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Focus on the defence procurement package

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Welcome to *ANC Today*

FIRST OF ALL, I would like to congratulate the Communications Unit on its decision to publish *ANC Today*. It is of critical importance that the ANC develops its own vehicles to communicate news, information and views to as many people as possible, at home and abroad.

Clearly, the Internet provides an added possibility to achieve this objective. It is very encouraging indeed to see an organisation as old as the ANC respond to modern challenges and possibilities with the speed and flexibility it has demonstrated by the use of the Internet.

I therefore wish this new venture, *ANC Today*, the success it deserves.

Historically, the national and political constituency represented by the ANC has had very few and limited mass media throughout the 90 years of its existence.

During this period, the commercial newspaper and magazine press representing the views, values and interests of the white minority has dominated the field of the mass media.

This situation has changed only marginally in the period since we obtained our liberation in 1994.

The same views, values and interests also drove the state broadcaster, the SABC.

It is only now that changes are being brought about to ensure that the SABC fulfils its mandate as a public broadcaster. Much still remains to be done before this objective is achieved.

During the colonial and apartheid years, especially the latter, both the white minority regimes and the dominant economic powers pursued a deliberate policy of suppressing the media that communicated the views of our constituency, the overwhelming majority of our population.

For example, both *The Guardian* and its successor, *New Age* were both banned, as was *The World* in a later period. Progressive journalists were banned and imprisoned.

We also have the well-known case of the suppression of the liberal *Rand Daily Mail*.

To this day, any media that genuinely represents the interests and the views of the majority has to live with reality that it has to overcome such obstacles as an "advertisers' boycott" and difficulties in distribution.

LETTER FROM THE



PRESIDENT

We are faced with the virtually unique situation that, among the democracies, the overwhelmingly dominant tendency in South African politics, represented by the ANC, has no representation whatsoever in the mass media.

We therefore have to contend with the situation that what masquerades as "public opinion", as reflected in the bulk of our media, is in fact minority opinion informed by the historic social and political position occupied by this minority.

By projecting itself as "public opinion" communicated by an "objective press", this minority opinion seeks to get itself accepted by the majority as the latter's own opinion.

With no access to its own media, this majority has had to depend on other means to equip itself with information and views to enable it to reach its own conclusions about important national and international matters.

These have included direct contact with the leadership and membership of the ANC at public meetings.

Though very important, this means of mass communication can never be adequate as a means of communicating our views and information to the millions of our people and others in the rest of the world.

ANC Today will make an important contribution towards filling the void of the voicelessness of millions of people, that is a direct legacy of more than three hundred years of colonialism and apartheid.

I hope that the journal will make a special effort to ensure that the news and views the masses of our people are denied reach them.

Of special importance, the people must be informed of the progress we are making with regard to the social transformation of our country and continent, the obstacles and opposition we have to overcome and our programmes to achieve further progress.

The world of ideas is also a world of struggle.

ANC Today must be a combatant for the truth, for the liberation of the minds of our people, for the eradication of the colonial and apartheid legacy, for democracy, non-racism, non-sexism, prosperity and progress.

The struggle continues! Victory is certain!

Thabo Mbeki.

ARMS PROCUREMENT

Heath decision a victory for democracy

The decision by President Thabo Mbeki not to issue a proclamation authorising the Heath Special Investigating Unit to probe allegations relating to the arms procurement package is a victory for democracy and the constitution.

This decision, in the face of unprecedented pressure from opposition parties and sections of the media, is a bold assertion of the supremacy of the Constitution and the principle of the separation of powers. It is a

MORE INFORMATION:

- [Public Broadcast of President Thabo Mbeki on the Strategic Defence Acquisition Programme](#), 19 January 2001
- [Letter to President Mbeki from Minister of Justice and](#)

statement of the government's confidence in institutions established in terms of the Constitution to safeguard democracy and the public interest.

For several weeks there has been a sustained opposition campaign – against all available evidence – to suggest that an investigation which excluded the Heath unit would be unable to produce an accurate, independent finding. This campaign effectively sought to undermine the credibility of structures like the Public Protector, Auditor-General and the National Director of Public Prosecutions, suggesting that they were unable to conduct such an investigation themselves.

