

## **Joint Standing Committee on Defence: Defence Portfolio Committee: Joint Meeting**

28 November 2001

## **Joint Investigation Report into Strategic Defence Procurement Packages: Chapters 11 & 12**

Chairpersons: Ms T Modise (ANC); Mr J Mashimbye (ANC)

### Relevant Documents

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

#### **1. Summary**

The Committees completed the discussion of those chapters of the Report allocated to them for consideration. Chapters 11 and 12 formed the basis of the meeting with questions asked by the members of the Committee being noted so that they may be put to the Joint Investigation Team.

#### **2. Minutes**

- 2.1 The Chairperson, Mr Mashimbye, started off by re-accounting the previous day's meeting where the Democratic Party had walked out of the meeting. The Chair explained the reason for the walk-out: **the Minister refused to let the Department of Defence come before the Committee to shed light on certain aspects of the Report.** The Minister pointed out that the Department had made its view on the matter public knowledge and had already provided additional information on the matter. Adv Schmidt and the other DP representatives **felt that this was contempt of Parliament** and that the Department was obliged to come before the Committee if it so requested. The DP had suggested that a letter be written to the Minister of Defence to let him know of the Committee's view of the matter. The Chair did not indicate whether or not he had refused to write the letter as requested but he went on to say that the DP members had said that until the Committee had written a letter to the Minister, the DP would not participate in the consideration of the Report. The reason for this was that they refused to participate in a process that was made out to be transparent and fair but was not.
- 2.2 The Chairperson said that he had hoped the DP would rejoin the meeting that day but sadly they had not. He noted that Adv Schmidt had not indicated how long the suspension of the DP's involvement would be. He apologised that he had not made an attempt to contact Adv Schmidt as he had thought Adv Schmidt would contact him or alternatively would have been present in that day's meeting.

## 2.3 Chapter 11 Allegations/complaints by C<sup>2</sup>I<sup>2</sup> Systems

Mr H Smit (NNP) referred to Point 11.6.1.2 where the Report indicated that the "SA Navy accepted some of the risk with respect to Category C products." Mr Smit asked what this meant and specifically what this 'risk' was. Next he referred to Point 11.6.1.8 where the Report indicated that investigation team did not have access to a document, namely the Detexis proposal. He asked why this was so.

- 2.4 Mr G Oosthuizen (ANC) felt that the whole matter in Point 11.6.1.10 would have to be revisited. It stated that it was obvious that at the time when the GFC presented the Detexis proposal, it was in possession of the C<sup>2</sup>I<sup>2</sup> proposal.
- 2.5 The Chair directed the Committee's attention to Point 11.6.6.2 where he said that the evidence was contradictory. This would need to be explained.
- 2.6 Mr Oosthuizen moved on to Point 11.6.6.5 where the Report made mention of two versions of a report on the Diacerto Bus, a short and a long version. The Committee as a whole seemed to take issue with the fact that there were two reports. The most prevalent argument was that the interviews of witnesses were done on the basis of the short summarized version of the report which would skew the results of the interviews.
- 2.7 Mr M Mabeta (UDM) added that the paragraph implies that there could have been a substantive difference between the two reports.
- 2.8 Mr L Ngculu (ANC) sought clarity from the Joint Investigation Team on Points 11.6.6.8 and 11.6.6.9.
- 2.9 Mr Smit referred to Point 11.6.9.7 which states that other subcontractors were not indicated on matters relating to risk premiums. He asked why this was so. He sought clarity from the Joint Investigation Team on Points 11.8.2.8 and 11.8.2.9. He referred to Point 11.8.2.14 which indicated that the details of what Mr Shaik disclosed were not minuted, but it was known that the disclosures related to the interests of family members in ADS. Mr Smit asked to what extent these disclosures were not minuted and why not.
- 2.10 At this point the Chairperson interjected realizing that the Committee's discussion had turned on to that part of Chapter 11 which concerned the conflict of interest of Mr Shaik. He said that he would prefer for the Committee not to discuss the matter as it was not usual for the Committee to discuss matters currently before the judiciary. The conflict of interest of Mr Shaik was one such matter and it would not be proper for the Committee to discuss this. However, the Chair said he did not want the section to go unconsidered. For this reason the members could raise the questions they would like answered by the Joint Investigation Team but he would not allow a 'discussion' of the material in that section of the Report.
- 2.11 Mr Ndlovu agreed adding that the present section being considered was being attended to by the Department. The Shaik family was currently under investigation and a discussion of the subject matter would prejudice them. For this reason the Committee should be able only to note matters in need of clarity and not be allowed to consider the substance of the section.

