted amount by Mr Van Dyk. This was not confirmed with the bidders.

A comment by one evaluator on GEC was that *"GEC's proposal is fraught with anomalies, qualifying and contradictory statements. Even their commitment is suspect..."*. In terms of paragraph 1.4 of the value system, assessment of all business plans was to be carried out on the face value of the proposals contained therein.

It was noted from the evaluator's comments that GEC did not provide a business plan on the Combat Suite as required in terms of the critical criteria of the value system. They should therefore have been disqualified, but were nevertheless evaluated in the second round. Though the DIP evaluation instruction was clear on this requirement DoD is of the view that this "appeared to be an interpretation issue between two sets of documents in the offers".

(f) DCN

Five activities were apparently offered by DCN under both the Corvettes and the submarine programmes. In terms of the DIP value system duplicated activities had to be ignored completely for the other programme. However, Mr Shaik, apparently, directed on 24 June 1998 that the specific activities should be included at 50% in both the programmes. The total values of the activities were US\$105 000 000, US\$54 000 000, US\$55 000 000, US\$20 000 000 and US\$25 000 000.

(g) GFC

According to the comments given by one evaluator and a letter sent by Mr Van Dyk to SOFCOM chairpersons, GFC and GEC failed to provide the 60% direct DIP required on the Combat Suite. They were, however, allocated the same direct DIP value as the other bidders, which was based on Bazan's direct DIP value. No business plan was initially submitted by GFC on the 60% direct DIP. This was only done on 6 June 1998, after GFC was requested to do so by the evaluation team following the approval of SOFCOM chairpersons on 20 May 1998. There is no evidence in SOFCOM minutes of the same date that the committee approved such a decision. This point was recorded in the deviation report prepared by Mr Van Dyk to SOFCOM.

GFC was given a score of 5 instead of 1 on the total DIP offered in terms of paragraph 7.1.2 of the conformance and compliance summary schedule. The reason given for this is that GFC was given this standard credit because of an increased NIP commitment. It was the understanding of the investigation team that NIP and DIP were to be evaluated separately.

(h) Bazan

According to one evaluator, Bazan did not provide a business plan for a particular activity although they committed themselves in this respect. In terms of the value system, Bazan should not have gone through to the second round of evaluation.

The decision to allow the bidders who did not conform with the critical minimum criteria in respect of technical, financing and DIP evaluations was a deviation from the approved value systems. Had this decision not been taken, only Bazan could have been evaluated on two of the three domains. All the others did not comply with all three and Bazan did not comply with one. This could have resulted in Bazan being the preferred bidder.

The DIP and NIP value systems did not explicitly provide for the manner of calculation of the scores. Certain formulae were used in the calculation of DIP scores but these could not be found to have been specified in any approved document.

(i) Further observations with regard to the selection process are that:

- Bazan was the only bidder that complied with all the critical minimum criteria in respect of technical and DIP evaluation.

- Bazan obtained the highest military value and DIP scores.
- Bazan provided the highest percentage of DIP and NIP in relation to the contract price.
- Bazan offered the lowest price of the four bidders.

GFC, however, was nominated the preferred bidder on the basis of their NIP offer. This is despite the fact that NIP is not ascertainable in terms of achievability.

7.3.6 National Industrial Participation Value System

7.3.6.1 Introduction

- (a) No approved NIP value system could be found during the forensic investigation. It could, therefore, not be established whether an approved NIP value system was in place for the purposes of evaluating the bids. What was found was an individual schedule titled “economic value system”.
- (b) A statement given by Mr A Hirsch, a former Chief Director at the DTI, revealed the following:
 - Mr A Hirsch and Mr V Ponsammy, also from the DTI, drafted the value system used. This was the first value system they had ever drafted as the NIP projects had never before been used to select preferred bidders.

- Mr C Nakooda, under the supervision of Mr Ponsammy, performed the actual evaluation of all the NIP proposals.

7.3.6.2 The NIP evaluation results for the bidders were as follows:

Country/Offerer	Value	Score	Ranking
United Kingdom GEC MARINE	5 892 344	11	4
Germany GFC	52 423 525	100	1
France DCN International	27 519 751	52	2
Spain Bazan	25 030 877	48	3

7.3.6.3 *Results of the forensic investigation*

As indicated above, no approved value system could be found.

(a) There is no evidence regarding the manner of awarding the NIP quality multipliers of 1 to 25, as these were not linked to any documented benchmarks.

(b) Combined IP evaluation (DIP and NIP):

	GFC Rm	BAZAN Rm	DCN Rm	GEC Rm
Contract	846 964 000	73 7053 000	903 600 000	863 600 000
DIP Value	255 962 000	676 000 000	377 450 000	967 000 000
NIP Value	2 730 783 000	2 722 645 000	1 684 037 000	413 936 000
% DIP	30	91.7	41.8	112
% NIP	322.4	369.4	186.37	49.48
NIP Ranking	100	48	52	11
DIP	81	100	96	92
Average	90.5	74	74	51.5
Final IP ranking	100	82	82	57

(c) There was a lack of a clear statement as to the manner of calculating the scores with regard to the NIP and DIP value systems. In the absence of

this, it could not be ascertained if the scoring complied with the prescribed value system.

