



## SUMMER SCHOLAR'S PAPER

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November 2016

# The Effectiveness of Parliamentary Oversight in Defence Procurement: An International Comparison of Joint Strike Fighter Procurements

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### **About the author**

Steven L. Jones is completing his doctorate at the University of New South Wales Canberra. His thesis is examining the international politics of Australia's procurement of the Joint Strike Fighter.

### **Acknowledgements**

It has been a great privilege to be able to write a research paper at the Parliamentary Library, and I would like to extend thanks to all the staff. In particular, I would like to thank, David Watt, Nicole Brangwin and Nigel Brew for their assistance.

*This paper was prepared under the Parliamentary Library's annual Summer Scholar program. The views expressed in this paper are those of the Summer Scholar author, and do not necessarily reflect the views and opinions of the Parliamentary Library.*

## Abbreviations

ADO	Australian Defence Organisation
ANAO	Australian National Audit Office
ASPI	Australian Strategic Policy Institute
ALIS	Autonomic Logistics Information System
CBO	Congressional Budget Office
CPB	Bureau for Economic Policy Analysis [Centraal Planbureau]
CRS	Congressional Research Service
DMO	Defence Materiel Organisation
DND	Department of National Defence
DoD	Department of Defence
FADTRC	Foreign Affairs, Defence and Trade References Committee
GAO	Government Accountability Office
HoC	House of Commons
HoR	House of Representatives
JCPAA	Joint Committee of Public Accounts and Audit
JSCFADT	Joint Standing Committee on Foreign Affairs Defence and Trade
JSF	Joint Strike Fighter
MoD	Ministry of Defence
MoU	Memorandum of Understanding
MPR	Major Project Report
NAO	National Audit Office
NCA	Netherlands Court of Audit
NDAA	National Defense Authorization Act
OAG	Office of the Auditor General
OBR	Office for Budget Responsibility
PAC	Public Accounts Committee
PBO	Parliamentary Budget Office
PSFD	Production, Sustainment and Follow-on Development
PwC	PriceWaterhouseCoopers
PWGSC	Public Works and Government Services Canada
SAI	Supreme Audit Institution
SAR	Selected Acquisition Report
SASC	Senate Armed Services Committee
SCPA	Standing Committee on Public Accounts
STOVL	Short take-off and vertical landing
TALF	Tactical Air and Land Forces
UK	United Kingdom
US	United States

## Introduction

The JSF is the most expensive defence procurement so far undertaken by Australia.<sup>1</sup> The internationally collaborative and generally synchronous JSF Program offers an opportunity to compare procurement oversight between different partner nations. In democracies, parliamentary oversight plays an important role in public accountability and transparency. This paper will assess the effectiveness of the Australian Parliament and its supporting agencies in conducting oversight of major defence procurements in comparison with other nations, using the Joint Strike Fighter (JSF) procurement as a case study. It will compare the roles and effectiveness of Australia's parliamentary committees, the Australian National Audit Office (ANAO) and the Parliamentary Budget Office (PBO) with the equivalent committees and agencies of the United States, Canada, the Netherlands and the United Kingdom. A comparison of the functions of the PBOs and audit agencies is provided at Appendix A.

## The Australian Context

### Procurement Reform and Parliamentary Oversight

Since the Report of the Reorganisation of the Defence Group of Departments in 1973 (the Tange report) there have been a significant number of reviews of Australian defence capability development and procurement. In a 2013 report, the ANAO found a number of recurring themes in these reviews, including the 'Absence of scrutiny of capital investment proposals to assess affordability [and] schedule risk'.<sup>2</sup> As Mark Thompson of the Australian Strategic Policy Institute (ASPI) notes, these reviews were conducted by 'outsiders', and argues that 'the real advantage of an outside review is that it brings a degree of objectivity impossible for those engaged in the internecine politics of Defence'.<sup>3</sup>

One recurring concept in recent Defence Reviews and academic commentary is the notion of contestability within the defence organisation for force structure development and procurement. The *Black Review* stated

Contestability is a critical element of effective decision-making, both as a means of ensuring all options and perspectives are tested, and as a strategic risk management tool. Contestability strengthens the potential accountability available for decisions, particularly where accountability for strategic decisions is vested in elected officials.<sup>4</sup>

The Senate Foreign Affairs, Defence and Trade References Committee (FADTRC) concluded that there 'is no doubt that Defence needs greater levels of contestability to ensure that assumptions are thoroughly tested and decisions well informed'.<sup>5</sup> One of the four key features of the 2015 *First Principles Review* was 'A stronger and more strategic centre able to provide clear direction [and] contestability of decision-making'.<sup>6</sup> In 2010, Andrew Davies of ASPI, argued that 'Defence needs greater levels of internal contestability' as the Australian Government 'need[s] to be able to consider the full range of credible

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<sup>1</sup> For details on the JSF Program and Australia's procurement, refer D Watt, *The Joint Strike Fighter: overview and status*, Parliamentary Library Background Note, 2012.

<sup>2</sup> Australian National Audit Office, *Capability Development Reform* (Canberra: Australian National Audit Office, 2013) 19.

<sup>3</sup> ANAO, *Capability Development Reform*, 86.

<sup>4</sup> Department of Defence, *Review of the Defence Accountability Framework* (Canberra: Department of Defence, 2011) 46.

<sup>5</sup> Foreign Affairs, Defence and Trade References Committee, *Procurement procedures for Defence capital projects: Final Report* (Canberra: Senate Printing Unit, 2012) 162.

<sup>6</sup> Department of Defence, *First Principles Review: Creating One Defence* (Canberra: Department of Defence, 2015) 5.

options, with sober assessments of the costs and benefits',<sup>7</sup> and the Australian Parliament can play a larger role in providing 'sober assessments'.

In a submission to the *Review of the Defence Annual Report 2011-12*, Lowy analyst James Brown argued that the Annual Reports do 'not adequately allow parliamentarians to measure defence performance' and that Australian Defence Organisation (ADO) 'should adopt more transparent defence reporting'.<sup>8</sup> He advocated strengthening parliamentary oversight because of 'poor scrutiny of the ADO outside of the parliament', and the 'current state of the ADO warrants additional, critical attention from parliament'.<sup>9</sup>

Parliamentary Committees covering Defence matters have highlighted the insufficiency of information made available to them in reviewing defence procurements, particularly with the JSF. In 2008, Arch Bevis, Chairperson of the Joint Defence Sub-Committee and former Parliamentary Secretary to the Minister of Defence, stated that 'There is a real problem with how Defence approaches questions of public and parliamentary accountability', and that there was 'something fundamentally wrong when you can get better information from United States Congressional hearings and documents than from any Australian parliamentary hearings'.<sup>10</sup> In relation to the Joint Standing Committee on Foreign Affairs Defence and Trade's (JSCFADT) *Review of the Defence Annual Report 2013-14*, the Defence Sub-Committee commented that information on the JSF Program 'in the Defence Annual Report and ANAO Major Projects Report (MPR) is superficial compared to what is reported publically and to the Congress in the United States'.<sup>11</sup> Defence Annual Reports have contained little information on total costs, schedule, and transitional arrangement for the JSF procurement, and the type of information provided varies from year to year.

### Parliamentary Committees

Senate estimate committees 'provide the principal opportunity for senators to scrutinise, not only the expenditure proposals of the government, but the operations and activities of government departments and agencies'.<sup>12</sup> Following hearings, committees provide reports to the Senate, allowing them to 'draw attention to any matters for further consideration'.<sup>13</sup> However, the reports are perfunctory for Defence, generally listing only the range of issues discussed in hearings and do not contain recommendations. Since 2005-06, there have often been detailed discussions of the JSF procurement covering issues such as capabilities, costs, schedules, industrial participation, international agreements and problems with the development of the aircraft. While a great deal of information is provided in Senate estimate hearings, the capacity for long term oversight is limited because the information is not collated or otherwise made easily accessible to the public.