Several groups and commentators urged President Mbeki to include the Heath unit to demonstrate the government's commitment to fighting corruption, and in doing so that he ignore the competence of other institutions, the Constitutional Court judgement that the unit in its current composition is unconstitutional and the legal requirements binding the president when he has to issue a proclamation.

The government was correct to reject such suggestions. The inclusion or not of the Heath unit has no bearing whatsoever on the government's commitment to clean, accountable governance.

Instead the decision on the involvement of the Heath unit was based on the government's commitment to the Constitution, its respect for the decision of the Constitutional Court and the laws passed by Parliament.

The Special Investigating Unit headed by Judge Heath was established in 1997 by former President Nelson Mandela in terms of the [Special Investigating Units and the Special Tribunals Act, 1996](#). In terms of the Act, the President is empowered to refer to the unit to investigate any alleged instances of public corruption or maladministration which he or she deems necessary, consistent with this Act. Since its formation, the President has referred numerous such cases to the Heath unit. The unit currently has to complete almost two hundred thousand investigations as directed in over sixty Proclamations issued by the President.

In November last year, however, the [Constitutional Court](#) ruled that the heading of the unit by a judge violated the separation of powers required by the Constitution. The appointment of Judge Heath was therefore unconstitutional and invalid. To ensure an orderly transfer of the leadership of the unit and to effect the necessary changes to the law, the court gave the government a grace period of one year. The court said however there were good reasons for Judge Heath's position as the head of the unit 'to be regularised without undue delay'.

President Mbeki therefore decided not to refer any new matters to the unit, and asked Justice Minister Penuell Maduna to ensure the proper composition of the unit as soon as possible after the opening of Parliament.

Far from undermining any public institution, President Mbeki's decision confirms the government's commitment to the Constitution and the rule of law.

[Constitutional Development Dr P Maduna](#), 15 January 2001

- [Letter from President Thabo Mbeki to Judge Wilhelm Heath](#), 19 January 2001

MEDIA MYTHS

The real arms 'scandal'

The real scandal surrounding South Africa's Strategic Defence Procurement Package is that so few people have been able to make so much noise on the basis of so few facts. And the media has almost without exception acted as uncritical participants in fuelling this furore.

MORE INFORMATION:

- [Background notes on the Strategic Defence Procurement Package](#), 12 January 2001

As a result, a number of myths have been elevated within the media to accepted fact.

MYTH#1. The involvement of the Heath Unit is a test of government's commitment to fight corruption. The exclusion of the Heath unit from the investigation into the arms procurement package does nothing to undermine the fight against corruption. There are sufficient permanent institutions dedicated to probing the expenditure of public finances and the conduct of public officials. These include the Auditor-General, Public Protector, National Director of Public Prosecutions and parliament's Public Accounts Committee. The South African Police Service is also competent to deal with any allegations of criminal conduct.

There are sound and compelling reasons for the government not to include the unit in the investigation, given the ruling of the Constitutional Court that Heath's position as head of the unit should be 'regularised' as soon as possible.

MYTH#2. The President does not respect the oversight role of Parliament. Some people have argued that the President was compelled by the report of the Public Accounts Committee to include the Heath Unit in the investigation. There is however nothing in law or the Constitution which requires this. The decision to provide the unit with a proclamation or not was the prerogative of the President alone, and does not suggest any disrespect for the oversight role of Parliament.

Instead the President went on national television to reaffirm government's commitment to provide the Public Accounts Committee with any information or assistance that may be required of its ministers or departments. He said the government fully supported all lawful investigations into any matter pertaining to the defence acquisition.

MYTH#3. The ANC is trying to prevent a thorough investigation. Closely tied to the campaign around the Heath unit is a campaign to suggest that the ANC is trying to orchestrate a cover-up. Untrue allegations that ANC NEC members Tony Yengeni and Essop Pahad were trying to prevent a probe have been made in the media. In at least one instance, the newspaper responsible retracted its report acknowledging their failure to adhere to basic standards of journalistic practice.

