








Outline presentation on the reports submitted to the Commission

August 2018



Overview of reports

Document	Transnet	Eskom	Denel	SAA	SABC
State of Capture report <ul style="list-style-type: none">• The former Public Protector's report No.6 of 2016/17 by Advocate Thuli Madonsela, dated 14 October 2016.• 355 pages• Received by the Commission from the Public Protector on 13 April 2018.• The record was also received from the Public Protector in sealed boxes containing documentation, transcripts and voice recordings/ interviews and two DVD's sealed in a bag under the affidavit of Mr T. Ngoako, an IT support Manager were also delivered to the Commission.• The Public Protector's report is accessible to the public online.• The Public Protector reported on an investigation into alleged improper and unethical conduct by the former President and other state functionaries relating to alleged improper relationships and involvement of the Gupta family in the removal and appointment of Ministers and Directors of State Owned Enterprises resulting in improper and possibly corrupt award of state contracts and benefits to the Gupta family's businesses.					

Overview of reports

Document

Transnet

Eskom

Denel

SAA

SABC

REPORTS MARKED CONFIDENTIAL AND PRIVATE

WERKSMANS REPORT ON 1064 LOCOMOTIVES

Acquisition of 1064 locomotives for Transnet's General Freight business ("transaction"): Inquiry report

- Werksmans Attorneys
- 117 pages
- This report is marked confidential

The Investigators are in the process of regularising these reports before they can be utilised by the Commission in its work.



MNCEDISI NDLOVU SEDUMEDI ATTORNEYS (MNS) on 1064 Locomotives



Procurement and award of 1064 locomotives tender report

- MNS Attorneys
- 5 June 2018
- 144 pages
- Similarly this report is marked private and confidential.
- The investigators are ensuring that these are regularised.

Overview of reports

Document

Transnet

Eskom

Denel

SAA

SABC

Estina

ENS FORENSICS REPORT ON VREDE FARM PROJECT

Final report on investigation onto the Vrede Farm project

- ENS Forensics
- 11 February 2014
- 60 pages













PORTFOLIO COMMITTEE ON PUBLIC ENTERPRISES AND DEPARTMENT OF HOME AFFAIRS

Documents, committee minutes and transcripts of the proceedings on State Capture that took place before the Portfolio Committee on Public Enterprises, Department of Home Affairs, Inquiry into Eskom, Transnet and Denel

- The enquiry into Home Affairs related to, *inter alia*, granting of citizenship to non-South Africans
- Received by the Commission from the House Chairperson : Parliament's Oversight Committee: MP Mr C.T. Frolick on 17 May 2018



Overview of research projects

Document	Transnet	Eskom	Denel	SAA
<u>PUBLIC AFFAIRS RESEARCH INSTITUTE (PARI) REPORTS</u> Betrayal of the promise: how South Africa is being stolen <ul style="list-style-type: none"> • State Capacity Research Project • May 2017 • 72 pages 				
Evidence for the People's Tribunal on Economic Crime (03 – 07 February 2018) 3. State Capture: The case of Denel and VR Laser <ul style="list-style-type: none"> • PARI • January 2018 • 33 pages 				
Eskom Inquiry Reference Book <ul style="list-style-type: none"> • PARI • Version 3 • 26 pages 				
Transnet Inquiry Reference Book <ul style="list-style-type: none"> • PARI • Version 1 • 36 pages • These reports are available to the public online 				

Overview of research projects

Document	Transnet	Eskom	Denel	SAA
<u>BISHOP M. MPUMLWANA – SOUTH AFRICAN COUNCIL OF CHURCHES</u>				
“ Unburdening Panel “ REPORT. The SACC conducted some research into state capture and its findings showed at least seven ways the scheme to loot state resources has been executed in South Africa.				
<ul style="list-style-type: none">• This report too is available to the public online				
<u>THE PEOPLE’S TRIBUNAL ON ECONOMIC CRIMES REPORT</u>				
<ul style="list-style-type: none">• THE PEOPLE’S TRIBUNAL ON ECONOMIC CRIME ‘s report dated 07 February 2018 investigated, inter alia, allegations of State Capture involving DENEL and its associated companies in the acquisition , distribution and manufacture of arms and ammunition.• The members of the panel are Retired Justice Zak Yacoob, retired Judge Navi Pillay , Ms Mandisa Dyantyi, Mrs Allyson Maynard-Gibson QC and Mr Dinga Sikwebu• The Tribunal in its preliminary findings recommended, among others , a full investigation into corruption and state capture.				