Although the Terms of Reference for the FADTRC's *Procurement procedures for Defence capital projects* inquiry specified making 'recommendations for enhancing the availability of public information and

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<sup>7</sup> Andrew Davies, 'Let's test that idea—contestability of advice in the Department of Defence', Policy Analysis Paper, *Australian Strategic Policy* (22 January 2010) 7.

<sup>8</sup> James Brown, 'Review of the Defence Annual Report 2011-2012 – Submission No. 1', *Australian Parliament House* <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=jfadt/defenceannualreport\\_2011\\_2012/submissions/sub\\_1.pdf](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jfadt/defenceannualreport_2011_2012/submissions/sub_1.pdf)> (8 February 2013) accessed 11 January 2016.

<sup>9</sup> Brown, 'Review of the Defence Annual Report 2011 – 2012 – Submission No. 1'.

<sup>10</sup> Philip Dorling, 'The Plane Facts', *Canberra Times (Saturday Forum)* (26 July 2008) 1.

<sup>11</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2013-14* (Canberra: Parliament of the Commonwealth of Australia, 2003) 48.

<sup>12</sup> Harry Evans and Rosemary Laing, eds., *Odgers' Australian Senate practice, 13<sup>th</sup> edition* (Canberra: CanPrint Communications, 2012) 361.

<sup>13</sup> Evans and Laing, *Odgers' Australian Senate practice*, 362.

parliamentary oversight and scrutiny of defence procurement',<sup>14</sup> the recommendations in the inquiry's report were limited to oversight within the ADO. The Committee looked 'in greater detail at individual projects that have experienced difficulties in order to identify the source of the problem',<sup>15</sup> but this did not include the JSF procurement. At the time of writing,<sup>16</sup> the References Committee was conducting an inquiry into the JSF procurement, with particular reference to:

the future air defence needs that the aircraft is intended to fulfil, the cost and benefits of the program to Australia, including industrial costs and benefits received and forecast, changes in the acquisition timeline, the performance of the aircraft in testing, [and] potential alternatives.<sup>17</sup>

In its annual inquiry into the Defence Annual Reports, the JSCFADT focuses on particular issues, and the Committee can make non-binding recommendations. In its 2003 review, JSCFADT 'examined the F-35's capability, the transitional arrangements from the existing aircraft to the F-35, and possible Australian industry involvement opportunities'<sup>18</sup> and recommended that the Department of Defence (DoD):

outline in its Annual Report Australia's role in the Joint Strike Fighter program, the projected cost, lifecycle costs, transitional arrangements and progress with Australian industry involvement in the program ... which should include performance targets and objectives in its reports [and] Subsequent Annual Reports should report outcomes against those targets and objectives.<sup>19</sup>

However, the Government did not agree with the recommendation, stating it would 'continue to include qualitative information in its annual report' because it had not made purchase decision, and 'it would be inappropriate to include cost and funding figures in a public document such as the annual report'.<sup>20</sup> The Response noted that '... further details remain commercial-in-confidence'.

In reviewing Defence's 2002-03 Annual Report, JSCFADT investigated the possibility of an air combat capability gap with the retirement of the F-111 and procurement of the JSF, with representative from Air Power Australia offering testimony critical of Government policy. The report stated that it was 'not the role of the committee to adjudicate over disputes about technical level matters', but rather to 'ensure that Defence has adequately justified the policy of retiring the F-111 early, and provide reassurances that Australia's superiority in air combat capability within the region is maintained'.<sup>21</sup> The following year, the committee briefly examined the potential role of the JSF in with an amphibious force, and was 'impressed by Defence's comprehensive decision-making process'.<sup>22</sup> The JSCFADT did not review the JSF procurement in detail over the next two years, but from 2008, the committee reviewed the JSF procurement in each report. Frequently, the Committee hearings can be characterised as ADO officials addressing issues raised by the Committee stemming from US Government Accountability Office (GAO)

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<sup>14</sup> FADTRC, *Procurement procedures for Defence capital projects*, 1.

<sup>15</sup> FADTRC, *Procurement procedures for Defence capital projects*, 15.

<sup>16</sup> The committee is to report by 1 May 2016.

<sup>17</sup> Foreign Affairs, Defence and Trade References Committee, 'Inquiry into the planned acquisition of the F-35 Lightning II (Joint Strike Fighter) – Terms of Reference', *Australian Parliament House* <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Foreign\\_Affairs\\_Defence\\_and\\_Trade/Joint\\_fighter/Terms\\_of\\_Reference](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Joint_fighter/Terms_of_Reference)> (December 2015) accessed 29 January 2016.

<sup>18</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2001-02* (Canberra: Parliament of the Commonwealth of Australia, 2003) iii.

<sup>19</sup> JSCFADT, *Review of the Defence Annual Report 2001-02*, 58.

<sup>20</sup> 'Government Response to Joint Standing Committee on Foreign Affairs, Defence and Trade Review of the Defence Annual Report 2001-02', *Australian Parliament House* <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=jfadt/defence\\_report2001-2002/2001-02defenceannualreport.pdf](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=jfadt/defence_report2001-2002/2001-02defenceannualreport.pdf)> (11 March 2004) accessed 28 January 2016.

<sup>21</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2002-03* (Canberra: Parliament of the Commonwealth of Australia, 2004) 58.

<sup>22</sup> Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2003-04* (Canberra: Parliament of the Commonwealth of Australia, 2005) 22.

reports. The JSCFADT's Defence Sub-Committee conducted an *Inquiry into Australian Defence Force Regional Air Superiority* in 2007 with a focus air combat capabilities rather than examining the procurement process. While the committee did not make any recommendations, its comments would seem to indicate broad support for the procurement.

The Joint Committee of Public Accounts and Audit (JCPAA) conducts an annual oversight review of the ANAO's Major Projects report in order to assess 'the overall content, accessibility and transparency of the information provided in the MPR, in addition to specific details of individual projects'.<sup>23</sup> The JCPAA's recommendations are intended to improve the content, accessibility and transparency of the MPR's information, and 'concentrates its review on overall transparency, performance and governance, rather than specific details of individual projects'.<sup>24</sup>

### Australian National Audit Office

ANAO's objective is to 'improve public sector performance and accountability through independent (from executive government) reporting on Australian Government administration to Parliament, the Executive and the public'.<sup>25</sup> To achieve this objective, ANAO conducts financial statement audits and performance audits of Australian Government programs and entities, as well as a range of assurance reviews, including an assurance review of Defence's major projects.<sup>26</sup> The ANAO declares that it 'does not have a role in commenting on the merits of government policy but focuses on assessing the efficient and effective implementation of government programs, including the achievement of their intended benefits'.<sup>27</sup> Performance audits can involve assessing economy (minimising cost), efficiency (maximising the ratio of outputs to inputs), effectiveness (the extent to which intended outcomes are achieved), and legislative and policy compliance.<sup>28</sup> In reviewing Defence's Major Projects, ANAO's scope does not include the 'project's budget adequacy, the identification of risks and issues, the Measures of Materiel Capability Delivery Performance, and 'forecasts' of future dates and the achievement of future outcomes' as these are future events and 'depends on circumstances that have not yet occurred or may not occur'.<sup>29</sup> The ANAO occasionally makes a submission to FADTRC inquiries, such as the 2003 *Inquiry into Materiel Acquisition and Management in Defence*, but is generally not involved with defence committees.

As well as many audits of individual procurement projects, including the JSF, the ANAO conducted the *Planning and Approval of Defence Major Capital Equipment Projects* performance audit in 2009 to 'assess whether the strengthened two-pass approval process for major capital equipment projects [was] being implemented effectively',<sup>30</sup> and conducted the *Gate Reviews for Defence Capital Acquisition Projects* in 2012 to assess the Defence Materiel Organisation's (DMO) 'implementation of its Gate Review process

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23. Joint Committee of Public Accounts and Audit, *Report 458: Inquiry into the Defence Major Projects Report 204-15* (Canberra: Parliament of the Commonwealth of Australia, May 2016) vii.