7.3.7 Financial evaluation

7.3.7.1 Financing value system

(a) Preparation

The value system was compiled and issued by Mr C J Hoffman: General Manager: Finance and Administration of Armscor. It is not evident who had approved the value system.

(b) Evaluation aspects and weights

According to the value system, each bidder had to comply with the critical criteria, as has been described in chapter 4 of this report, to proceed to the next round of evaluation.

(c) During this investigation it was found that some of the criteria of the financing value system were not evaluated even though these were included in the evaluation worksheets.

7.3.7.2 Overall financing evaluation

Set out below is the ranking of the bidders based on the finance value system:

OFFEROR	SCORE	RATING	RANKING
United Kingdom GEC F3000	2.2071	100	1
Germany GFC MEKO 200	2.786	79	4
France	2.786	79	4

OFFEROR	SCORE	RATING	RANKING
GFC MEKO A200			
France DCN Patron Corvette	2.497	90	2
Spain BAZAN 590B	2.659	84	3

7.3.7.3 Results of the forensic investigation

- (a) In terms of the financing evaluation report and the evaluation worksheets, none of the bidders complied with the minimum criteria set out in the financing value system.

These non-conformances were apparently reported to SOFCOM on 3 June 1998, whereupon SOFCOM indicated that the evaluation team should continue evaluating as many of the proposals as possible with an indication of their non-conformances.

- (b) GFC Meko 200 SAN: adjustments

- The cash flow calculated as per proposal amounted to US\$907,705 million. This was adjusted to US\$871 million on the evaluation worksheet.
- The calculated NPV of US\$437,241 million was adjusted to US\$419,6 million on the evaluation worksheet.
- The contract value was adjusted to US\$640,3 million from the US\$667,287 million proposed by GFC.
- According to a member of the financing evaluation team, Mrs B Potgieter, these adjusted contract prices were given to the team by the technical evaluation team.

- The adjusted contract prices automatically resulted in adjusted cash flows and NPV. The proposal amounts referred to above have been confirmed with Mrs B. Potgieter. The adjustments did not have an effect on the evaluation results.
- (c) GFC Meko A200 SAN: Adjustments
- The cash flow as calculated from the proposal was reduced from US\$922,713 million to US\$885,5 million.
 - The NPV was also reduced from US\$444,469 million as calculated from the proposal to US\$426 million.
 - The contract amount proposed amounted to US\$678,329 million but the evaluation worksheet indicates US\$651 million. The adjustments did not have an effect on the evaluation results.
- (d) In respect of the DCN evaluation of section 1(a) of the finance evaluation worksheet, one evaluator gave a score of 2.4 but this was indicated as 2.2 on the summarised evaluation sheet. This had no effect on the overall ranking of the bidders.
- (e) The IBCA rating, i.e. section 4.2(c) of the evaluation sheet, was not evaluated even though this was included in the evaluation sheet. This had no effect on the results as it was left out in respect of all the bidders.
- (f) Apparently section 2(a) of the evaluation worksheet could not be evaluated, since no available funds figure was provided. However, four of the five evaluators evaluated this criterion. This could have influenced the ultimate evaluation of the bidders. Whether this was material could not

be ascertained, as the scores that might have been allocated by the other evaluator could not be determined.

- (g) No provision was made for the rating in instances where the information had not been provided. In such cases nothing was scored and the result was that the bidder who provided no information had the lowest score, which placed that bidder in a more favourable position than those who had furnished the information. In terms of the finance value system, the bidder with the lowest score was ranked first.
- (h) A decision was taken during SOFCOM meeting on 3 June 1998 that all bids will be evaluated even though these did not conform to the minimum critical criteria as stipulated in the value system. As non of the bidders complied, this decision did not favour or prejudice any specific bidder with regard to the financing evaluation.
- (i) No review of the evaluation results was performed, as was confirmed by one of the evaluators, Mrs B Potgieter.
- (j) The overall evaluation formula that was used was identical to the one relevant to the ALFA as described in paragraph 4.3.7.2 above

7.4 APPROVAL PHASE

7.4.1 Detailed investigation procedures performed

7.4.1.1 The minutes of the various committees involved with the approval of the evaluation results were perused in order to ascertain whether proper procedures were followed in approving the value systems.

7.4.1.2 Interviews with various role players were conducted.

7.4.2 SOFCOM consolidation of evaluation results

The evaluation results from the evaluation teams were consolidated by SOFCOM. The ranked bidders were recommended by SOFCOM and this final ranking was presented to the AASB on 8 July 1998. On 13 July 1998 the consolidated results were presented to the AAC. The names of the preferred bidders were then sent through to the Ministers' Committee in July 1998.

7.4.3 Ministers' Committee

7.4.3.1 As stated above, SOFCOM forwarded the details of the preferred bidders to the Ministerial Subcommittee, subsequent to their being presented to the AAC.

7.4.3.2 A ministerial briefing by the co-chair of SOFCOM, Mr Shaik, was conducted on 31 August 1998, when the preferred bidders were recommended for final consideration.

