# NATIONAL CONVENTIONAL ARMS CONTROL COMMITTEE (NCACC)

BRIEFING BY THE NCACC TO THE JOINT STANDING COMMITTEE ON

DEFENCE

17 FEBRUARY 2017



### INTRODUCTION

- The NCACC thanks the Joint Standing Committee on Defence (JSCD) for this Invitation
- The last briefing by the NCACC to the JSCD was on 04 November 2016 to present the 2015 Annual Reports, which included the 4 Quarters as individual sets of statistics.
- The NCACC in providing this briefing wishes to assure the JSCD that the transfer of controlled items is done in accordance with relevant Constitutional provisions
- The NCACC welcomes such interaction which is in line with the Parliamentary Oversight Mandate.

#### LEGISLATIVE IMPERATIVE

- The National Conventional Arms Control Act
  - Act 41 of 2002 (as amended) (primary Act)
  - Act 73 of 2008 (current Act after amendment)
- The National Conventional Arms Control Act also frames the:
  - Regulation of Foreign Military Assistance Act (RFMA), Act 15 of 1998
  - Prohibition of Mercenary Activities and Regulation of Certain
     Activities in an area of Armed Conflict Act Act 27 of 2006

## POLICY IMPERATIVES

- The Act captures the Object as being:
  - To ensure compliance with Govt. policy in respect of arms control
  - To implement a legitimate, effective and transparent control process
  - To provide for an inspectorate to ensure compliance with the provisions of the Act
  - Protection of Economic and Security Interests
  - Foster National and International confidence for control over trade in conventional arms

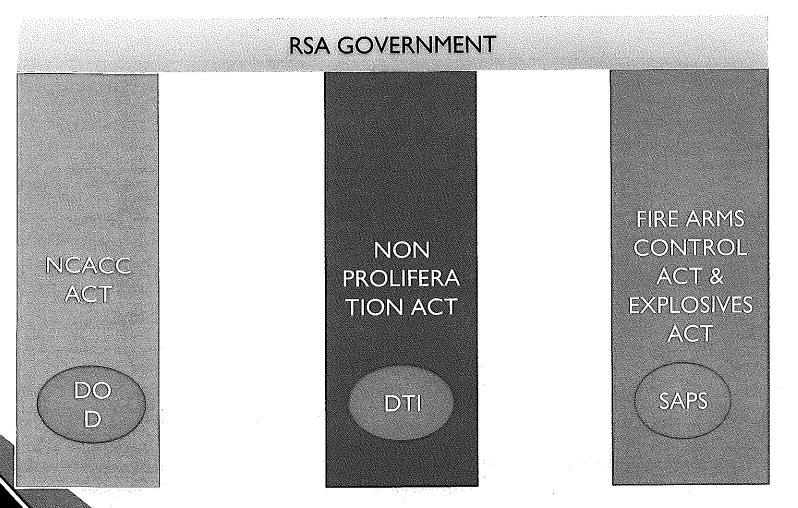
# INTERNATIONAL LEGAL FRAMEWORK

- The relevant legislation applicable to transfers is also in accordance with:
  - Treaties Legally Binding based on International Public Law
  - Conventions Morally and Persuasively Binding,
     based on International Common Law. Which is
     accepted International practice
  - Interest Group Arrangement(s)

#### Relevant Treaties and Conventions

- Certain Conventional Weapons (CCW) with Amended Protocol II – Conventional Arms
- The Wassenaar Arrangement (WA) Conventional Arms and Dual Use Controlled Items
- The Arms Trade Treaty (ATT) Conventional Arms (South Africa ratified in 2014)

## PILLARS OF SA ARMS CONTROL



# COMPOSITION OF THE COMMITTEE

- The Committee is appointed by the President in terms of s5 of the NCAC Act
- The Cabinet Committee is <u>Sui Generis</u>
- The Committee may not be chaired by (a) Minister(s) with a line responsibility interest in trade in conventional arms s5(3)
- A member must vacate office if: s4(a-c)
  - Member resigns
  - Member is removed from office by the President

## NCACC CURRENT MEMBERS

#### MINISTERS

- Min. J.T. Radebe Chairperson ...
- Min G.N. Pandor –Deputy Chair
- Min. N.N. Mapisa-Nqakula
- Min. M. Nkoana-Mashabane
- Min. R. H. Davies
- Min. M.D. Mahlobo
- Min. N.P.T. Nhleko
- Min. L Brown