24. JCPAA, *Inquiry into the 2012-13 Defence Materiel Organisation Major Projects Report*, 2.

25. Australian National Audit Office, *The Auditor-General Annual Report 2014-15* (Canberra: Australian National Audit Office, 2009) 5.

26. Australian National Audit Office, *Audit Work Program July 2013* <<http://www.anao.gov.au/~media/Uploads/Audit%20Work%20Program/Audit%20Work%20Program%202013.pdf>> (July 2013) accessed 26 January 2016, 13.

27. Australian National Audit Office, 'Guidelines for the Conduct of Performance Audits: November 2013', *Australian National Audit Office* <<http://www.anao.gov.au/~media/Uploads/Corporate%20Publications/Guidelines-for-the-Conduct-of-Performance-Audits.pdf>> (November 2013) accessed 26 January 2016, 2.

28. Australian National Audit Office, *Audit Work Program July 2015* <<http://www.anao.gov.au/About-Us/~media/Files/Audit%20Work%20Programs/AWP-July-2015-web.pdf>> (July 2015) accessed 26 January 2016, 13, 5.

29. Australian National Audit Office, *2013-14 Major Projects Report* (Canberra: Australian National Audit Office, 2014) 8.

30. Australian National Audit Office, *Planning and Approval of Defence Major Capital Equipment Projects* (Canberra: Australian National Audit Office, 2012) 14.

for major Defence capital acquisition projects'.<sup>31</sup> ANAO also conducted the *Capability Development Reform* performance audit in 2013, which was 'a further contribution to fulfilling the undertaking ... to examine reform progress'.<sup>32</sup>

MPRs were created following recommendations of the 2003 FADTRC *Report into Materiel Acquisition and Management in Defence*. It recommended that ANAO annually 'report on progress in major defence projects, detailing cost, time and technical performance data for each project', which would include 'analysis of performance and emerging trends as will enable the parliament to have high visibility of all current and pending major projects'.<sup>33</sup> In 2006, the JCPAA recommended that ANAO receive funding to produce the reports.<sup>34</sup> While the JCPAA considered the US GAO model, it paid 'particular' attention to the UK National Audit Office (NAO) MPR model.<sup>35</sup>

The MPRs are priority assurance reviews.<sup>36</sup> They are based on JCPAA endorsed guidelines and the review scope of the Auditor-General, and are in the ANAO's own words 'not as extensive in terms of evidence gathering as is the case for performance audits'.<sup>37</sup> MPRs include information relating to the cost, schedule, technical progress and capability performance of individual projects as at the end of the financial year, and are scheduled to be submitted to Parliament in the Spring Parliamentary Sitting of the following year.<sup>38</sup> Through the MPRs, ANAO 'analyse[s] individual project performance and, over time, emerging trends across all projects and the governance model in place within the DMO'.<sup>39</sup> The JCPAA annually reviews the MPRs and provides 'suggestions and recommendations to improve the format and presentation of the data and ensure that the MPR fulfils its original objective to enhance transparency and accountability'.<sup>40</sup>

In its 2012 review of the 2010-11 MPR, the JCPAA noted it was 'disappointed at the repeated failure by the DMO and the Government to provide timely and complete responses to its reports and requests', suggesting that 'DMO may not be respecting the Parliament and its committees'.<sup>41</sup> As a remedy, the JCPAA identified the MPRs as a 'priority audit', which 'allows the Auditor-General to use the information gathering process under the [Auditor-General Act] rather than relying on the agreement of the entity being audited'.<sup>42</sup> The JCPAA stated that 'In effect, this circumvents delays and provides for a quicker auditing process'.<sup>43</sup>

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<sup>31</sup> Australian National Audit Office, *Gate Reviews for Defence Capital Acquisition Projects* (Canberra: Australian National Audit Office, 2012) 14.

<sup>32</sup> ANAO, *Capability Development Reform*, 17.

<sup>33</sup> Foreign Affairs, Defence and Trade References Committee, *Report on the inquiry into materiel acquisition and management in Defence* (Canberra: Senate Printing Unit, 2003) xv-xvi.

<sup>34</sup> Joint Committee of Public Accounts and Audit, *Report 429: Review of the 2010-11 Defence Materiel Organisation Major Projects Report* (Canberra: Parliament of the Commonwealth of Australia, 2012) 1.

<sup>35</sup> Joint Committee of Public Accounts and Audit, *Report 411: Progress on equipment acquisition and financial reporting in Defence* (Canberra: Parliament of the Commonwealth of Australia, 2008) 158.

<sup>36</sup> In Australia, 'assurance' is technically defined as 'a process that provides a level of confidence that objectives will be achieved within an acceptable level of risk'. *Delivering assurance based on ISO 31000:2009: Risk management—Principles and guidelines* (Sydney: Standards Australia, 2010) 6. Perhaps more usefully, the UK NAO defines 'assurance' as 'an independent assessment of whether the required elements to deliver projects successfully, such as good project management practices and appropriate funding and skills, are in place and operating effectively'. National Audit Office, *Assurance for major projects* (London: The Stationery Office, 2012) 5.

<sup>37</sup> ANAO, *Audit Work Program July 2013*, 36.

<sup>38</sup> ANAO, *Audit Work Program July 2013*, 36.

<sup>39</sup> ANAO, *Audit Work Program: July 2015*, 19.

<sup>40</sup> JCPAA, *Review of the 2010-11 Defence Materiel Organisation Major Projects Report*, 2.

<sup>41</sup> JCPAA, *Review of the 2010-11 Defence Materiel Organisation Major Projects Report*, 32.

<sup>42</sup> JCPAA, *Review of the 2010-11 Defence Materiel Organisation Major Projects Report*, 33.

<sup>43</sup> JCPAA, *Review of the 2010-11 Defence Materiel Organisation Major Projects Report*, 33.

In examining the procurement process of the JSF in its 2009 *Planning and Approval of Defence Major Capital Equipment Projects* audit report, the ANAO noted that ‘the identification and approval of the broad option set submitted for first pass consideration of the project followed a different path from that outlined in the [Defence Capability Development Manual] and Process Map’, and that Defence was ‘not able to provide a copy of the Capability Proposal First Pass’.<sup>44</sup> The stated objective of the performance audit conducted in 2012 was ‘to assess the progress of the AIR 6000—New Air Combat Capability project in delivering the required combat aircraft within approved cost, schedule and performance parameters.’<sup>45</sup> Specifically, the audit:

assessed Defence’s arrangements to ensure that it has adequate insight into the development and production of the F-35A, and information about the status of the JSF Program, to: inform progressive acquisition decisions by Government; and underpin appropriate contingency planning to avoid any capability gap opening up between the withdrawal from service of the RAAF’s F/A-18 fleets.<sup>46</sup>

The audit did not ‘conduct a detailed analysis of the full range of engineering issues’, whole of life costs for the F-35A, industrial participation, or ‘possible issues arising from the likely extension of the F/A-18A/B fleet’s Planned Withdrawal Date beyond 2020’.<sup>47</sup> The report provided a comprehensive account of the JSF Program and AIR 6000, but did not provide a detailed evaluation of Defence’s delivery of the JSF within approved cost, schedule and performance parameters. ANAO did not make ‘any formal recommendations for administrative improvements in Defence’s management’ of AIR 6000 because:

there are many dependencies not under Australia’s control... [and] the approach adopted to-date by Australian Governments and the Defence Organisation has provided appropriate insight into the program, in support of informed decision-making, commensurate with the cost and complexity of the planned acquisition.<sup>48</sup>

However, the report did find that ‘high-confidence figures’ on the cost of sustaining the F-35 fleet ‘may not be available until JSF system maturity is achieved, currently expected around 2018’.<sup>49</sup> The JCPAA did not review the AIR 6000 project.<sup>50</sup>

### Parliamentary Budget Office

The role of the PBO as set out in section 64B of the *Parliamentary Service Act 1999* is to ‘to inform the Parliament by providing independent and non-partisan analysis of the budget cycle, fiscal policy and the financial implications of proposals’, and can cost policy proposals ‘at the request of individual parliamentarians and parliamentary parties’.<sup>51</sup> Unlike its American, British and Canadian counterparts, the PBO is ‘explicitly precluded’ from conducting a long-term economic forecasting and budget estimates<sup>52</sup> as specified in Section 64E of the *Parliamentary Service Amendment (Parliamentary Budget*

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<sup>44</sup> ANAO, *Planning and Approval of Defence Major Capital Equipment Projects*, 88-89.

