

Defence; Finance; Justice, Public Service and Administration; Trade and Industry; Standing Committee on Public Accounts and Joint Committee on Ethics and Members' Interests

15 November 2001

Joint Investigation Report into Arms Procurement Package

Acting Chairpersons: Mr Surty (NCOP, ANC); Mr MJ Mahlangu (ANC)

Relevant documents:

[Joint Investigation Report into the Strategic Defence Procurement Packages](#)

[Address to National Assembly by Auditor General, National Director of Public Prosecutions and Public Protector about the Joint Investigation Report](#)

[Press Statements by Investigating Agencies and SA Government on Joint Investigation Report](#)

1. Summary

There was consensus on the need for clarity on the process to be followed as seven parliamentary committees need to produce a report by 6 December. Questions were asked about the imposition of this deadline and the manner in which Committees would need to work together or not. Members emphasised that the investigative team needed to be available to clarify aspects of the report.

Prior to this meeting, Members of Parliament were briefed by the heads of the joint investigative agencies: Public Protector, National Director of Public Prosecutions and the Auditor General.

2. Minutes

3. The Committees represented at the meeting are to produce a report on the investigation by the three agencies and a deadline of 6 December 2001 has been set for this report.

4.

5. Mr Shauket Fakie (Auditor General) said that the issue of concern to the investigating team was that seven Committees would be considering the Report. How would they deal with logistics, such as timing?

6.

7. Ms Hogan (Chairperson: Portfolio Committee on Finance) said there was a need for clarity on referrals made to each of the Committees. The ATC (Announcements, Tablings and Committee Reports) refers certain chapters to certain Committees. For instance, Finance has been allocated Chapter 9 and Trade and Industry Chapter 12. Certain chapters are not referred to any Committee and the Standing Committee on Public Accounts, for instance, will consider anything in its purview. She was concerned over the working relationship between Committees and the problems of duplicating responsibilities.

8.

9. Mr Jeffery (ANC) said it was important for the Portfolio Committees to read the report, especially the Chapters which had been allocated to them specifically and to decide whether there are issues on which they need input from investigators. The joint investigative team should be available as it was not possible to schedule meetings as yet. He proposed that the Committees meet some time in the following week to decide what issues are relevant to them.
10. Mr Surty said there was clearly consensus on this proposal.
11. Mr Mashimbye (Chairperson: Joint Standing Committee on Defence) asked for clarity on the following issues. What informed the allocation of the Chapters to the particular Committees? What was their mandate? He was concerned about 'reinventing the wheel'. The scheduling of meetings was very important to enable the investigating agencies to attend. Prior to the meeting he had informed the Speaker that the Report should have been referred to the Jointing Standing Committee on Defence, not the Portfolio Committee on Defence.
12. Ms Seaton (IFP) asked how the 6 December deadline was arrived at as the final date for Committees to complete their reports.
13. Mr Mahlangu proposed that perhaps the Committees should meet and decide on a timeframe, then report to the Presiding Officer whether or not an extension was needed.
14. Ms Taljaard (DP) asked whether the deadline set by the Presiding Officer had been discussed by the Chair-to-Chair Committee.
15. Mr Fakie (AG) asked Members to consider the suggestion that Committees meet first and that the Chairpersons form a joint working committee. They could arrive at a consent on which areas clarity is needed. The investigating agencies could even give written answers, they did not need to be physically present.
16. Mr Koornhof (UDM) asked who would co-ordinate the process because as it is, a total of seven reports will be produced. What role would SCOPA, who initiated the investigation, play?
17. An ANC member said it was difficult for any Member to speak on behalf of the Committees. They all needed to draft their own processes and then make interventions where necessary.
18. Mr Surty said that Committees would have to meet no later than Tuesday of the following week. The Chairs would have to convene Wednesday or Thursday and get a better sense of whether Committees want to confer with one another.
19. Ms Taljaard (DP) commented that Gavin Woods (Chairperson: Standing Committee on Public Accounts) already envisaged a way forward and Public Accounts already has a schedule. What was the availability of the investigators, given that a deadline has been imposed on Committees? She added that the Rules of Parliament are clear on operations and working relationships between Committees.
20. The meeting was adjourned. A press conference with the heads of the investigation team was then held in the same venue (see Appendix for media questions and replies).

