

Public Broadcast on the issue of The Strategic Defence Acquisition Programme

19 January 2001

Fellow South Africans:

For some time now, all of us have been subjected to a public controversy concerning the decision taken by Government in 1999 to obtain various equipment for the South African National Defence Force.

This decision was based on an extensive review the whole country had undertaken to determine the kind of National Defence Force the country needs.

The resultant Defence Review was presented to the National Assembly and was supported by all parties in parliament.

In addition to what was indicated by the Defence Review, the Government also had to address issues of the affordability of the defence equipment that had to be acquired.

Influenced by the latter consideration, the Government therefore decided to obtain equipment for the Navy and the Air Force.

Since this decision was announced, some in our country have made accusations that extensive corruption occurred during the process leading to the adoption of its decisions by the Government.

Accordingly, strident calls have been made for an investigation to be conducted to expose these alleged instances of corruption, to enable the law to take its course with regard to those who might be guilty of this corruption.

There has been particular insistence that the Special Investigating Unit headed by Judge Wilhelm Heath should be involved in these investigations.

This evening, I want to deal with all these matters openly and honestly. I will also show you some of the documents that Judge Heath does not want to release on whose basis some of the allegations of corrupt practice are made.

Towards the end of last year, the Auditor-General submitted a Special Review to the National Assembly containing his audit of the defence acquisition.

In the Review, the Auditor-General made some critical comments about various elements of this acquisition and indicated that, in his view, these necessitated that a forensic inquiry be conducted.

Subsequently, the parliamentary Standing Committee on Public Accounts, SCOPA, considered the Auditor-General's Special Review, interviewed various persons and received other written communications.

It then tabled its own Report to the National Assembly, which was largely based on the Auditor-General's Report but which added some new elements.

It supported the Auditor-General's call for an inquiry and suggested that this could be conducted jointly by the Auditor-General, the Special Directorate: Office for Serious Economic Offences which is within the National Directorate of Public Prosecutions, the Public Protector and the Special Investigating Unit headed by Judge Wilhelm Heath.

At this point, let me make a number of matters absolutely clear.

The first of these is this - the Government has emphasised this a number of times that, precisely because we are committed to the fight against corruption, the Government fully supports all lawful investigations into any matter pertaining to the defence acquisition.

Accordingly, the Government allowed all the units mentioned by SCOPA access to all the documentation in its possession. This has been done already.

The Special Investigating Unit did not participate in this, as they did not ask the Ministry of Defence for access to these documents.

Earlier this week, we told the Auditor-General, the Public Protector and the National Director of Public Prosecutions that we continue to guarantee that access to enable them to carry out their lawful inquiries.

The same message has also been communicated to the National Commissioner of Police.

I must also inform you that last year Judge Heath requested to see me to discuss various matters relating to the defence acquisition.

Accordingly, I saw Judge Heath and answered the queries he raised. I further offered to help him obtain any such information in the hands of Government, as he may need, with no need for a Proclamation.

Any suggestion that we have refused to cooperate with the so-called Heath Unit is therefore totally without foundation.

Let me therefore repeat: being firmly committed to root out corruption in our society, the Government fully supports all lawful investigations into any matter pertaining to the defence acquisition and will continue to cooperate with and assist all those charged with this task.

The second point I would like to emphasise is this: at all times, the Government will act strictly according to our Constitution and our laws. We will insist that on this, as on other matters, we must be absolutely loyal to the principle of the rule of law.

This matter bears especially on the issue of the involvement of the Special Investigating Unit in these inquiries. We will therefore come back to this question a little later.

As of now, we wish only to emphasise the critical importance of the observance by Government and everybody else of the principle of the rule of law.

The third point we wish to emphasise is that, as before, the Government will not break contracts it has legally entered into.

In this regard, I must also remind you, fellow South Africans, that when you elected us into Government in 1994, we honoured all lawful contracts entered into by the apartheid regime.

We will not submit to any demand being made with regard to the contracts we have entered into with other Governments and major international companies, that we default on our contractual obligations, simply because some people find it in their interest to spew out a flood of unsubstantiated allegations.

I will now deal briefly with the reports of the Auditor-General and SCOPA.

On the 12th of this month, a number of our Ministers, acting on behalf of the Cabinet, issued documents to the public contesting all the points made in these Reports.

The conclusions drawn by the Auditor-General and SCOPA are wrong. In good measure, this has happened because neither the Auditor-General nor SCOPA spoke to the people who took the decisions about the defence acquisition, namely, the Cabinet and a Cabinet sub-committee that was chaired by me as Deputy President of the Republic.

We have found it strange that the Auditor-General and SCOPA came to conclusions about various decisions without asking the decision-makers to explain any matter they felt needed to be explained.

The Government documents issued on January 12th are available on the Government Website. We urge those who can to read these documents for themselves.