<sup>45</sup> Australian National Audit Office, *Management of Australia’s Air Combat Capability— F-35A Joint Strike Fighter Acquisition* (Canberra: Australian National Audit Office, 2012) 14.

<sup>46</sup> ANAO, *F-35A Joint Strike Fighter Acquisition*, 14.

<sup>47</sup> ANAO, *F-35A Joint Strike Fighter Acquisition*, 17-18.

<sup>48</sup> ANAO, *F-35A Joint Strike Fighter Acquisition*, 30.

<sup>49</sup> ANAO, *F-35A Joint Strike Fighter Acquisition*, 136.

<sup>50</sup> Joint Committee of Public Accounts and Audit, *Report 437: Review of Auditor-General’s Reports Nos. 2 to 10 (2012–13)* (Canberra: Parliament of the Commonwealth of Australia, 2013) 1.

<sup>51</sup> <sup>51</sup> Phil Bowen, Parliamentary Budget Officer, ‘Submission to the National Commission of Audit’, *Parliamentary Budget Office* <<http://www.aph.gov.au/~media/05%20About%20Parliament/54%20Parliamentary%20Depts/548%20Parliamentary%20Budget%20Office/Submission%20to%20the%20National%20Commission%20of%20Audit%20%2022112013.pdf?la=en>> (22 November 2013) accessed 1 February 2016, 6.

<sup>52</sup> PBO, ‘Submission to the National Commission of Audit’, 4.

*Officer) Act 2011*. A detailed comparison between the Australian PBO and other Independent Fiscal Institutions can be found in its submission to the Commission of Audit. The PBO has not conducted any public analyses on defence issues.

### Analysis

Parliamentary oversight is hampered by the different roles of different committees and the organisations which contribute to Parliamentary oversight, resulting in fractured rather than unified oversight. While the ANAO regularly provides submissions and testimony before the JCPAA regarding DMO's MPRs, it does not support the JSCFADT in providing assessments of the management of particular Defence projects. Although there has been adequate oversight into the air combat capabilities of the JSF procurement in addition to narrower platform centric assessments, and a recurring focus on the cost of the aircraft, there has been a lack of analysis into the long-term budget of the procurement with regard to full life cycle costs. In particular, there is a lack of analysis of the long-term effects of the JSF procurement, in terms of investment and sustainment costs on Defence's future spending options. In large part, oversight regarding total budgets is limited by the statutory mandate of the PBO, and the retrospective and narrow scope of the ANAO.

### **United Kingdom**

British Parliamentary oversight of their JSF procurement has been minimal, and is generally conducted as an element of the Future Carrier program. The main issues which were repeatedly raised by the Defence Committee in different inquiries were technology transfer and sovereign capability. The House of Commons (HoC) Defence Committee examined the Future Carrier and Joint Combat Aircraft Programmes in 2005. Appointed by the HoC, the Defence Committee 'examine[s] the expenditure, administration, and policy of the Ministry of Defence and its associated public bodies', and it 'chooses its own subjects of inquiry'.<sup>53</sup> The Defence Committee sought assurances that the over-weight problems of short take-off and vertical landing aircraft (STOVL) aircraft were being addressed, that the US would continue its development and procurement of the STOVL variant, and that the UK and US aircraft would be identical.<sup>54</sup> The Committee was concerned about the In-Service Date for JSF slipping and access to US technology to ensure 'sovereign capability', declaring the intent to 'support [the Ministry of Defence] on this issue where we can' and to 'visit Washington [and] raise this issue with the US Administration and with Members of Congress'.<sup>55</sup> The Committee stated that 'If the UK does not receive assurances that it will get all it requires to ensure sovereign capability, we would question whether the UK should continue to participate in the JSF programme'.<sup>56</sup>

These issues of technology transfer and sovereign capability were key issues raised by the Defence Committee in its 2006 review of Defence Procurement, recommending that if that 'If the UK does not obtain the assurances it needs from the United States, then it should not sign the Memorandum of Understanding covering production, sustainment and follow-on development'.<sup>57</sup> Minister for Defence

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<sup>53</sup> 'Defence Committee - role', *UK Parliament* <<http://www.parliament.uk/business/committees/committees-a-z/commons-select/defence-committee/role/>> (no date) accessed 20 January 2016.

<sup>54</sup> Defence Committee, House of Commons, *Future Carrier and Joint Combat Aircraft Programmes* (London: The Stationery Office, 2005) 36-37.

<sup>55</sup> Defence Committee, House of Commons, *Future Carrier and Joint Combat Aircraft Programmes*, 30

<sup>56</sup> Defence Committee, House of Commons, *Future Carrier and Joint Combat Aircraft Programmes*, 29.

<sup>57</sup> Defence Committee, House of Commons, *Defence Procurement 2006* (London: The Stationery Office, 2006) 23.

Procurement, Lord Drayson, thanked the Committee for its 'clear stance', stating that 'it was very helpful in me really [sic] persuading the United States that we were deadly serious about what we said about technology transfer'.<sup>58</sup> The issues of JSF technology transfer and sovereign capability were also examined in the Committee's 2007 report on the Defence Industrial Strategy.<sup>59</sup>

The Defence Committee briefly assessed the JSF procurement in its 2008, 2009 and 2010 *Defence Equipment* inquiries, as part of their broader evaluations of the performance of the newly formed Defence Equipment and Support organisation. In 2008, the single issue addressed was the lack of certainty of the number of aircraft the UK would acquire given that the specific cost per aircraft was not known.<sup>60</sup> Subsequent years have seen very limited coverage of JSF issues.

The NAO 'scrutinises public spending for Parliament' with public auditing contributing to 'Parliament hold[ing] government to account and improve public services'.<sup>61</sup> The Public Accounts Committee (PAC) is appointed by the HoC to 'scrutinise the value for money - the economy, efficiency and effectiveness - of public spending and generally holds the government and its civil servants to account for the delivery of public services'.<sup>62</sup> The NAO and PAC 'do not question government policies but examine objectively and independently the value for money with which departments and other bodies implement those policies'.<sup>63</sup> Policy is examined by Select Committees, which in this case, is the Defence Committee.

The NAO occasionally conducts audits of individual procurements, but evaluations are primarily conducted through annual Major Project Reports. The Ministry of Defence (MoD) annually provides the PAC an MPR which 'provides data on the cost, time and performance of the largest defence projects', and the NAO reviews the 'information underlying in-year variations to cost time and performance'.<sup>64</sup> The PAC takes evidence and provides a report based on the broad issues raised in the NAO report. The NAO assessments in MPRs extend beyond monitoring individual projects, and can include broader and long-term implications of project funding. For example, *Major Projects Report 2009* identified 'deliberate decisions to slip projects, taken corporately by the Department as part of a wider package designed to address a gap between estimated funding and the cost of the Defence budget over the next ten years'.<sup>65</sup> In assessing value for money, the NAO stated that:

unless the Department addresses the underlying budgetary and governance issues it will not consistently deliver value for money for the taxpayer, .... Nor, vitally, will the operational benefits of expensive new capabilities be available to the Armed Forces in a timely manner or in the numbers the original analyses suggested were required.<sup>66</sup>

Based on the National Audit Office's (NAO) assessments, the PAC made a number of recommendations to address the 'failings in the [MoD's] governance and budgetary processes'.<sup>67</sup> In 2015, the NAO began combining its MPR with its review of the Equipment Plan to 'enable Parliament to have a more complete

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<sup>58</sup> Defence Committee, House of Commons, *The Defence Industrial Strategy: Update* (London: The Stationery Office, 2007) Ev 13.