STATE OF CAPTURE

Report on an investigation into alleged improper and unethical conduct by the President and other state functionaries relating to alleged improper relationships and involvement of the Gupta family in the removal and appointment of Ministers and Directors of State-Owned Enterprises resulting in improper and possibly corrupt award of state contracts and benefits to the Gupta family's businesses

Report No: 6 of 2016/17



PUBLIC PROTECTOR
SOUTH AFRICA

Accountability • Integrity • Responsiveness

ISBN: 9978-1-920366-06-5



@PublicProtector



www.publicprotector.org





0800 11 20 40

State of capture report compiled by the Public Protector dated 14 October 2016

Complaints were lodged with the Public Protector from;

- (a) Father S. Mayebe on behalf of the Dominican Order (para 2.8 of the report)**
- (b) Mr Mmusi Maimane , a leader of the Democratic Alliance,(para 2.9 and 2.10)**
- (c) A member of the public whose name was withheld.(para 2.11)**

The complaints were analysed and issues were identified as relevant for investigation:

-  **• Alleged breach of the Executive Member Ethics Act, 1998**
-  **• Awarding of contracts by certain organs of state to entities linked to the Gupta family**

The Public Protector has made advance findings against certain individuals, persons and entities reflected in her report.

State of capture report compiled by the Public Protector dated 14 October 2016

Two phased inquisitorial investigation process to accommodate the time and resource limitations by addressing the pressing questions threatening to erode public trust in the Executive and SOEs:

- **Phase 1 did not touch on the award of licences to the Gupta family.**
- **Superficially touched on the state financing of the Gupta-Zuma business while only selecting a few state contracts.**
- **The process for phase 2 (final phase) of the investigation was mapped but not undertaken.**
- **In paragraph 4.21 the Public Protector indicated, *inter alia*, that the investigation into Denel will form part of the next phase.**
- **At page 337 paragraph (ccc) the Public Protector stated that the investigation into the conduct of the Bank of Baroda in relation to the purchase of all shares in Optimum Coal Holdings by Tegeta and the rehabilitation fund had not been evaluated by her and would form part of the next phase of the investigation.**

State of capture report compiled by the Public Protector dated 14 October 2016

- **At page 351 the Public Protector intended to investigate in the next phase whether any state functionary in any organ of state or other person acted unlawfully, improperly or corruptly in connection with exchange of gifts in relation to Gupta linked companies or persons.**
- **As part of remedial action listed at pages 353 to 354 the Public Protector recommended that the President appoint a Commission of enquiry headed by a Judge solely selected by the Chief Justice who shall provide one name to the President.**
- **This Commission was established in compliance with her remedial action.**

State of capture report

Public Protector - Supporting documents



Exhibits

- 1 to 27
- Exhibit 27 has 3 annexures



Transcript: Hearing held between the Public Protector South African & President Jacob Zuma

- 6 October 2016
- 89 pages



Transcribed interviews

Mr Rob Davies
Mr Fikile Mbalula

State of capture report

Public Protector - Supporting documents



Voice recording

- Public Protector and Mr Pravin Gordhan



Transcripts

9 September 2016

Mr Mcebisi Jonas

Mr Nhlanhla Nene

Mr O Mhlwana

Mr Themba Maseko

Ms B. Hogan

Ms Vytjie Mentor

Mr Jacob Zuma

Mr Julius Malema



public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA



Portfolio Committee on Public Enterprises. Inquiry into Eskom, Transnet and Denel
17 October 2017 - 27 February 2018