#### DEPUTY-MINISTERS

- DM E.R.K. Maphatsoe
- DM L.T. Landers
- DM M.H. Jonas

# TIERS IN THE DECISION MAKING PROCESS

NCACC

AUTHORISES

Cabinet Committee - Sui Generis



#### SCRUTINY COMMITTEE

Review Departments

**RECOMMENDS** 

DOD; DIRCO: DTI; SAPS; SSA; DEFENCE INTELLIGENCE

## SCRUTINY COMMITTEE (SC)

- SC is established in terms of s7(1-9)
- The SC is chaired by the Secretary for Defence as Director-General and Accounting Officer of the Department of Defence
- SC members are Senior Government Officials
- This Committee Scrutinizes and Recommends to the NCACC for a decision

### THE NCACC SECRETARIAT

- The Directorate for Conventional Arms Control (DCAC) serves as the Secretariat of the NCACC
- The DCAC is established in terms of s8 of the Act
- Further, serves as a Nodal Interface Point with the South African Defence Industry (SADI)

## THE NCACC INSPECTORATE

- Directorate: Inspectorate and Audit is established in terms of s9 and is accountable to the Committee, in terms of s9(1)(a)
- Inspectorate must consist of persons appointed by the Minister
- Object of the Inspectorate s9(2) (a-b)
  - Ensure that the conduct in Conventional Arms Control is in compliance with the Act
  - Ensure that Internal Regulatory Processes of the Committee are complied with

## SAFEGUARDS ON TRANSFERS

#### The Guiding Principles and Criteria of s15:

- UN Security Council Resolutions (Arms Embargo)
- Governance Politics, Human Rights
- Regional Dynamics Stability
- Risk of Diversion Proliferation (Non State Actors)
- National Interest Security, Political & Economic

### SAFEGUARDS ON TRANSFERS

- The receiving country must provide the NCACC with various undertakings (letters) s16
- End-User Certificate (EUC) s17~ a State a Cotor 06 1ts agents.
- Routine Inspections must be conducted s18
- Entry and Search of Premises with warrant s19
- Disclosure and Non disclosure of information s23

## Content of Report (s23)

- Report(s) must be presented to Parliament.
  - Quarterly and Annually (Cabinet and Parliament)
- Content of Report is prescribed by law s23(2)
- The Report must reflect the following:
  - Controlled Items regulation statistics; Exports authorised; Imports authorised; Conveyances authorised
- The Report has to comply with the UN Conventional Arms Register (UNCAR)
  - UNCAR has 7 + I Categories

## REPORTING CYCLES

Reporting to Parliament is done on a Calendar not Financial Year, as well as the UN

Description	Period	Due Date
QI	01 Jan – 31 Mar	Q2
Q2	02 Apr – 30 June	Q3
Q3	01 July - 30 Sept	Q4
Q4	01 Oct – 31 Dec	Q1 of the following year
Annual	01 Jan – 31 Dec	Q1 of the following year

#### **EXTERNAL REPORTING**

- The Report to the following Multilateral Bodies is also compiled in Q2.
  - The United Nations
    - General Assembly United Nations Register of Conventional Arms
    - Arms Trade Treaty United Nations Of Disarmament Affairs
  - The Wassenaar Arrangement
- The UN Reports need approval by Parliament before submission to UN.
- DIRCO reports to the UN on behalf of RSA