<sup>59</sup> Defence Committee, House of Commons, *Defence Industrial Strategy*, 25-27.

<sup>60</sup> Defence Committee, House of Commons, *Defence Equipment 2008* (London: The Stationery Office, 2008) 52-53.

<sup>61</sup> 'About Us', *National Audit Office* <<https://www.nao.org.uk/about-us/>> (no date) accessed 20 January 2016.

<sup>62</sup> 'Public Accounts Committee - our role', *UK Parliament* <<http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/role/>> (no date) accessed 20 January 2016.

<sup>63</sup> 'Public Accounts Committee - our role'.

<sup>64</sup> National Audit Office, *Major Projects Report 2014 and the Equipment Plan 2014 to 2024* (London: The Stationery Office, 2014) 4.

<sup>65</sup> National Audit Office, *The Major Projects Report 2009* (London: The Stationery Office, 2009) 4.

<sup>66</sup> NAO, *Major Projects Report 2009*, 4.

<sup>67</sup> Committee of Public Accounts, House of Commons, *Ministry of Defence: The Major Projects Report 2009* (London: The Stationery Office, 2010) 1.

view of the [MoD's] management of the procurement and support of the UK's defence capability'.<sup>68</sup> The Equipment Plan is the MoD's 'forecast budget to cover the costs of procurement and support of military equipment for the next 10 years'.<sup>69</sup>

The MPRs focus on high level reporting and broad trends, rather than providing information on specific procurements. The British JSF procurement first entered the MPRs in 1998 as the Future Carrier Borne Aircraft project, although there were few details to report on at this early stage.<sup>70</sup> Currently, the MPR provides limited information on the JSF procurement. As an overview of cost, time and performance, it sets out costs of the Assessment Phase and Demonstration & Manufacture Phase, with Approved and Forecast/Actual Budgets, and total and in-year variations.<sup>71</sup> It also indicates the Duration of the Assessment Phase and In-Service Date. Additionally, a traffic light system<sup>72</sup> is used to report on risk for Lines of Development, which are factors to be achieved for the defined capability.<sup>73</sup>

Between 2011 and 2013, the NAO<sup>74</sup> and the PAC<sup>75</sup> conducted inquiries regarding the 2010 decision to change the JSF variant to be procured from the F-35B STOVL variant to the F-35C naval variant, and the 2012 decision to revert back to the F-35B. While the JSF procurement was the catalyst for the inquiries and reports, they were focused on the economic and capability consequences for the aircraft carriers. However, the 2013 NAO report outlined the capability differences between the naval and STOVL variants,<sup>76</sup> and noted the importance of managing some critical technological risks, such as solutions to the problem that the 'STOVL variant is unable to land vertically on to a carrier in hot, humid and low pressure weather conditions without having to jettison heavy loads'.<sup>77</sup> The PAC stated that 'Carrier Strike remains a high risk programme as the Department has little control over the technical risks and costs involved in acquiring the aircraft', and that 'Despite assurances from the Department, we are not convinced that it has the aircraft contract under control'.<sup>78</sup>

The Office for Budget Responsibility (OBR) was 'created in 2010 to provide independent and authoritative analysis of the UK's public finances', and produces detailed five-year forecasts for the economy and public finances, judges the Government's performance against its own fiscal targets and targets for welfare spending, assesses the long-term sustainability of the public finances, evaluates fiscal risks, and scrutinises the Government's costing of individual tax and welfare spending measures.<sup>79</sup> The OBR has not, to date, reported on any defence matters.

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<sup>68</sup> PAC, *Major Projects Report 2009*, 1.

<sup>69</sup> PAC, *Major Projects Report 2009*, 1.

<sup>70</sup> National Audit Office, *Major Projects Report 1999* (London: The Stationery Office, 2000) 2.

<sup>71</sup> National Audit Office, *Major Projects Report 2015 and the Equipment Plan 2015 to 2025* (London: The Stationery Office, 2015) 55.

<sup>72</sup> Red: not to be met; Yellow: to be met with risks; Green: to be met.

<sup>73</sup> National Audit Office, 'Reforming the Ministry of Defence: Briefing for the Committee of Public Accounts', *National Audit Office* <[https://www.nao.org.uk/wp-content/uploads/2012/09/Reforming\\_the\\_MoD.pdf](https://www.nao.org.uk/wp-content/uploads/2012/09/Reforming_the_MoD.pdf)> (February 2012) accessed 27 January 2016, 24.

<sup>74</sup> National Audit Office, *Carrier Strike* (London: The Stationery Office, 2011); National Audit Office, *Carrier Strike: Supplemental Report* (London: The Stationery Office, 2011); National Audit Office, *Carrier Strike: The 2012 reversion decision* (London: The Stationery Office, 2013).

<sup>75</sup> Committee of Public Accounts, House of Commons, *Providing the UK's Carrier Strike Capability* (London: The Stationery Office, 2011); Committee of Public Accounts, House of Commons, *Carrier Strike: The 2012 reversion decision* (London: The Stationery Office, 2013).

<sup>76</sup> NAO, *Carrier Strike: The 2012 reversion decision*, 21-22.

<sup>77</sup> NAO, *Carrier Strike: The 2012 reversion decision*, 9.

<sup>78</sup> PAC, *Carrier Strike: The 2012 reversion decision*, 6.

<sup>79</sup> 'What we do', *Office for Budget Responsibility* <<http://budgetresponsibility.org.uk/about-the-obr/what-we-do/>> (2016) accessed 22 January 2016.

## Canada<sup>80</sup>

Prior to its election in October 2015 Canada's Liberal Party government had stated that it would cancel Canada's involvement in the F-35 program. On 22 November 2016 Defence Minister Harjit Sajjan announced that the country would enter into negotiations with Boeing to purchase 18 [F/A-18E/F Super Hornets](#) as an interim measure while running a competition to decide the longer term capability necessary to replace the ageing CF-18 Classic Hornets<sup>81</sup>. The Canadian Government remains a part of the F-35 development program but with no current plans to purchase the aircraft.

### Parliamentary Budget Office

The position of Parliamentary Budget Officer was created in 2006 to 'provide independent, authoritative and non-partisan financial and economic analysis' to the Senate and House of Commons.<sup>82</sup> The Canadian PBO is 'provided with a legislated right of access to data that is necessary for the performance of the PBO's mandate'.<sup>83</sup> Additionally, the PBO is mandated to 'estimate the financial cost of any proposal that relates to a matter over which Parliament has jurisdiction' when requested by a member or committee of parliament.<sup>84</sup>

The PBO undertakes analyses of 'ongoing and future government expenses', such as Canada's National Defence Program, and in 2015, found that 'the current force structure of the Department of National Defence (DND) is unsustainable at current funding levels'.<sup>85</sup> The PBO stated that 'parliamentarians do not have a complete picture of the sustainability of the defence program at current or future funding levels'.<sup>86</sup> On defence matters, the PBO has sought external expert advice. For example, in examining Canada's Joint Support Ships project, the PBO 'assembled an international review panel of experts', and received assistance from the Congressional Budget Office (CBO) and GAO in the US.<sup>87</sup>

Following the Canadian Government's July 2010 announcement that it intended to procure 65 F-35 aircraft at an estimated cost of C\$9 billion, two members of parliament requested the PBO 'provide an independent forecast of the acquisition and sustainment costs of the F-35'.<sup>88</sup> The PBO declared that the analysis of the fiscal impact of Canada's proposed acquisition of the F-35 was 'consistent with the PBO's mandate ... Given the size and scope of the proposed expenditure'.<sup>89</sup> In producing the report, the PBO 'contracted with an independent firm to provide specialized expertise in cost modelling and estimating', sought advice from the US Congressional Research Service (CRS), and the report was peer reviewed by an independent panel, which included ASPI's Andrew Davies.<sup>90</sup>

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<sup>80</sup> It should be noted that there is currently uncertainty regarding Canada's participation in the JSF Program, with newly elected Prime Minister Justin Trudeau having indicated before the 2015 election that Canada would consider withdrawing from the program. As yet, Canada has not officially clarified their position.