- 2.12 The Chair told the Committee that the subject matter was extremely sensitive and that it might be better to consider the topic at a later date, once the court had concluded its consideration of the matter.
- 2.13 Mr Smit stated that during a Pretoria visit, the Committee had received a briefing on the risk premium. At that briefing the risk premium had been quite low and for this reason he was quite impressed. He referred to Point 11.11.4.7 which stated that "a risk premium of some R42 million was added". Mr Smit said he was no longer impressed but very much unimpressed and added that he would like to know how they arrived at this figure.
- 2.14 Mr Smit referred to Points 11.11.5.1, 2 and 3 saying that he would like to question the Department of Trade and Industry about unfair business practices. He commented that he would not conduct business with people who behaved in such a manner .
- 2.15 Chapter 12 National Industrial Participation & Defence Industrial Participation**
- 2.16 The Chair noted that Chapter 12 had also been assigned to the Trade and Industry Portfolio Committee for consideration. As that Committee had only that chapter to consider, it would be advisable to obtain a copy of its committee report as it would assist the present Committee's consideration of the Chapter.
- 2.17 Mr Smit agreed saying he knew he was not equipped to comment on the complicated matters in the Chapter. Mr Ndlovu felt the same way, adding that for this reason the Committee should focus on the Chapter's recommendations as these presented the easiest yet most important task.
- 2.18 Mr Oosthuizen agreed that the Chapter was complicated and the other committee's report should be obtained. However it was important for the Committee to be vocal on the countertrade that would be taking place around the arms deal. He referred to Point 12.2.8.3 where according to international trends, South Africa had done better than other countries in countertrade negotiations.
- 2.19 The Chairperson was advised by the Committee clerk that the Trade and Industry Portfolio Committee meeting had not yet taken place. However once this Committee had met, he said that the report generated from that meeting would be made available to members.
- 2.20 Mr R Mohlala (ANC) submitted that Point 12.2.9.6.(e) read in conjunction with Point 12.3.8 created a serious potential danger. Ms Z Kota (ANC) agreed and noted that in Point 12.3.7 there was a misnomer. She would thus like to hear from the Joint Investigation Team to obtain a greater degree of clarity.
- 2.21 Mr Mashimbye added that when originally looking at the matter he had suggested a penalty being placed on the DIP requirement rather than on the non-fulfillment of the contract. As he understood it, the penalty payable was 5% of the complete contract price. The question was whether they wanted the contracting companies to factor this 5% into their offers.
- 2.22 Ms N Shope (ANC) submitted that it was also not unforeseeable that companies would default and pay the 5% penalty as this would release them of their duty to fulfill the DIP requirements. The Committee needed the help of the Trade and Industry Portfolio Committee as they had a better understanding of the matters in question. She added that in the future the Committee would have to hold people to their word. She reminded the Committee of a meeting it had had with Mr Shaik.

The Committee asked how local businesses would benefit and how they would be involved. Mr Shaik had explained how small and medium businesses would be involved and how many jobs would be created.

- 2.23 The Chair said that these matters would probably be covered in the Trade and Industry Portfolio Committee meeting. Consequently he asked Ms Shope, Mr Mabeta and Mr Oosthuizen to follow the proceedings of the Trade and Industry Portfolio Committee.
- 2.24 In closing, the Chairperson noted that the Committee had now identified those areas in the Report that required clarification. The Committee would meet the following day to compile the list of its final questions.