|  |
| --- |
| MEMORANDUM FROM THE PARLIAMENTARY OFFICE |

**NATIONAL ASSEMBLY**

**FOR WRITTEN REPLY**

**QUESTION 1216**

**DATE OF PUBLICATION OF INTERNAL QUESTION PAPER: 1/04/2022**

**INTERNAL QUESTION PAPER NO 13 OF 2022**

**Dr W J Boshoff (FF Plus) to ask the Minister of Higher Education, Science and Innovation:**

(1) With regard to the selling of Kapa SA to Kapa US for some US$4 million in 2015, which was later sold to Roche in Switzerland for some US$450 million, (a)(i) who negotiated the selling price on behalf of the Technology Innovation Agency and (ii) how were they qualified to do so, (b) how was the selling value calculated at that stage, (c) on what legal grounds is the transaction challenged at present and (d) what is the reason that arbitration was selected as the method for settling the case;

(2) whether the report commissioned by his predecessor, Dr G N M Pandor, had been completed; if not, why not; if so, (a) is it available and (b) will his department make the specified report public?

**NW1469E**

**REPLY:**

(1)(a) (i) The TIA Deal Team, led by the former Workout and Restructuring Business Unit negotiated the selling price.

(ii) The then Workout and Restructuring Business Unit’s primary responsibility was to negotiate exiting terms on behalf of TIA in respect of TIA’s investments.

(b) At the time of the sale, Kapa US’ value was based on an independent evaluation by Orchard Partners Incorporated shared by Kapa US with the TIA Deal Team, indicating that Kapa US’ total equity was valued at USD49,31 million. In terms of the Subscription and Shareholders’ Agreement concluded between TIA’s predecessor Cape Biotech Trust (CBT), Kapa US and KAPA SA on 16 March 2006, CBT’s 49% shareholding in Kapa SA equated to 10% of the value of Kapa US. In view thereof, an amount of USD4,931 million was accepted by the TIA Deal Team. At the then exchange rate, USD4,931 million amounted to nearly R60 million.

(c) TIA subsequently learned via the media that the shareholders of Kapa US had been bought out by the Roche Group for USD445 million on 30 November 2015, some eight months after TIA sold its shareholding in Kapa SA to Kapa US. As TIA had only received USD4,931 million, the loss was quantified at USD39,569 million. TIA has subsequently instituted legal action against Kapa US based on two separate claims, namely misrepresentation and breach of contract.

(d) In accordance with the provisions of the Sale of Shares Agreement concluded on 26 March 2015, the dispute between the Parties must be adjudicated by an arbitrator.

(2) A report was never commissioned. However, the former minister did constitute a task team made of DSI officials and TIA. The result of that process was the appointment by TIA of a legal firm (Adams and Adams), who made a series of recommendations on the way forward including the adjudication of the dispute by an arbitrator.