On Monday, January 15, the Minister of Justice advised me that there was no need for a Proclamation to be issued authorising the Special Investigating Unit to be involved in the defence acquisition investigations.

The Minister's letter to me was released to the public on the same day.

This was the second response of the Government to the controversies generated by some people around the defence acquisition.

We made the third response today, when my Director General and my Legal Adviser communicated my decision, accepting the advice of the Minister of Justice on the matter of the so-called Heath Unit.

I will therefore not be issuing any proclamation mandating the Special Investigating Unit to be involved in the inquiry.

The Director General has released my letter to Judge Wilhelm Heath to the public.

He also released a letter to the Chairperson of SCOPA, Dr Gavin Woods, written by Deputy President Jacob Zuma, in his capacity as Leader of Government Business, in which he raises various serious matters related to the Report of SCOPA and other issues. Again, we urge you to read all these documents for yourselves.

In his letter to me, Minister Maduna stated that he had no information from Judge Heath as to what the Proclamation should be issued for.

Furthermore, he had had no access to the documents reputedly with Judge Heath, to establish whether it was, in fact, necessary to issue the Proclamation.

To correct this fault, before I made my own decision, I asked the Minister to access these documents to ensure that we did not arrive at a wrong decision simply because of insufficient information.

In this regard, I would like to extend my sincere thanks to Advocates Jan Lubbe S.C. and Frank Kahn, S.C., Director of Prosecutions in the Cape of Good Hope, for the assistance they gave the Minister to correct the weakness we have indicated.

In a letter to the Minister of Justice dated 18 January, 2001, they say:

"Further to your enquiry we advise as follows that at this stage there is no prima facie evidence in law that any person or persons committed a criminal offence."

Let me repeat their statement:

"Further to your enquiry we advise as follows that at this stage there is no prima facie evidence in law that any person or persons committed a criminal offence."

Senior Counsel Jan Lubbe worked within the so-called Heath Unit focussing precisely on the documentation that is in the hands of Judge Heath, to establish whether they indicate any criminal offence.

In another communication to the Minister of Justice, Senior Counsels Lubbe and Kahn also say that:

"In the brief time available to us, we looked at the available information and we also consulted certain interested parties to obtain further information, including Ms de Lille."

Having embarked on this additional effort of seeking further information from those who are responsible for spreading allegations of corruption, they still come to the firm conclusion that there is no prima facie evidence of criminal misconduct!

The Minister of Justice then contacted Judge Heath directly, once more to provide us with information to issue the Proclamation he has been calling for.

Judge Wilhelm Heath responded to this request today in these terms:

"As you will understand the information that the Unit has is extremely sensitive and any disclosure of this information could jeopardise the investigation, lead to victimisation of whistleblowers and place potential witnesses at risk.

"As a result of the possible consequences the Unit is not in a position to disclose its information to your office."

In other words, information placed in the hands of the Minister of Justice and subsequently the President, would:

- jeopardise the investigation;
- lead to victimisation of whistleblowers;
- and threaten the lives of potential witnesses.

This is Judge Heath's view of our Government and President.

Let me show you two of the documents that Judge Heath has.

(Two Organograms).

Both President Mandela and I authorise Judge Heath and his informants to release all information they may have as contained in these organograms.

It is also clear that we cannot allow the situation to continue where an organ appointed by and accountable to the Executive refuses to accept the authority of the Executive.

This situation of ungovernability will not be allowed to continue.

Further, the Constitutional Court has directed that we act "without undue delay" to replace Judge Heath with somebody else who is not a judge.

This directive of the Constitutional Court will be carried out as soon as parliament reconvenes at the beginning of February.

The Government will not be party to anything that seeks to defy the decisions of our courts as some have suggested with regard to the matter of the Heath Unit, so-called.

With regard to the finding made by Advocates Lubbe and Kahn, let me also add that the Auditor-General, the Public Protector and the National Director of Public Prosecutions have also said the allegations they have are not substantiated by any prima facie evidence.

Both the Public Protector and the Auditor-General have already said that they see no need for the involvement of the Special Investigating Unit in the inquiry, at this stage.

Fellow South Africans:

Our country and all our people have been subjected to a sustained campaign that has sought to discredit our Government and the country itself by making unfounded and unsubstantiated allegations of corruption.

Among other things, this campaign has sought to force us to do illegal things, to break important contractual obligations, to accuse major international companies of corrupt practice and to damage our image globally, arguing that if we did these things, we would, inter alia, strengthen international investor confidence in South Africa.

Nothing whatsoever, will force us to do any of these absolutely wrong and unacceptable things.

We know that various entities have been hired to sustain this campaign to create a negative climate about our country and Government.

I would like to assure you that the campaign will not succeed. We will leave no stone unturned in the effort to ensure that you, the people, know everything that needs to be known about this matter.

All lawful investigations will continue. All wrongdoers, whoever they may be, will meet their just deserts.

I thank you for your attention.