21. Appendix:
15 November 2001
22. **Press Conference with Heads of Investigative Agencies: Release of Report on Joint Investigation Into Arms Procurement Package**
23. Angela Quintal (South African Press Association) : Could they name those persons against whom action would be taken within the following 24 hours and what kind of action this would be?
24. Mr Bulelani Ngcuka (NDPP) said they would have to wait until tomorrow.
25. Alan Fine (Business Day): [Why were certain people removed from their positions in the Auditor General's Office during the investigations.](#)
26. [Mr Baqwa said that they had taken people off their positions where their duties were incompatible, those, for example, who are responsible for auditing the Department of Defence.](#) They are still in the Auditor General's Office.
27. Journalist from Die Burger: To what extent would the Standing Committee on Public Accounts - the originators of the process - be examining the Report?
28. Mr Ngcuka said that this is a prerogative of that Committee. But they would make themselves available to give clarity on the Report.
29. Journalist from The Argus: What are the full financial and fiscal implications of the arms deal?
30. Mr Fakie said that Chapter 9 spells out financial issues. There has always been a great deal of debate over the cost of the deal. Page 261 of the Report addresses the contract price. At the time of signing the contract, taking the exchange rate into account the cost was set at around R33 billion. He also referred to page 262 and page 263, paragraph g.
31. Carol Paton (Sunday Times) pointed out that the [Auditor General's original Report had referred to a substantial departure from procedures.](#) Do the strategic considerations now outweigh everything else? Does the team maintain that there are irregularities in the contracts?
32. Mr Fakie pointed out that the initial report was a review, not a report and it merely identified certain issues. This final Report is a result of a nine-month investigation. [The Report speaks for itself.](#) In terms of the original brief, SCOPA was meant to brief the investigative team, which was later not possible because of certain constitutional problems. But the teams have a prerogative and constitutional mandates and did not even need such a briefing.
33. John Matisson (Sunday Independent): Initially it was said that the contracts were badly drafted, one in particular. How did the investigators reach the conclusion that the contracts were well drafted?
34. Mr Selby Baqwa (Public Protector) referred to Chapter 13, which deals with the contracts. A team had taken the contracts apart, of which White (now with the World Bank) was a part of. This team did not find the contracts to be clumsily drafted. In fact they were comfortable that the contracts were above board.

35. Mr Fakie added that the process of drafting the contracts was sound and at the time they had appointed international law firms of repute to assist in drawing them up.
36. John Matisson: Were they aware that the media would not see the Report until after Ministers had made statements on television, thus preventing them from asking questions on the content of the Report?
37. Mr Ngcuka responded that this was in the hands of the Speaker.
38. Among the recommendations is that government must develop guidelines on arms procurement. But there seemed to be no sense of urgency?
39. Mr Fakie explained that while the procurement process was continuing new policy was being developed, known as ACQ 198. It was tested against the Australian procurement policy, for instance, and found to be acceptable. Now they would need to go back and see what lessons can be learned.
40. Adrian Lakay (Beeld): Opposition Members had called the Report a 'white-wash' while the investigative team were saying that this was a huge, timeous investigation. How would they respond?
41. Mr Ngcuka retorted that since the Report was made available only after the sitting of the National Assembly and it was 400 pages, when had opposition Members read it in order to draw this conclusion?
42. Is the investigation of the Chief Whip, Tony Yengeni, a separate issue?
43. Mr Ngcuka said that they refer briefly to Tony Yengeni and Woerfel in the Report, as individuals against whom action had been taken.
44. Alan Fine (Business Day): **There had been dissatisfaction about public hearings. How was that to continue?**
45. **Mr Baqwa said that even though the investigation had been divided into three phases, on the day of closing the public phase they had hoped to keep the door open but no other witnesses came forward. These hearings will not reconvene. They had gone through masses of evidence and there were checks and balances built in, due to there being three investigative bodies. He assured them that he would not be party to any whitewash.**
46. Carol Paton (Sunday Times): Would they explain the investigation into former Minister of Defence Modise, against whom there are serious allegations.
47. Mr Baqwa said that Modise had been involved in a company that was to benefit from procurement and he had an active role in procurement. There are issues still under investigation. The team concluded that there are no grounds for concluding that government's position is flawed. But for individuals; some claim authority where they have none and also attempt to influence others.
48. **This has been a complex investigation and several auditing firms were used, most of whom have reputable histories.**

49. Angela Quintal (SAPA): Would they summarise the findings on Dr Richard Young in the light of their findings on Chippy Shaik.
50. Mr Baqwa said that an enormous amount of money had been spent on this aspect of the investigation and **the Report speaks for itself.**
- 50.1 Now it is up to Richard Young to pursue the matter further.**
- 50.2 The imposition of the risk premium on IMS was not great when taking into account the selection process.
- 50.3 Chapter 11 explains what an IMS is.
- 50.4 A patrol corvette is made up of a hull, propulsion system and a combat suite.
- 50.5 The parts of the combat suite are linked to the combat management system by means of a databus.
- 50.6 The IMS, developed by Dr Young's company, is such a databus.
- 50.7 The process of trying to replace the navy's frigates began from 1980 during which time the needs of the SANDF had to be established.
- 50.8 Dr Young was a child of that process.
- 50.9 When the selection process started Dr Young offered his system, while his could have been compatible, the ADS system, produced by a competitor, was also considered.**
- 50.10 This system had been tested internationally, but not that of Young.
- 50.11 Which is why the German Frigate Consortium was awarded the contracts.
- 50.12 There was a risk premium of R40 million.
- 50.13 They had to test whether the GRC (sic) (GFC) had done the right thing.
- 50.14 Mr Baqwa said it baffled him that as soon as Rear Admiral Kamerman appeared at the public hearings to refute Young's testimony, Dr Young walked out.**
51. Andre Koopman (Independent Newspapers): Why would something as central as currency fluctuations not be considered?
52. Mr Fakie responded that paragraph 934 on page 264 must be looked at in the context of paragraph 933 and paragraph 9.2.3.13 on page 261, which refers to dollar value. He did not think that significant things were left out of the model.
53. Freelance Journalist: Is there any sense that there will be co-operation between the German and South African over the prosecution of Woerfel.

54. Mr Ngcuka said that so far the German government has not approached them.
55. The press briefing was concluded.