These suggestions fly in the face of the ANC and the government's commitment to ensuring that every assistance is provided to institutions involved in the investigation. In his national television address, President Mbeki insisted that all lawful investigations will continue, and that any wrongdoers, whoever they may be, 'will meet their just deserts'.

MYTH#4. The arms procurement process is riddled with corruption. The impression created over several months of coverage is that the arms procurement process is riddled with corruption. There is no evidence to support such a sweeping conclusion.

What we know is that Auditor-General identified a number of concerns relating to the procurement process. On the basis of these concerns, the Public Accounts Committee saw fit to initiate further investigation. The ministers involved in the procurement process, while reaffirming their availability to the committee to address these concerns, have publicly responded to each of the issues raised in the Auditor-General's report. These ministers remain convinced that the process was undertaken in the utmost integrity.

Other allegations are apparently contained in documents handed over to the Heath unit by PAC MP Patricia De Lille. These allegations have yet to be tested, with the Heath unit even refusing to disclose their contents to the Minister of Justice, the President or the public. In their assessment of the information, Western Cape Director of Prosecutions Frank Kahn and Advocate Jan Lubbe said their firm conclusion was that there was no *prima facie* evidence of criminal misconduct.

Despite the lack of solid evidence it is nevertheless important that all lawful investigations into the arms procurement package continue and are completed as soon as possible.

ARMS AND DEVELOPMENT

An investment to safeguard democracy

Among the many priorities facing the country at the moment is the maintenance of our capacity to safeguard our democracy and the social and economic gains that we make.

It is for these reasons, among others, that the Constitution adopted in 1996 said national security must reflect the resolve of South Africans "to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life".

It is also among the reasons that between February 1996 and April 1998 a comprehensive process was carried out to determine the kind of defence force we needed and how it should be equipped. This Defence Review was tabled and approved with the support of all parties in Parliament in April 1998.

The decision on how to equip South Africa's defence force was carefully considered and thoroughly researched. It was made in the interests of maintaining an effective and modern defence capability over the next decade. Without this replenishment of the main arms of service of the SANDF, its operational capabilities would have been structurally impaired, undermining the country's security and the Constitutional requirement for such a capacity.

In the light of the developmental challenges facing the country, the government has undertaken massive fiscal and budgetary reform to ensure prudent expenditure of limited resources. A procurement of this nature with expenditures spread over more than a decade meant a specific budgeting process and Cabinet adopted a three phased decision making process for the strategic procurement.

The process was unique for South African defence procurement because it was conducted in an open and transparent manner unlike decades of previous purchases; it was a single strategic package rather than piecemeal procurement; and a systematic process of industrial participation obligations was developed in line with the National Industrial Participation Program (NIPP) adopted by Cabinet in April 1997. This is applied to all public sector procurements where the imported content is over \$10 million.

This approach meant there would be four national government departments involved in all decisions - Finance, Trade and Industry, Public Enterprises and Defence. A committee of the ministers of these departments was chaired by then Deputy President Thabo Mbeki (and later as President) and it prepared the final recommendations to Cabinet.

Cabinet then decided to conduct further negotiations with the short listed bidders to address affordability questions. It was also decided to appoint a Chief Negotiator, Jayendra Naidoo, to coordinate the negotiations and report to the President and the Ministers. After extensive negotiations involving the technical structure of the equipment, industrial

obligation requirements and the financing of the deal a final report was prepared.

Importantly, this report assessed the economic, fiscal and financial impacts of the packages, including the risk and final affordability of the deal. This was done by the Department of Finance with the assistance of other government departments, external economists and a local university.

The National Industrial Participation Programme (NIPP) - the so-called 'offset' - was not decisive in the final procurement decision. It arose only when the decision has been taken. Accordingly, the NIPP acts as an effective investment promotion device and was used in a number of the exercises to assess economic risks such as balance of payments effects and the growth impact. Though some people sought to justify the deal on the basis of these offsets, this was not the reason for the acquisitions.

The arms procurement package was therefore concluded after a lengthy and thorough process in which the government went to great lengths to ensure the integrity, transparency and fairness of the process.

It is therefore necessary that as the Public Accounts Committee conducts its review, the ministers and departments involved are given ample opportunity to address the issue raised in the Auditor-General's review.