Portfolio Committee on Public Enterprises

Information provided

Transcripts

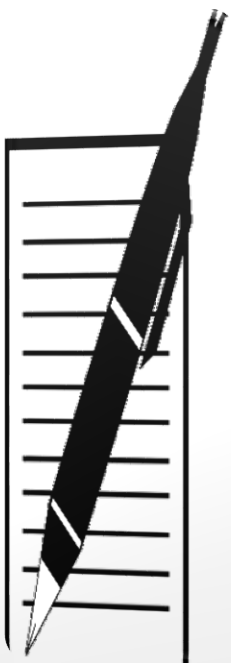


- Day01 – 17 Oct 2017 – 35 pages
- Day02 – 18 Oct 2017 – 69 pages
- Day03 – 20 Oct 2017 – 57 pages
- Day04 – 31 Oct 2017 – 45 pages
- Day05 – 1 Nov 2017 – 46 pages
- Day06 – 3 Nov 2017 – 44 pages
- Day07 – 7 Nov 2017 – 45 pages
- Day08 – 8 Nov 2017 – 84 pages
- Day09 – 14 Nov 2017 – 8 pages
- Day10 – 15 Nov 2017 – 54 pages
- Day11 – 21 Nov 2017 – 214 pages
- Day12 – 22 Nov 2017 – 132 pages
- Day13 – 5 Dec 2017 – 129 pages
- Day14 – 6 Dec 2017 – 51 pages
- Day15 – 23 Jan 2018 – 162 pages
- Day17 – 30 Jan 2018 – 95 pages
- Day18 – 31 Jan 2018 – 50 pages
- Day20 – 27 Feb 2018 – 55 pages
- --- Transcripts for days 16 and 19 were requested but not furnished yet

Portfolio Committee on Public Enterprises

Information provided

Statements

- 
- Ms Dudu Myeni, 5 March 2018
 - Ms Mosilo Mothepu statement and evidence, 26 October 2017 (3 volumes, 251 pages)
 - Mr Abram Masango
 - Vol 1, 27 February 2018, 21 pages
 - Vol 2, Annexure A to C, 12 pages
 - Vol 3, Annexure D p32 to p89, 58 pages
 - Vol 4, Annexure D p90 to p152 and Annexure E, 66 pages
 - Deputy Minister Ben Martins, 9 pages
 - Dr Baldwin Ngubane
 - Part 1, Statement, 31 pages
 - Part 2, Annexure BN1 to BN5 p70 to p79, 50 pages
 - Part 3, Annexure BN5 p80 to p105, BN6 to BN15, 59 pages
 - Dr Zweli Mkhize, 26 February 2018, 6 pages

Portfolio Committee on Public Enterprises

Information provided

Statements (continue)

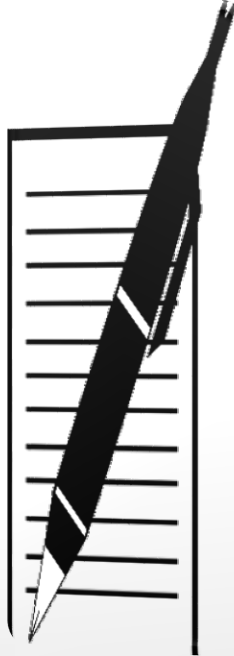
- DTI
- Eskom board
- Exxaro
- G9 Consulting Services
- Minister Lynne Brown
- Minister Gigaba
- Minister of Public Enterprises
- Mr Anoj Singh
- Mr Brian Molefe
- Mr Koko
- Mr Linnell
- Mr Tshepo Lucky Montana
- Mr Qoma
- Ms Suzanne Daniels
- Mr Zola Tsotsi
- Ms Bianca Goodson
- Ms Erica Johnson
- Ms Venele Klein
- Ms Viroshni Naidoo
- Mr David Robert Fine