<sup>81</sup> D Carl, Canada to explore Super Hornet acquisition, launch open competition to replace CF-18s, *Jane's Defence Weekly*, 22 November 2016.

<sup>82</sup> 'Who we are', *Parliamentary Budget Office* <<http://www.pbo-dpb.gc.ca/en/about#WHOWEARE>> (2015) accessed 2 February 2016.

<sup>83</sup> 'Enabling Legislation', *Parliamentary Budget Office* <[http://www.pbo-dpb.gc.ca/en/enabling\\_legislation](http://www.pbo-dpb.gc.ca/en/enabling_legislation)> (2015) accessed 2 February 2016.

<sup>84</sup> Parliament of Canada Act (R.S.C., 1985, c. P-1) <<http://laws-lois.justice.gc.ca/PDF/P-1.pdf>> (27 October 2015) accessed 2 February 2016, 56.

<sup>85</sup> Parliamentary Budget Office, 'Fiscal Sustainability of Canada's National Defence Program', *Parliamentary Budget Office* <[http://www.pbo-dpb.gc.ca/web/default/files/files/files/Defence\\_Analysis\\_EN.pdf](http://www.pbo-dpb.gc.ca/web/default/files/files/files/Defence_Analysis_EN.pdf)> (26 March 2015) accessed 2 February 2016, 1.

<sup>86</sup> 'Fiscal Sustainability of Canada's National Defence Program', 2-3.

<sup>87</sup> Kevin Page, *Unaccountable: Truth and Lies on Parliament Hill* (New York: Viking, 2015) 161.

<sup>88</sup> Parliamentary Budget Officer, 'An Estimate of the Fiscal Impact of Canada's Proposed Acquisition of the F-35 Lightning II Joint Strike Fighter', *Parliamentary Budget Officer* <[http://www.pbo-dpb.gc.ca/web/default/files/files/files/Publications/F-35\\_Cost\\_Estimate\\_EN.pdf](http://www.pbo-dpb.gc.ca/web/default/files/files/files/Publications/F-35_Cost_Estimate_EN.pdf)> (10 March 2011) accessed 2 February 2016, 6-7.

<sup>89</sup> PBO, 'Fiscal Impact of Canada's Proposed Acquisition of the F-35', 2.

<sup>90</sup> PBO, 'Fiscal Impact of Canada's Proposed Acquisition of the F-35', 2.

The PBO forecasted ‘a total ownership cost of approximately US\$29.3 billion for the 65 aircraft over a 30-year period’, which included acquisition and long-term sustainment costs.<sup>91</sup> As well as providing a detailed methodology, including elements of total ownership costs, the report provided an analysis of the JSF Program’s risks which create uncertainties or could change current cost estimates, and contained an assessment of the industrial benefits of Canada’s participation. In response to the PBO analysis, the DND provided revised procurement costs, adding \$5.7 billion for sustainment over 20 years for a total cost of \$14.7 billion.<sup>92</sup>

In response to an additional HoC Standing Committee on Finance motion, the PBO was tasked with providing a ‘general analysis’ of the information provided by the Department of Finance to the Committee. The PBO analysis found that ‘the data provided does not cover all the cost drivers’, and that the response ‘does not provide the necessary degree of detail with respect to both the underlying assumptions upon which the [Government’s] figures are based and cost drivers themselves’.<sup>93</sup>

### Office of the Auditor General

The Office of the Auditor General (OAG) conducts ‘independent audits and studies that provide objective information, advice, and assurance to Parliament, territorial legislatures, boards of crown corporations, government, and Canadians’.<sup>94</sup> While the OAG comments on how policies are implemented, it does not ‘audit policy decisions, which are the prerogative of Parliament and elected officials’.<sup>95</sup> Under the *Auditor General Act 1977*, the OAG is ‘entitled to free access ... to information’ related to the fulfilment of their responsibilities.<sup>96</sup>

The Auditor General is required to report annually to the HoC and to ‘call attention to anything that he considers to be of significance and of a nature that should be brought to [their] attention’.<sup>97</sup> OAG audits are automatically referred to the Public Accounts Committee, which holds hearings to discuss issues raised in the audit report, and representatives for the audited organisation ‘are asked about the audit findings and how they plan to address [its] recommendations’.<sup>98</sup>

In 2012, the OAG conducted a performance audit of Canada’s process for replacing its CF-18 fighters, examining the DND, Industry Canada and Public Works and Government Services Canada (PWGSC) government agencies. The objectives of the audit were to determine whether DND and Industry Canada ‘applied due diligence in managing Canada’s participation’ in the JSF Program, and whether DND and

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<sup>91</sup> PBO, ‘Fiscal Impact of Canada’s Proposed Acquisition of the F-35’, 8.

<sup>92</sup> Alex Smith, ‘Estimating the Cost of Replacing Canada’s Fighter Jets’, *Library of Parliament Research Publications* (13 February 2014) accessed 3 February 2016.

<sup>93</sup> Parliamentary Budget Office, ‘Fiscal Transparency: Parliament and the Expenditure Management System: Analysis of Government Responses to a Motion of the House of Commons Standing Committee on Finance’, *Parliament of Canada* <[http://www.parl.gc.ca/PBO-DPB/documents/Fiscal\\_Transparency\\_EN.pdf](http://www.parl.gc.ca/PBO-DPB/documents/Fiscal_Transparency_EN.pdf)> (25 February 2011) accessed 2 February 2016, 2.

<sup>94</sup> Office of the Auditor General of Canada, ‘Who We Are’, *Office of the Auditor General of Canada* <[http://www.oag-bvg.gc.ca/internet/English/au\\_fs\\_e\\_370.html](http://www.oag-bvg.gc.ca/internet/English/au_fs_e_370.html)> (17 July 2014) accessed 2 February 2016.

<sup>95</sup> Office of the Auditor General of Canada, ‘What We Don’t Do’, *Office of the Auditor General of Canada* <[http://www.oag-bvg.gc.ca/internet/English/au\\_fs\\_e\\_39450.html](http://www.oag-bvg.gc.ca/internet/English/au_fs_e_39450.html)> (30 May 2014) accessed 2 February 2016.

<sup>96</sup> Auditor General Act (R.S.C., 1985, c. A-178) <<http://laws-lois.justice.gc.ca/PDF/A-17.pdf>> (26 June 2011) accessed 2 February 2016, 8.

<sup>97</sup> Auditor General Act, 4.

<sup>98</sup> Office of the Auditor General of Canada, ‘What We Don’t Do’, *Office of the Auditor General of Canada* <[http://www.oag-bvg.gc.ca/internet/English/au\\_fs\\_e\\_39450.html](http://www.oag-bvg.gc.ca/internet/English/au_fs_e_39450.html)> (30 May 2014) accessed 2 February 2016.

