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GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R. 926

4 November 2011

PRESIDENT of the REPUBLIC of SOUTH AFRICA**TERMS OF REFERENCE****OF THE****COMMISSION OF INQUIRY INTO ALLEGATIONS****OF FRAUD, CORRUPTION, IMPROPRIETY OR IRREGULARITY****IN THE****STRATEGIC DEFENCE PROCUREMENT PACKAGE****(“THE SDPP”)**

A Commission of Inquiry (“the Commission”) is hereby appointed in terms of Section 84(2) (f) of the Constitution of the Republic of South Africa, 1996.

1. The Commission of Inquiry shall inquire into, make findings, report on and make recommendations concerning the following, taking into consideration the Constitution and relevant legislation, policies and guidelines:

- 1.1. The rationale for the SDPP.

- 1.2. Whether the arms and equipment acquired in terms of the SDPP are underutilised or not utilised at all.
- 1.3. Whether job opportunities anticipated to flow from the SDPP have materialised at all and:
 - 1.3.1. if they have, the extent to which they have materialised; and
 - 1.3.2. if they have not, the steps that ought to be taken to realise them.
- 1.4. Whether off-sets anticipated to flow from the SDPP have materialised at all and:
 - 1.4.1. if they have, the extent to which they have materialised; and
 - 1.4.2. if they have not, the steps that ought to be taken to realise them.
- 1.5. Whether any person/s, within and/or outside the Government of South Africa, improperly influenced the award or conclusion of any of the contracts awarded and concluded in the SDPP procurement process and, if so:
 - 1.5.1. Whether legal proceedings should be instituted against such

persons, and the nature of such legal proceedings; and

1.5.2. Whether, in particular, there is any basis to pursue such persons for the recovery of any losses that the State might have suffered as a result of their conduct.

1.6. Whether any contract concluded pursuant to the SDPP procurement process is tainted by any fraud or corruption capable of proof, such as to justify its cancellation, and the ramifications of such cancellation.

2. These terms of reference may be added to, varied or amended from time to time.
3. The Commissions Act, 1947 (Act No. 8 of 1947) shall apply to the Commission, subject to such amendments and exemptions as may be specified by proclamation from time to time.
4. The Commission shall submit interim reports and recommendations to the President from time to time and at least every six months prior to the finalisation of its report for presentation to the President. The Commission shall complete its work within a period of two years from date hereof and shall submit its final report to the President within a period of six months after the date on which the Commission completes its work.

5. Regulations shall be made in terms of the Commissions Act, 1947 and shall apply to the Commission in order to enable the Commission to conduct its work meaningfully and effectively and to facilitate the gathering of evidence by conferring on the Commission powers such as are necessary, including the power to enter and search premises, secure the attendance of witnesses and compel the production of documents.