Portfolio Committee on Public Enterprises

Information provided

Other documents

- **EPPF Submission Annexures A to AZ, part 1 to part 12, 1171 pages**
- **Eskom Inquiry Reference Book August 2017, 28 pages**
- **Webber Wentzel representing Ms Bianca Goodson letter dated 19 October 2017**
- **Section 34 report – Piers Marsden, 1 July 2016, 14 pages**
- **ABSA statement on Tegeta dated 17 November 2017, 4 pages**
- **ABSA statement on Tegeta dated 17 November 2017, Annexure A, 26 pages**





home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

Portfolio Committee on Home Affairs into the naturalisation of the Gupta family

Portfolio Committee on Home Affairs

Information provided

Transcripts

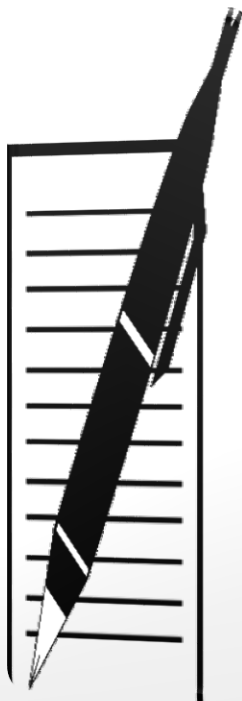


- **27 June 2017, 78 pages**
- **22 August 2017, 29 pages**
- **27 February 2018, 39 pages**
- **6 March 2018, 33 pages**

Portfolio Committee on Home Affairs

Information provided

Other documents

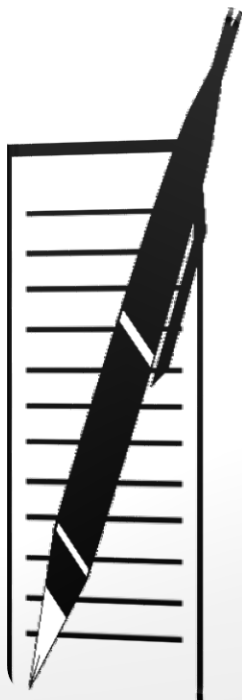


- **Report on granting of naturalisation to the Gupta family: Rajesh Kumar Gupta, Arti Gupta, Atul Kumar Gupta, Chetali Gupta, Shashank Singhala and Srikant Singhala, 5 pages.**
- **Report on granting of naturalisation to the Gupta family, 9 pages**
- **South African Citizenship Act no. 88 of 1995**
- **The Aliens Control Act 1991 with amendments up to 1995**
- **Department of Home Affairs Standard Operating Procedures on Citizenship dated August 2016, 62 pages**

Portfolio Committee on Home Affairs

Information provided

Other documents (continued...)



- A list of names of persons granted early naturalisation applications for 2013, 2014 and 2016, in terms of section 5(9)(b) of the South African Citizenship Act, 1995 (Act No 88 of 1995)
- Agreement between the Government of the Republic of South Africa and the Government of the Republic of Indonesia on Visa Exemption for holders of Diplomatic, Official and Service Passport, tabled in terms of section 231(3) of the Constitution, 1996
- Documents submitted by the Gupta family and/or related entities on investments and charitable contributions

Portfolio Committee on Home Affairs

Information provided

Document	Rajesh Kumar Gupta	Arti Gupta	Shubhangi Gupta	Atul Kumar Gupta	Chetali Gupta	Shashank Singhala	Srikant Singhala
Screen print from Winet Terminal – Details of travel particulars	√			√			
Application for temporary residence permit	√	√	√				
Application for work permit	√			√			
Application for an extension of the validity (renewal) of an existing permit		√	√				
Permanent residence application	√	√	√	√	√	√	√
Immigration permit	√	√	√	√			
Application for a certificate of naturalisation	√ 21 Jul 06	√ 21 Jul 06	√ 21 Jul 06	√ 30 Oct 02	√ 30 Oct 02	√ 30 Oct 02	√ 30 Oct 02

Portfolio Committee on Home Affairs

Information provided

Tabling the names of the persons granted early naturalisation in terms of section 5 of the South African Citizenship Act, 1995 included *inter alia* the following:

- Gupta Angoori, approved 30 May 2015**
- Gupta Shivani, approved 30 May 2015**
- Singhala Kamal Kant, approved 30 May 2015**
- Singhala Surya Kant, approved 30 May 2015**

ENS forensics

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155 west street
sandton sandton johannesburg 2106
p o box 723347 sandton south africa 2145
tel: 011 269 7933 cell: 082 300 1716
info@ens.co.za www.ens.co.za

Ms Sued Jacobs

11 February 2014

Ms Zanele Mxunyelwa
240 Madiba Street
Pretoria

attention: Ms Zanele Mxunyelwa

Dear Zanele

FINAL REPORT ON INVESTIGATION INTO THE VREDE DAIRY FARM PROJECT

1. We enclose our final report on the procurement investigation we conducted in respect of the Vrede Dairy Farm project.
2. Kindly contact Ms Sued Jacobs of our offices (tel: (011) 269 7933, cell: 082 300 1716, e-mail: sjacobs@ensafrica.com) in the event that you have any queries and/or would like to discuss any aspect of our report further.

Yours sincerely

Sued Jacobs
Director
ENS Forensics (Pty) Ltd

Final report on investigation onto the Vrede Farm project

ENS | africa's largest law firm

Final report on investigation onto the Vrede Farm project

ENS Forensics

- In August 2013, National Treasury's Specialised Audit Services co-sourced ENS to assist with investigating allegations of procurement irregularities allegedly committed by the Free State Department of Agriculture and Rural Development in procuring the services of Estina / Paras dairy
- ENS obtained information regarding this project and interviewed witnesses

Limitations included *inter alia* the following:

ENS highlighted challenges that they encountered in their investigations being lack of co- operation from some of the state employees and the fact that that they were not placed in possession of some of the documents they requested

Final report on investigation onto the Vrede Farm project

ENS Forensics

Introduction

- 1. This relates to “Final Report on the Investigation into the Vrede Dairy Farm Project”. This report was commissioned by the National Treasury Chief Procurement Officer. The brief was given to National Treasury’s Specialised Audit Services, who conducted the investigation with the assistance of ENS Forensics (Pty) Ltd.**
- 2. The investigation was commissioned after allegations had been made in the media by the Mail & Guardian newspaper on or about 14 June 2013. The allegations made were that the Free State Department of Agriculture and Rural Development “irregularly appointed a service provider, namely Estina, to establish an integrated dairy farm in Vrede”.**
- 3. The brief was to “investigate allegations of procurement irregularities allegedly committed by the Free State Department of Agriculture and Rural Development in procuring the services of Estina (Pty) Ltd Paras Dairy”.**

Final report on investigation onto the Vrede Farm project

ENS Forensics

Preliminary observations

4. In relation to the structure of the report, ENS explains that the purpose of the report was for National Treasury to:
 - Obtain clarity on the principal role-players who participated in the conduct under investigation;
 - Be furnished with an indication of the total funds allocated to this project;
 - Understand what funds had already been expended on this project;
 - Appreciate whether or not it was likely to receive value for money in this project.
5. ENS make it clear that there were a number of limitations to the report, including:
 - Constraints relating to the information that the investigators were able to access;
 - Lack of co- operation from the Department.

Final report on investigation onto the Vrede Farm project

ENS Forensics

The Key Findings

6. The key findings noted in the report include the following:
 - 6.1 Non-compliance with procurement procedures.
 - 6.2 The deviation from the Department's supply chain management policy was contrary to the PFMA, the Treasury Regulations and section 217 of the Constitution.
 - 6.3 It remained unclear to the investigators whether Paras was actually involved in the project.
 - 6.4 At the time that the HOD signed a contract with Paras/Estina on or about June 2012 the Agri-BEE entity named Mohoma Mobung Dairy Project Pty Ltd under whose auspices the Vrede Dairy Project was to be established, had itself not been formed yet. The Mohoma Mobung Dairy Project (Pty) Ltd was only established on 11 October 2013.
 - 6.5 The existence of the 99-year rent free leasehold agreement which was purportedly concluded (but remained unsigned) between the Department and Estina.
 - 6.6 The investigation team was not able to establish whether Estina *"made any financial contribution towards this project"*, or of objectively ascertaining that Estina actually invested any funds in this project. In addition, the investigators were not able to *"comment on how the funds invested by the department were spent"*. In the result, without access to the financial records of the project, the investigators were not able to comment on whether the project was progressing.