7.4.3.3 On 18 November 1998 the preferred bidders were recommended by SOFCOM and were approved by Cabinet.

7.4.3.4 The preferred bidder for the Corvettes was GFC.

7.5 NEGOTIATION PHASE

7.5.1 Investigation procedures performed

The general procedures as described in chapter 3 were performed.

7.5.2 The International Offers Negotiating Team (IONT)

- 7.5.2.1 Subsequent to the approval of the preferred bidders, IONT was mandated to negotiate better contract terms with the selected bidders.
- 7.5.2.2 The terms of reference of IONT were issued on 25 January 1999.
- 7.5.2.3 Other consultants, legal and financial, were appointed to assist IONT in the negotiation process.
- 7.5.2.4 On 27 August 1999 the affordability recommendation, in the form of the affordability report, was made to the Ministers' Committee by IONT.
- 7.5.2.5 On 15 September 1999 Cabinet approved the affordability recommendation by IONT.
- 7.5.2.6 On 1 December 1999 Cabinet approved contracting with the selected bidders as per memorandum 14/99.

7.5.3 Comparison of costs presented to Cabinet and costs contracted for

- 7.5.3.1 The amount for the Corvettes presented to Cabinet on 18 November 1998 was R6 001 million.
- 7.5.3.2 On 15 September 1999 the costs presented to Cabinet by IONT for the Corvettes, based on the affordability report issued on 31 August 1999, amounted to R6 917 million. These costs were inclusive of the statutory and project management costs. The difference between these costs and the costs presented on 18 November 1998 is apparently due to the fact that in November 1998 the costs projection did not take into account all the elements of costs as outlined in paragraph 2.1.1 of the affordability report.

7.5.3.3 On 1 December 1999 Cabinet discussed a memorandum from IONT: Cabinet Memorandum No 14 dated 25 November 1999. The purpose of the memorandum was to obtain Cabinet approval to contract formally with the preferred bidders. A schedule with two sets of costs was annexed to the memorandum; the first set of costs being those presented on 15 September 1999, which amounted to R6 917 million.

7.5.3.4 The other set of costs amounted to R6 873 million as on 24 November 1999. The reduction was mainly due, but not limited to, the reduction of the tender price from R5 469 million to R5 412 million due to negotiated cost reductions.

7.6 CONTRACTING PHASE

7.6.1 Investigation procedures performed

The relevant agreements were perused and consultations were held with the officials involved in the procurement process.

7.6.2 Findings on the contracting phase

7.6.2.1 On 3 December 1999 DoD signed the contracts with the selected bidder, GFC, for the acquisition of four Type MEKO A200 SAN Corvettes. The deliverables included:

- Four Corvette platforms.
- Four Corvette Combat Suites.
- Integrated logistic support (ILS).
- Integrated test bed (ITB).
- Combat team trainer (CTT).
- Integrated platform management system simulator (IPMS).

- Programme management documentation and any other documentation as specified.

7.6.2.2 The contract price amounted to Euro 611 842 759 + R1 496 227 105. The Euro amount is for the foreign cost component and the Rand amount for the local cost component.

7.6.2.3 The delivery of the Corvettes was agreed to as follows:

- The first platform was scheduled for delivery 32 months after the effective date.
- The second platform was scheduled for delivery 37 months after the effective date.
- The third platform was scheduled for delivery 43 months after the effective date.
- The fourth platform was scheduled for delivery 48 months after effective date, with the effective date being the effective contract date, 3 December 1999.

7.6.2.4 Performance guarantees had to be furnished by the seller and these amounted to:

- 5% of 25% of the contract price for each platform.
- 5% of the unit price for each Combat Suite.
- 5% of the unit price in respect of each part C subcontract.

7.7 FINDINGS

- 7.7.1 With the exception of Bazan, all the bidders involved in the Corvette procurement programme failed to comply with the minimum evaluation criteria in respect of financing, technical requirements and Defence Industrial Participation. Bazan failed only in terms of the financing evaluation criteria.
- 7.7.2 The decision to allow bidders to supply information after the offers had been submitted constituted a deviation from proper procurement practice.
- 7.7.3 The amounts offered by the bidders, as per the RFIs/RFOs were, in some instances, changed by the evaluators during the evaluation process. However, this did not have an effect on the outcome of the rankings.
- 7.7.4 The DIP and NIP value systems did not provide the formulae for the calculation of the scores. Certain formulae were used in the calculation of DIP scores, but these could not be found to have been specified in any approved document.
- 7.7.5 No evidence regarding the manner for awarding the NIP quality multipliers could be found as these were not linked to any documented benchmarks.
- 7.7.6 No evidence of the required approval of the financing value system, other than the signature of the compiler thereof, was found.

7.8 RECOMMENDATIONS

- 7.8.1 Once evaluation criteria and instructions have been compiled, compliance with these should be enforced, even if it means that the process must re-commence from RFO stage. This will ensure a fair, competitive and open procurement process.

7.8.2 Sufficient time should be allowed to perform the evaluation on large procurements, such as the SDP.