

CLOSING REMARKS BY THE CHAIRPERSON OF THE ARMS PROCUREMENT COMMISSION, JUDGE

WL SERITI

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1. Today's sitting of the Commission is significant for a number of reasons. It marks the end of the penultimate phase of the Commission's work, the public hearings, which commenced on 19th of August 2013. Most importantly, it concludes the Commission's inquiry into the Strategic Defence Procurement Packages (SDPP) which, as you may recall, was announced by the President in September 2011 and began in earnest on the 16th of April 2012 when we moved to temporary offices in Salvokop. In the coming few days, Commissioner Musi and I will begin the solitary and arduous task of writing our final report. We have until the 31st of December 2015 to finalise it and submit it to the President. We will, however, endeavour to submit it much sooner than stipulated in the Terms of Reference.

2. This being the last sitting of the Commission it may be apposite to reflect briefly on its journey thus far. We do so with circumspection, mindful of the injunction that we must report to the President and only to him.
 - 2.1 This inquiry was launched as a consequence of incessant allegations of venality relating to the SDPPs. These accusations, which cast doubt on the wisdom of the first democratically elected government of South Africa; impugn the integrity of members of the executive, government officials, defence companies that won the bids, their employees and agents or consultants, have been in the public domain for quite some time. They have also been chronicled in several books and numerous press articles. We deemed it appropriate from the outset to solicit information from all interested parties and in May 2012, the Commission invited everyone with information relevant to its Terms of Reference to bring such information to its attention by way of affidavit. The responses were disappointingly scant. We received a meagre eight submissions.

 - 2.2 Simultaneously, we requisitioned information pertaining to the SDPP in the custody of Cabinet, Parliament, the Department of Defence, Department of Trade and Industry, the National Treasury; Armaments Cooperation of South Africa; the Directorate for Priority Crime Investigation which inherited the investigations into the arms acquisitions from the Directorate of Special Operations when it was disbanded as well the Investigating

Directorate, Serious Economic Offences; the National Prosecuting Authority and the Office of the Auditor-General. Their response was heartening. These institutions not only provided us with the information but also affirmed that they would cooperate with the Commission in discharging its mandate. The commitment of these institutions and their unwavering support was also demonstrated by the swift manner in which they declassified documents required by the Commission including Cabinet minutes, the Affordability Study Report and the contracts concluded between the government of the Republic and various arms manufacturers.

- 2.3 As is apparent from the above, the Commission is not the first institution to grapple with the allegations of malfeasance in connection with the SDDPs. The Directorate for Special Operations (and subsequently the Directorate for Priority Crime Investigations) commenced its investigations into the various legs of the arms procurement in 2000. These investigations were discontinued in 2010. The allegations also spurred investigations in the United Kingdom, Sweden, Switzerland, Liechtenstein, Germany, and France. Some witnesses who appeared before the Commission testified that BAE Systems which supplied the Lead-in Fighter Trainers (the Hawks) and the Advance Light Fighter Aircrafts (the Gripens) was investigated by the United States Justice Department. It would have been remiss of the Commission not to make an effort to access information and/or evidence amassed by these investigative bodies. Accordingly, the Commission consulted with the prosecutors, auditors and investigators who were involved in the local investigations into the acquisitions between 2001 and 2010 and visited a number of overseas countries and met and consulted with the representatives of the foreign investigative agencies referred to above. The outcome of our interactions with all these entities and people will form the subject of the Commission's final report and cannot be discussed here.
3. We should concede that the road thus far has not been plain sailing. In the period prior to the commencement of the public hearings, we endured a barrage of criticism which was sparked the resignations of two officials, one of whom made some serious allegations against the Commission. Sections of the media seized upon these allegations and tried to discredit the Commission and delegitimise its work. The Commission dealt comprehensively with the allegations in a number of media statements. Then on the eve of the start of the public hearings one of the Commissioners resigned which resulted not only in another round of media lashing of the Commission but also in the commencement of the public hearings being postponed by two weeks and the Commission being reconstituted. When we thought we had weathered the storm, one senior evidence leader resigned to be followed

shortly by two other evidence leaders right in the middle of the public hearings. However, this only served to strengthen the resolve of the remaining teams of evidence leaders, our internal legal team, our support staff and of course the commissioners to soldier on and execute our mandate.