Final report on investigation onto the Vrede Farm project

ENS Forensics

The Recommendations in the Report

7. The recommendations noted in the report include:
 - 7.1 Taking disciplinary steps against certain officials.
 - 7.2 Advising that the National Treasury obtain a legal opinion on the consequences of cancelling the contract with Estina, and of setting aside the 99-year rent free lease agreement;
 - 7.3 Conducting a detailed financial analysis into the finances of certain officials.
 - 7.4 That no further funds be invested in the Vrede Dairy Farm Project until such time as the risk factors set out in the report are addressed.
8. It is not clear whether any of these recommendations have been acted on. In addition, the subtext of these recommendations is that a full investigation should be conducted into the project.
9. Other than National Treasury that commissioned the report and the Office of the Public Protector, we are not aware of any other Commission, tribunal, Court or body before which this report was placed.

Final report on investigation onto the Vrede Farm project

ENS Forensics

The criminal prosecution

10. The National Prosecuting Team has made the Commission aware of charges that it wishes to prefer against eleven individuals and entities who were involved in the Vrede Dairy Farm Project.
11. As indicated above, the Public Protector has investigated the Vrede Dairy Farm Project. That report has not been formally made available to the Commission at this stage.

REPORT

for

MR T M G SEXWALE

CHAIRPERSON, TRILLIAN CAPITAL PARTNERS (PTY) LTD

on

ALLEGATIONS WITH REGARD TO THE TRILLIAN GROUP OF
COMPANIES, AND RELATED MATTERS

GEOFF BUDLENDER SC

29 June 2017

Instructed by S Sirkar

Herold Gie Attorneys

**Allegations with regard to the Trillian
Group of companies and related matters**

TRILLIAN
GROUP

CONFIDENTIAL

Allegations with regard to the Trillian Group of companies and related matters

Geoff Budlender SC

- **Geoff Budlender SC was appointed by Mr TMG Sexwale (independent non-executive chairperson of Trillian Capital Partners (Pty) Ltd) towards the end of November 2016 to conduct an investigation into certain specific matters. Mr Sexwale acted on the authority of a resolution of the Board of Directors.**
 - **Allegations in the Sunday Times of 23 October 2016 with regard to Trillian and related persons and entities; and**
 - **Issues raised in the report of the “State of Capture”, in relation to the conduct of Trillian and related entities by the Public Protector, “**

Allegations with regard to the Trillian Group of companies and related matters

Geoff Budlender SC

Conclusion included *inter alia* the following:

“172. This investigation is still incomplete...”

“173. It is necessary for these matters to be investigated by an entity which has the power to compel all concerned to give evidence and provide documentation. In my opinion, the most appropriate entity would be a Commission of enquiry established under the Commissions Act, and undertaken by a person or persons of independence and integrity....”

Allegations with regard to the Trillian Group of companies and related matters

Geoff Budlender SC - Annexures

Annexures



- A – Trillian group organogram
- B – Letter to Department of Public Enterprises
- C – Trillian invoice to Eskom ESK2016-MC01, 14 April 2016, R30,666,000.00 (+/-R31m)
- D – Trillian invoice to Eskom ESK2016-MC02, 10 August 2016, R122,208,000.00 (+/-R122m)
- E – Trillian invoice to Eskom ESK2016-MC03, 10 August 2016, R113,262,434.00 (+/-R113m)
- F – McKinsey & Company letter to Eskom – Authorisation to pay subcontractor directly (Trillian)
- G – McKinsey & Company letter to Trillian titled “Trillian, Hubei Hongyuan, E Gateway Global Consultants FZC and Eskom Duvha Boiler Purchase”

Allegations with regard to the Trillian Group of companies and related matters

Geoff Budlender SC - Annexures

Annexures (continued...)



