**SCOF**

**On closure of SAA meetings dealing with market sensitive issues**

The Committee observes and decides as follows:

1. The Committee Section’s lack of capacity and knowledge of the rules led to an erroneous application to close the 16 May SAA meeting without the involvement of the Committee Chair and the prior knowledge of the Acting Chairperson. The Committee requests the managers of the Committee Section to ensure that the staff are better capacitated.
2. The Committee once again appeals to the managers of the Committee Section to improve the capacity of the staff to write minutes that are accurate and of a reasonable quality.
3. At the 27 March 2018 Quarterly meeting with SAA, the Committee agreed to explore the possibilities of discussing market sensitive issues relating to SAA in a closed session of an otherwise open meeting as a whole. Obviously, the Committee would need to consider the Rules of the National Assembly before implementing the decision. Prior to using rule 184 to close the meeting, the Committee was required to apply for this to the Office of the Speaker in terms of parliamentary practice. The aim would be to close the meeting only in respect of the market sensitive issues and not the entire Quarterly Report (unless, of course, the entire report was on market sensitive issues). The aim is not that all SAA Quarterly Reports to the Committee would be in closed meetings – and in any case the Rules of Parliament will not allow this. The application to close the 16 May meeting made by the concerned staff member, unfortunately, did not follow the correct procedures.
4. The Committee is clear that the public has a vested interest in the performance of SAA, especially since the government bail-outs for SAA are ultimately funded by the taxpayer and the company is ultimately owned by the public. SAA therefore has to answer on its quarterly performance in Committee meetings that are open to the public.
5. However, the Committee is acutely aware of how competitive the airline industry is and believes that it is not fair to expect SAA to report on market sensitive issues in the public domain that would serve to advantage its competitors. The privately-owned airlines are not, after all, required to report market sensitive issues in the public domain. Hence while SAA is a state-owned company and answerable to the public, it is operating in a market economy just like any privately-owned airline, and its reporting to parliament should not undermine its prospects of doing better than its competitors.
6. It is also likely that the Committee will get more comprehensive and clearer answers to some of the more sensitive questions around SAA’s performance and plans in a closed meeting where SAA representatives are not concerned about what their competitors might glean about them. This will probably assist the Committee to be more effective in our oversight role.
7. While SAA’s Quarterly Reports to the Committee will be dealt with in open meetings, the Committee will seek permission to consider SAA market sensitive issues in a closed session of the meeting, provided it meets the requirements of:
   1. Section 59(2) of the Constitution, which states that the National Assembly may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society; and
   2. Rule 184, which provides, amongst others, that a committee may close a meeting when it is considering a matter which is of a private nature that is prejudicial to a particular person, protected under parliamentary privilege, or for any other reason privileged in terms of the law, or confidential in terms of legislation, the nature of which is such that its confidential treatment is reasonable and justifiable in an open and democratic society. A person in this instance includes a juristic person as is the case with SAA.
8. The closure of a part of a meeting would broadly be consistent with the following process:
   1. At least 10 working days before an SAA Quarterly Briefing the Minister or Deputy Minister or SAA Chairperson or CEO may request that specific market-sensitive issues should be dealt with in a closed session of a meeting and provide the reasons for this.
   2. The Committee will refer this to the Speaker’s Office.
   3. If the Committee is granted permission to discuss those issues in a closed session of a meeting, it will do so, using rule 184 to close the meeting.
   4. The documents related to the closed session of a meeting will be separated from other documents dealing with issues that are addressed in the open session of a meeting and the documents related to the closed session will only be distributed at that session and returned to the Committee after the session ends.
   5. Where questions relating to market sensitive issues are raised unexpectedly in a fully open meeting, these will, through, preferably, consensus or with a decision of the majority, be deferred to the end of a meeting to be dealt with in a closed session.
   6. However, if after consideration of the market sensitive issues in a closed session the Committee decides that the issues are not market sensitive, it will decide to release the documents or information in some other way and report on the content of the closed session in an open session.
9. The deferred 16 May Quarterly Report will be considered at a meeting on 7 June.