

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 *Sui Generis*
- 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
REVIEWS

✓

✓
visiting

long of Committee



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 action of its 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 + 1 Categories

REPORTING CYCLES

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

Description	Period	Due Date
Q1	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

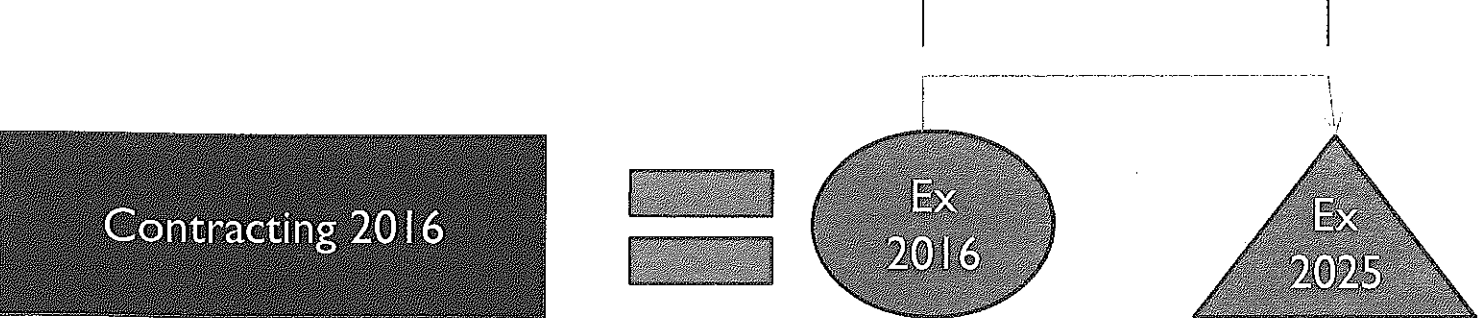
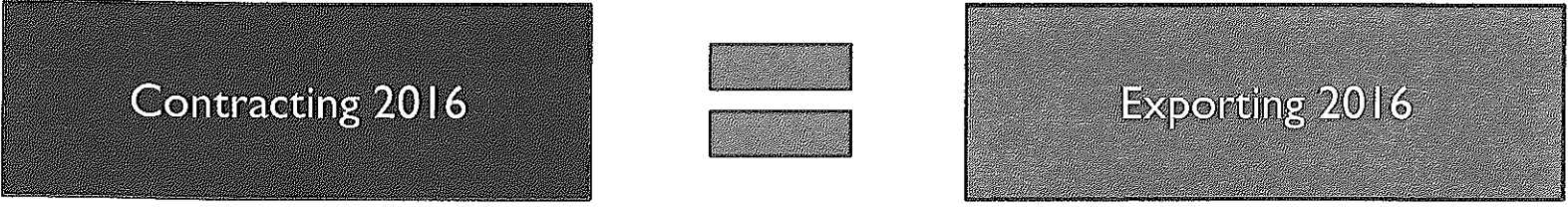


VARIANCE OF FIGURES



- 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

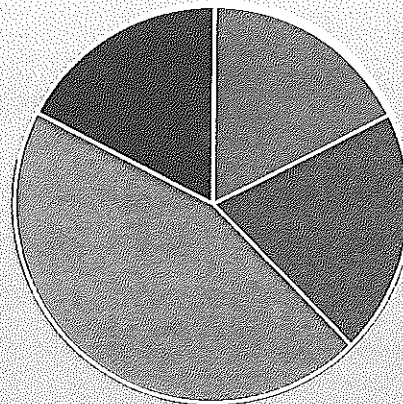
	AMOUNT/ VALUE
REGISTRATIONS	45
MARKETING	6
CONTRACTING	
• Number Permits Authorised	58
• Applications Denied	1
• Value of Authorised	R20,358,071,968.00
• No. of Countries Contracted	40
EXPORT	
• Number Permits Authorised	720
• Value Permits Authorised	R468,661,120.00
• No Countries Authorised	66

2016: Q3 STATS.....contd.

IMPORT	
• Number Permits Authorised	598
• Value of Permits Authorised	R11,216,476.00
• No. of Countries Imported from	52
CONVEYANCE	
• Number of Permit(s) Authorised	0

2016 QUARTERLY

Annual versus Q3 Density



■ 1st Qtr ■ 2nd Qtr ■ 3rd Qtr ■ 4th Qtr

2015/16 Q3 Y/Y STATS

DESCRIPTION	2015	2016
REGISTRATIONS	23	45
MARKETING	2	6
CONTRACTING		
• Number Permits Authorised	101	58
• Applications Denied	NONE	1
• Value of Authorised	R88,008,350,919.00	R20,358,071,968.00
• No. of Countries Contracted	51	40
EXPORT		
• Number Permits Authorised	899	720
• Value Permits Authorised	R642,253,074,00	R468,661,120,00
• No Countries Authorised	53	66

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

IMPORT	2015	2016
<ul style="list-style-type: none">• Number Permits Authorised	649	598
<ul style="list-style-type: none">• Value of Permits Authorised	R165,286,245.00	R11,216,476.00
<ul style="list-style-type: none">• No. of Countries Imported from	43	52
CONVEYANCE		
<ul style="list-style-type: none">• Number of Permit(s) Authorised	1	0



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