- H – Introductions reflecting Eskom, McKinsey and Trillian Board Members
- I – Trillian invoice to Transnet TCPSWATII-01, 7 June 2016, R36,014,296.91 (+/- R36m)
- J – Trillian invoice to Transnet TCP-GFB01, 23 May 2016, R7,980,000.00 (+/- R8m)
- K – Trillian invoice to Transnet TCP-GFB02, 23 May 2016, R7,980,000.00 (+/- R8m)
- L – Trillian invoice to Transnet TCP-GFB03, 7 June 2016, R7,980,000.00 (+/- R8m)
- M – Trillian invoice to Transnet TCP-GCIA01, 20 May 2016, R2,689,830.00 (+/- R3m)
- N – Trillian invoice to Transnet TE2016-CP01, 19 April 2016, R11,400,000.00 (+/- R11m)
- O – Trillian invoice to Transnet TFA2016-FA07, 15 April 2016, R41,040,000.00 (+/- R41m)
- P – Outsourcing engineering consultancy service agreement between Trillian Management Consulting and E Gateway Global Consultants FZC dated 26 January 2016



Werksmans report – Acquisition of 1064 locomotives for Transnet's general freight business

Werksmans report – Acquisition of 1064 locomotives for Transnet's general freight business

WERKSMAN'S REPORT

1. The report is dated 24 November 2017 and is entitled “ Acquisition of 1064 locomotives for Transnet's general freight business (“Transaction”: INQUIRY). It is usually referred to as the 1064 locomotive acquisition.
2. This report was commissioned after the Board of Directors of Transnet mandated Werksmans Incorporated to advise and prepare a report on , among others, the allegations of impropriety levelled by the Economic Freedom Fighters against it in relation to the acquisition of the 1064 locomotives.

Werksmans report – Acquisition of 1064 locomotives for Transnet's general freight business

WERKSMAN'S REPORT

- 3. Werksmans was mandated to look into the procurement processes, to identify all persons, companies and timelines involved in the procurement process, their role and relationships; to review, verify and validate the submissions made to the Acquisitions and Disposal Committee (ADC) and the Board; to ascertain the reasons for the increase(if there was any) in the estimated total cost and whether it was reasonable or justified; to conduct interviews; to investigate the existence of a certain contract between Tequesta and CSR Hong Kong; investigate whether prices were inflated after hedging and determine whether contingencies and escalations were added, establish what governance processes were employed in implementing the transaction and appropriateness thereof. Thereafter Werksman was mandated to make findings, recommendations and possible actions to be taken and recommendations on preventive measures.**

Werksmans report – Acquisition of 1064 locomotives for Transnet's general freight business

WERKSMAN'S REPORT

4. The Economic Freedom Fighters had released a pro- forma charge sheet which alleged, *inter alia*, that,
 - a) R17.4 billion taxpayers' money was lost in inflated prices on the purchase of 1064 locomotives.
 - b) The money was lost to corruption during the procurement of the locomotives.
 - c) The EFF dossier had pointed fingers at various people as having influenced the process.
 - d) The accelerated delivery schedule and the increase of prices and benefits to certain persons.
 - e) The dossier also implicates certain companies in corruption.

Werksmans report – Acquisition of 1064 locomotives for Transnet's general freight business

WERKSMAN'S REPORT

5. There is another report which is referred to as the Forensic Audit report which deals with certain relevant financial aspects of the enquiry into the 1064 locomotive acquisition. Both reports are to be read together.
6. Werksman's indicated that there were certain challenges that they encountered in their investigations as they, *inter alia*, could not consult with key witnesses which they listed in their report.
7. They listed in appendix 6 to the report documentation and information that they requested but was not furnished to it.
8. In paragraph 13.7 of the report Werksman's stated that based on the facts raised by its investigations , a judicial inquiry with prosecutorial and inquisitorial powers with powers to compel witnesses to provide relevant documentation and oral evidence.