PWGSC 'applied due diligence in managing the Canadian Next Generation Fighter Capability project.'<sup>99</sup>  
The OAG concluded that:

- DND did not exercise due diligence in managing the process to replace the CF-18 jets;
- DND did not appropriately consult ... PWGSC on the procurement implications of the 2006 system development and demonstration phase agreement;
- problems relating to development of the F-35 were not fully communicated to decision makers, and risks presented to decision makers did not reflect the problems the JSF Program was experiencing at the time;
- full life-cycle costs were understated in the estimates provided to support the government's 2010 decision to buy the F-35; and
- some costs were not fully provided to parliamentarians.<sup>100</sup>

It found that Industry Canada did exercise due diligence, but that the 'PWGSC did not demonstrate due diligence in its role as the government's procurement authority'.<sup>101</sup> As the revised DND cost estimate did not include operating or personnel costs, the OAG recalculated the total cost of the JSF procurement as \$25.1 billion over 20 years.<sup>102</sup> The OAG performance audit recommended that DND should:

refine its estimates for complete costs related to the full life cycle of the F-35 capability, and provide complete estimated costs and the supporting assumptions as soon as possible. Furthermore, National Defence should regularly provide the actual complete costs incurred throughout the full life cycle of the F-35 capability.<sup>103</sup>

The Standing Committee on Public Accounts (SCPA) 'studied' the Auditor General's report, supporting its recommendations, and also made a number of recommendations for government agencies to provide information on costings to the committee.<sup>104</sup> As well as representatives from the OAG, testimony was provided by representatives from the Departments of Industry, Public Works and Government Services, and the DND.<sup>105</sup> The Committee concluded:

In order for parliamentarians and Canadians to fully understand the costs and benefits of the F-35, the Committee believes that Industry Canada should provide the range of estimated industrial benefits for Canadian companies participating in the JSF Program, and that National Defence should clarify the elements included in its acquisition cost estimate, and the estimated operating cost of the F-35.<sup>106</sup>

In response to the OAG and SCPA recommendations, the Canadian Government reformed its procurement, implementing a new Seven-Point Plan, which included annual reports to Parliament on industrial participation, and on the replacement fighter project with focus on costs. Based on a Life-Cycle Cost Framework developed by an external consultant, the total procurement cost was subsequently

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<sup>99</sup> Office of the Auditor General of Canada, *Report of the Auditor General of Canada to the House of Commons: Chapter 2 - Replacing Canada's Fighter Jets* (Ottawa: Office of the Auditor General of Canada, 2012) 32.

<sup>100</sup> OAG, *Replacing Canada's Fighter Jets*, 31.

<sup>101</sup> OAG, *Replacing Canada's Fighter Jets*, 31.

<sup>102</sup> OAG, *Replacing Canada's Fighter Jets*, 27.

<sup>103</sup> OAG, *Replacing Canada's Fighter Jets*, 30.

<sup>104</sup> Standing Committee on Public Accounts, 'Chapter 2, Replacing Canada's Fighter Jets, of the Spring 2012 Report of the Auditor General of Canada', *Parliament of Canada* <[http://www.parl.gc.ca/content/hoc/Committee/411/PACP/Reports/RP5839082/411\\_PACP\\_Rpt09/411\\_PACP\\_Rpt09-e.pdf](http://www.parl.gc.ca/content/hoc/Committee/411/PACP/Reports/RP5839082/411_PACP_Rpt09/411_PACP_Rpt09-e.pdf)> (November 2012) accessed 2 February 2016.

<sup>105</sup> SCPA, 'Replacing Canada's Fighter Jets', 21.

<sup>106</sup> SCPA, 'Replacing Canada's Fighter Jets', 20.

estimated to be \$45.8 billion over a 42 year life cycle.<sup>107</sup> As well as an analysis on detailed life cycle costings, the annual reports include an explanation and analysis of cost, risk and uncertainty with regard to development, acquisition, sustainment, operations and contingency. Each annual report is subject to a publicly available independent review.<sup>108</sup>

## The Netherlands

### Netherlands Court of Audit

The Netherlands has a 'long and solid tradition and practice of strict parliamentary oversight over defence procurement' with decisions of more than €25million requiring parliamentary approval, and parliament 'monitors all phases of the procurement decision-making process'.<sup>109</sup> As 'Improved accountability starts with improved budgeting', the Netherlands Court of Audit (NCA) publishes letters with comments on the budgets of departments.<sup>110</sup> In 2014, the NCA's letter on the MoD's budget 'prompted the House of Representatives to pay particular attention' to the JSF budget.<sup>111</sup> The NCA conducts few audits on defence matters, and with the exception of the detailed monitoring of the JSF procurement, has not examined defence procurement. In its 2014 Annual Report, the NCA declared that it 'wanted to contribute to improving the Ministry of Defence's policies and operational management', and for the Dutch JSF procurement, it focused on five aspects: 'investments, exploitation costs, quantities, deployability and training'.<sup>112</sup> NCA repeatedly drew attention to the imbalance between the five elements, and stated 'Repeatedly illustrating the strain that exists between goals and resources has already resulted in a re-evaluation of the goals for the F-16 replacement', with a flow on effect of 'increasing attention being paid to efficiency' for the armed forces.<sup>113</sup>

In 1999, the F-16 Replacement Project was designated as a 'major project', requiring the Minister of Defence and the Minister of Economic Affairs to provide the House of Representatives (HoR) with an annual report describing the activities of the past year.<sup>114</sup> Informed by NCA audit reports, the House's Permanent Committee on Defence requested in 2009 that additional information be provided in the annual reports, including 'the total costs of the JSF programme (including the operating costs and related costs not falling within the current definition), a financial summary of the entire multi-year programme, [and] exit and postponement costs'.<sup>115</sup> In 2011, the Committee again revised its information requirements, rescheduling the reports so that they would include information from the US GAO and CBO, and 'allow the financial information in the report to be based on the same source data as the

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<sup>107</sup> National Fighter Procurement Secretariat, 'Next Generation Fighter Capability Annual Update 2014', *National Defence and the Canadian Armed Forces* <[http://www.forces.gc.ca/assets/FORCES\\_Internet/docs/en/about-reports-pubs/next-gen-fighter/2014/next-generation-fighter-capability-annual-update-2014-english.pdf](http://www.forces.gc.ca/assets/FORCES_Internet/docs/en/about-reports-pubs/next-gen-fighter/2014/next-generation-fighter-capability-annual-update-2014-english.pdf)> (2014) accessed 3 February 2016, iii.

<sup>108</sup> NFPS, 'Next Generation Fighter Capability Annual Update 2014'.

<sup>109</sup> Philipp Fluri and Anders B. Johnsson, eds., *Parliamentary oversight of the security sector: Principles, mechanisms and practices* (Geneva: Centre for the Democratic Control of Armed Forces, 2003) 165.

<sup>110</sup> Netherlands Court of Audit, *Annual Report 2014* <[www.courtfaudit.nl/dsresource?objectid=22229&type=org](http://www.courtfaudit.nl/dsresource?objectid=22229&type=org)> (31 March 2015) 25.

<sup>111</sup> NCA, *Annual Report 2014*, 25.

<sup>112</sup> NCA, *Annual Report 2014*, 30.

<sup>113</sup> NCA, *Annual Report 2014*, 30.

<sup>114</sup> 'Regulations on Major Projects', *Netherlands Court of Audit* <<http://vervanging-f16.rekenkamer.nl/en/node/6700>> (no date) accessed 22 January 2016.

<sup>115</sup> Netherlands Court of Audit, 'Monitoring the Procurement of the Joint Strike Fighter: Status in August 2009', *Netherlands Court of Audit* <<http://www.courtfaudit.nl/dsresource?objectid=16857&type=org>> (4 February 2010) accessed 8 February 2016, 2.