4. The Commission has heard approximately 56 witnesses and heard extensive evidence including evidence of a technical nature by the senior officials of the military, officials of Armscor and senior and experienced officials of the government departments that took part in the procurement process. Among the high profile people who testified are members of the inter-ministerial committee that oversaw the whole process and we can mention former president Thabo Mbeki; former Minister of Finance, Mr Manuel; former Minister of Trade and Industry, Mr Alec Erwin; former Minister of Defence Mr Mosiuoa Lekota and former Deputy Minister of Defence, Mr Ronnie Kasrils. Among the senior military officers who testified are the current Chief of the National Defence Force, General Solly Shoke; and the former Chief of the Air Force, General W Hechter; as well as the Deputy Chief of the Air Force, General Malinga. On the other spectrum, the Commission has heard evidence of prominent individuals who are popularly referred to as the critics by virtue of the fact that they have publicly criticised the SDPPs over the years. This includes Mr Terry Crawford Browne, Dr Richard Young and career politicians Ms Patricia de Lille and Mr David Maynier, as well as former MPs, Raenette Taljaard and Dr Gavin Woods. Messrs Feinstein, Van Vuuren and Holden who have written books on the subject were scheduled to appear before the Commission but refused to testify. We, however, do have the submissions that they handed in in 2012 and these would be looked at.

The last witnesses to testify were representatives of three of the companies that were awarded the contracts (the winning bidders), namely Thales of France, ThyssenKrupp Marine Systems (part of the German Frigate Consortium) and Agusta Helicopters of Italy.

We take this opportunity to also thank all the legal representatives who represented the various witnesses during the hearings and also those who participated in the closing submissions. Their participation was critical in facilitating the smooth running of the hearings. Last but not least, we thank all the witnesses who testified. We know that appearing in a forum of this nature is no easy task, especially considering that they would be subjected to possible cross-examination.



5. It is apposite to take this opportunity to thank our staff members for their unwavering commitment and loyalty to the cause of the Commission (I emphasise cause) and staying the course in the face of all the tribulations. To them I say a job well done. In this regard I wish to make special mention of the following.
- 5.1 Evidences leaders. Adv T Sibeko SC, Adv S Lebala SC, Adv M Mphaga SC; the senior attorney Ms M Ramagaga; Adv P Ngobese; Adv M Sello; and Adv S Zondi.
 - 5.2 Adv F Mdumbe, head of the internal legal team. He has been a pillar of strength and operated as a conduit firstly, between the evidence leaders and the Commission; and secondly, between the Commission and the witnesses and interested parties.
 - 5.3 Secretary to the Commission, Ms P Lumphondo and her staff who have throughout ably provided the Commission with the necessary administrative support, including Ms S Hlatshwayo, our office manager.
 - 5.4 The Communications Manager, Mr W Baloyi, who has had to deal with inquiries and queries from the media and kept the public abreast of the Commission's programmes and activities.
 - 5.5 Mr Mcebisi Mama, who has provided the Commission with assistance in the form of research as well as ensuring that the documents used at the public hearings are made available to all the stakeholders.
 - 5.6 The personal assistants to the Commissioner, Ms M Khumalo and Mrs C Sepeng who have throughout provided the necessary assistance to the Commissioners.
 - 5.7 Captain Coetzee and his staff for providing us with security at the public hearings.
 - 5.8 Mr Thwala and his team of security personnel for looking after the Commission's offices.
- 6 Our sincere gratitude also goes to the City of Tshwane for providing us with office space and this venue where we have held our hearings since August 2013. We would also like to thank the Department of International Relations and the Department of Justice and Correctional Services for their assistance. Lastly, we would like to thank the media for ensuring that the proceedings of the Commission reached all members of the South African society.

I thank you all.

WL Seriti

Chairperson of the Arms Procurement Commission