Werksmans report – Acquisition of 1064 locomotives for Transnet's general freight business

WERKSMAN'S REPORT

9. It is accordingly necessary for this Commission to conduct further investigations into the transaction for the acquisition of the 1064 locomotives and other matters related thereto.
10. The relevance of the investigation , evidence obtained therefrom and witnesses who testified or made submissions to the Commission are relevant to paragraphs 1.4, 1.5 , 1.6 and 1.9 of the Terms of reference.
11. Due to the fact that the Commission is in the process of first :
 - a) obtaining permission to use the report;
 - b) establishing its authenticity;
 - c) conducting its own investigations on these matters and to follow due process in identifying implicated persons and/ or witnesses, the chairperson is simply being alerted to the report at this stage in accordance with Rule 6.5 of the Rules of the Commission and to enable the Commission to secure relevant transcripts, if any.



MNS Report – Acquisition of 1064 locomotives for Transnet’s general freight business

MNS report – Acquisition of 1064 locomotives for Transnet's general freight business

This report was commissioned after the Werksmans report was submitted to the Board of Transnet.

The Board resolved that the Werksman's report was inconclusive.

On 20 February 2018 the Board appointed MNS to conduct further investigations into the alleged irregularities relating to the procurement and award of the 1064 locomotives tender.

MNS was given the scope of its work. It made several findings.

MNS engaged the services of Fundudzi Forensic Services . The report is marked confidential and we do not wish to deal with the findings at this stage.

MNS report – Acquisition of 1064 locomotives for Transnet's general freight business (continued..)

However it is important to highlight that there is a need to conduct investigation into the 1064 locomotives transaction because upon reading the MNS report it is apparent that:

- a) this Commission must investigate the circumstances under which the Board approved the transaction as negotiated.**
- b) This Commission will be able to use its powers to demand access to the file that is allegedly hard coded which MNS could not access. (page 108 para 5.4.2) That file may enlighten the Commission on the purchase costs which will have a bearing on the calculations and projections made by MNS.**
- c) If the external audit was conducted as recommended by MNS the Commission will have regard thereto when conducting its investigations.**
- d) interview all the relevant and key officials before making findings.**

By so doing the Commission will be fulfilling its mandate in terms of paragraphs 1.1, 1.4, 1.5, 1.6 and 1.9 of the terms of reference.

PARI

Public Affairs
Research Institute



South African Council of Churches

Research Projects

Research projects

PUBLIC AFFAIRS RESEARCH INSTITUTE (PARI) REPORTS

- **Betrayal of the promise: how South Africa is being stolen**
State Capacity Research Project
May 2017
- **Evidence for the People's Tribunal on Economic Crime (03 – 07 February 2018)**
State Capture: The case of Denel and VR Laser
PARI
January 2018
33 pages
- **Eskom Inquiry Reference Book**
PARI
Version 3
26 pages
- **Transnet Inquiry Reference Book**
PARI
Version 1
36 pages

These reports are available to the public online

Research projects

BISHOP M. MPUMLWANA – SOUTH AFRICAN COUNCIL OF CHURCHES

“Unburdening Panel “ REPORT. The SACC conducted some research into state capture and its findings showed at least seven ways the scheme to loot state resources has been executed in South Africa.

This report too is available to the public online

Research projects

THE PEOPLE'S TRIBUNAL ON ECONOMIC CRIMES REPORT

THE PEOPLE'S TRIBUNAL ON ECONOMIC CRIME 's report dated 07 February 2018 investigated, inter alia, allegations of State Capture involving DENEL and its associated companies in the acquisition , distribution and manufacture of arms and ammunition.

The members of the panel are Retired Justice Zak Yacoob, retired Judge Navi Pillay , Ms Mandisa Dyantyi, Mrs Allyson Maynard- Gibson QC and Mr Dinga Sikwebu.

The Tribunal in its preliminary findings recommended, among others , a full investigation into corruption and state capture.

Patronage, State Capture and oligopolistic monopoly in South Africa: published by Prof. Pieter Labuschagne (2017) in Acta Academia 49 (2), p17.