# NATIONAL CONVENTIONAL ARMS CONTROL COMMITTEE (NCACC)

2016 3RD QUARTER

**REPORT** 



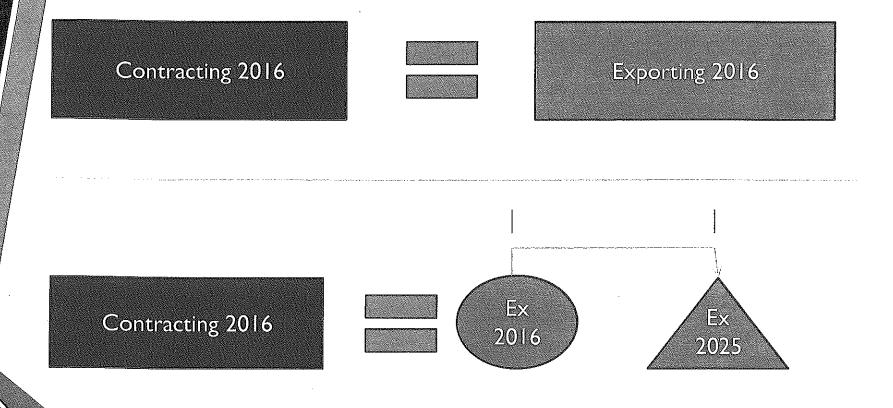
## VARIANCE OF FIGURES

- There is always variance in figures between the Contracting and Export Figure Annually or Quarterly
- The reason for this generally that the Contracting figure/value represents the ceiling of authorisation by the NCACC per contract at a given time
- This then constitutes the total authorisations

#### VARIANCE OF FIGURES

- The figure for Export(s) on the other hand represents the actual export figure and not the potential quantum
- Other reasons are as follows:
  - Part shipments per year against an existing contracting permit
  - Long terms contracts extend over years, but are limited to

## **VARIANCE OF FIGURES**



## 2016 QUARTER 3 STATS

#### ANNEXURE A

CONTROLLED ITEMS STATISTICS
EXPORT AUTHORISED
IMPORTS AUTHORISED
CONVEYANCE AUTHORISED

# 2016: Q3 STATS

	AMOUNT/ VALUE
REGISTRATIONS	45
MARKETING	6
CONTRACTING	
<ul> <li>Number Permits Authorised</li> <li>Applications Denied</li> <li>Value of Authorised</li> <li>No. of Countries Contracted</li> </ul>	58 I R20,358,071,968.00 40
EXPORT	
<ul> <li>Number Permits Authorised</li> <li>Value Permits Authorised</li> <li>No Countries Authorised</li> </ul>	720 R468,661,120.00 66

## 2016: Q3 STATS.....contd.

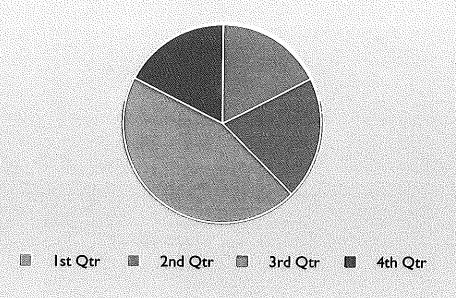
IMPORT	
<ul> <li>Number Permits Authorised</li> </ul>	598
<ul> <li>Value of Permits Authorised</li> </ul>	R11,216,476.00
<ul> <li>No. of Countries Imported from</li> </ul>	52

#### **CONVEYANCE**

Number of Permit(s) Authorised

# 2016 QUARTERLY

#### Annual versus Q3 Density



# 2015/16 Q3 Y/Y STATS

DESCRIPTION	2015	2016
REGISTRATIONS	<b>23</b>	45
MARKETING	2	6
CONTRACTING		
<ul> <li>Number Permits Authorised</li> <li>Applications Denied</li> <li>Value of Authorised</li> <li>No. of Countries Contracted</li> </ul>	101 NONE R88,008,350,919.00 51	58     R20,358,071,968.00   40
EXPORT		
<ul><li>Number Permits Authorised</li><li>Value Permits Authorised</li><li>No Countries Authorised</li></ul>	899 R642,253,074,00 53	720 R468,661,120,00 66

## 2015/16 Q3 Y/Y STATS.....cont.

IMPORT	2015	2016
Number Permits Authorised	649	598
<ul> <li>Value of Permits Authorised</li> </ul>	R165,286,245.00	R11,216,476.00
<ul> <li>No. of Countries Imported</li> </ul>	43	52
from		

#### **CONVEYANCE**

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#### DENIALS

- The Act requires that a Permit(s) that has been denied is reported as well and the reasons provided.
- In 2016 Q3 we had 2 denials. Taiwan and Ukraine
  - Taiwan- One China Policy of our Govt.
  - Ukraine Concerns in the Region relative to Russia
- Reasons for a Denial are invariably related to an application not satisfying the requirements of criteria as set in s15 of the Act.

## Conclusion

Thank You

Question and Answer Session