Selected Acquisition Report (SAR) for that year'.<sup>116</sup> In 2014, the HoR requested that it be provided six-monthly progress reports each year, one providing 'information on developments during the past year', and the other providing a 'new set of future projections'.<sup>117</sup>

The NCA began monitoring the JSF procurement in 2002, and has been providing information to the HoR since 2005. From 2006 to 2011, the NCA provided annual reviews of the JSF Program, and from 2011, it included the ongoing sustainment of the F-16 fleet and the transition from the F-16 to F-35. In the context of the annual monitoring reports, an Audit Manager stated that the 'the main purpose of our audit is to provide the House of Representatives with reliable, impartial information and also to draw the House's attention to the risks involved in this massive project'.<sup>118</sup>

In 2006, the NCA published its first report, which focused on monitoring the Production, Sustainment and Follow-on Development phase Memorandum of Understanding (PSFD MoU) and 'the access to information for audit departments', the number of aircraft to be procured, contracts for the Dutch aviation industry, and 'the decision-making process from participation in the development of the JSF to actual delivery, including the information provided to the House of Representatives'.<sup>119</sup> The NCA found that there was 'considerable financial risks that cannot be quantified during the decision-making process for the MoU', as the 'cost per aircraft still cannot be calculated', development costs had risen, and there was 'no insight into the further development of costs'.<sup>120</sup> NCA noted that 'the supply of information to the House of Representatives [was] open to improvement', but the 'House has not yet taken the initiative to improve it'<sup>121</sup> and that it 'should state what its requirements are'.<sup>122</sup>

The 2007 report focused on costs, industrial participation and 'preparation for possible advent of the JSF', with the declared aim of being 'able to give the House advance warning of any risks we observe in the implementation of the JSF programme'.<sup>123</sup> The NCA deliberately expanded the scope of their analysis beyond costs that fall within the project definition, and 'attempted to provide as complete a picture as possible of the costs to the Netherlands'.<sup>124</sup> The report provided detailed costings and cost analysis of 'procurement and operating costs, costs arising from the MoUs, the business case, orders placed with Dutch industry, [and] supplementary costs'.<sup>125</sup> Regarding costs, the NCA found that the MoD 'still has only limited access to information from the principal contractor in the United States, Lockheed Martin, and this seems unlikely to change'.<sup>126</sup>

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<sup>116</sup> Netherlands Court of Audit, 'Monitoring the Procurement of the Joint Strike Fighter: Situation in December 2011; Deployability of F-16s and developments concerning the Joint Strike Fighter', *Netherlands Court of Audit* <<http://www.courttofaudit.nl/dsresource?objectid=15827&type=org>> (3 April 2012) accessed 8 February 2016, 4.

<sup>117</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Situation in December 2011', 4.

<sup>118</sup> Netherlands Court of Audit, 'Interview with Mark Smolenaars about JSF', *Netherlands Court of Audit* <[http://www.courttofaudit.nl/english/2010\\_Annual\\_report/2010\\_Annual\\_report:17722/Videos/Interview\\_with\\_Mark\\_Smolenaars\\_about\\_JSF](http://www.courttofaudit.nl/english/2010_Annual_report/2010_Annual_report:17722/Videos/Interview_with_Mark_Smolenaars_about_JSF)> (2010) accessed 18 January 2016.

<sup>119</sup> Netherlands Court of Audit, 'Monitoring the Procurement of the Joint Strike Fighter: Status in September 2006', *Netherlands Court of Audit* <<http://www.courttofaudit.nl/dsresource?objectid=16857&type=org>> (11 October 2006) accessed 8 February 2016, 2.

<sup>120</sup> Netherlands Court of Audit, 'Monitoring the Procurement of the Joint Strike Fighter: Status in September 2006 (Introduction)', *Netherlands Court of Audit* <[http://www.courttofaudit.nl/english/Publications/Audits/Introductions/2006/10/Monitoring\\_the\\_Procurement\\_of\\_the\\_Joint\\_Strike\\_Fighter](http://www.courttofaudit.nl/english/Publications/Audits/Introductions/2006/10/Monitoring_the_Procurement_of_the_Joint_Strike_Fighter)> (11 October 2006) accessed 8 February 2016.

<sup>121</sup> Netherlands Court of Audit, 'Monitoring the Procurement of the Joint Strike Fighter: Status in September 2006', *Netherlands Court of Audit* <<http://www.courttofaudit.nl/dsresource?objectid=16857&type=org>> (11 October 2006) accessed 8 February 2016, 22.

<sup>122</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Status in September 2006', 11.

<sup>123</sup> Netherlands Court of Audit, 'Monitoring the Procurement of the Joint Strike Fighter: Situation as of September 2007', *Netherlands Court of Audit* <<http://www.courttofaudit.nl/dsresource?objectid=16857&type=org>> (4 December 2007) accessed 8 February 2016, 16, 22.

<sup>124</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Situation as of September 2007', 24.

<sup>125</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Situation as of September 2007', 24.

<sup>126</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Situation as of September 2007', 5.

The NCA recommended that the MoD:

ensure that the House of Representatives is henceforth given a full picture of the overall costs to the Netherlands of the JSF programme, using a single price level and a single currency so that the costs can be compared. Costs that do not fall within the 'Replacement of F-16s' project definition but are nonetheless related to the procurement of the JSF should be presented in the selfsame manner.<sup>127</sup>

In 2008 and 2009, the NCA reported that the MoD 'is geared to the advent of the JSF and so far does not appear to be considering what may happen if a different aircraft is chosen', which it considered to be a risk considering the unknown political situation in 2012 when a final decision would be made.<sup>128</sup> While the NCA noted that the State Secretary for Defence acted on NCA recommendations and provided more cost information, it also noted that there were a range of 'supplementary costs' and 'related costs' which were not included in the program budget.<sup>129</sup> The NCA made a number of recommendations regarding preparations for receiving the JSF into service, including that the State Secretary for Defence examine arrangements for sensitive information with the Autonomic Logistics Information System (ALIS), to 'enable the House of Representatives to take account of information security in the decision-making process and specifically consider what degree of dependence the Netherlands is prepared to accept'.<sup>130</sup>

Given problems with the JSF Program, the 2011 report broadly recommended that the:

government and the House of Representatives, before they take any further action, ... establish a link between the 2010 defence policy review, the government's proposed cutbacks, its ambitions for the armed forces, and European developments in defence.<sup>131</sup>

The NCA report examined the project budget, total budget, unit price, supplementary costs, costs of related projects and other relevant costs, postponement and exit costs, and the procurement budget as part of the investment budget for defence materiel.<sup>132</sup> The NCA stated there was no 'integrated overview' of the F-16 Replacement project to 'provide a clear picture of the relationship between keeping the F-16s in service and replacing them' as information was only provided for individual aircraft or projects.<sup>133</sup>

In its 2012 report on the F-16 Replacement project, the NCA expanded the scope of its monitoring with the aim of providing the HoR 'with independent information on the deployability of F-16s, the progress of the international JSF programme and the financial and operational risks involved'<sup>134</sup> because of the 'financial and operational links between the two types of fighter'.<sup>135</sup> The NCA found that the current defence budget was insufficient to meet the MoD's planned activities and objectives, stating that 'there is currently an imbalance between the Netherlands' ambitions for its air force and the number of trained pilots and F-16 aircraft'.<sup>136</sup>

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<sup>127</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Situation as of September 2007', 8.

<sup>128</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Status in August 2009', 5.

<sup>129</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Status in August 2009'.

<sup>130</sup> NCA, 'Monitoring the Procurement of the Joint Strike Fighter: Status in August 2009', 9.

<sup>131</sup> NCA, 'Monitoring the Replacement of the F-16: Situation in December 2010', 10.

<sup>132</sup> NCA, 'Monitoring the Replacement of the F-16: Situation in December 2010', 48-55.

<sup>133</sup> NCA, 'Monitoring the Replacement of the F-16: Situation in December 2011', 19, 21.

<sup>134</sup> NCA, 'Monitoring the Replacement of the F-16: Situation in December 2011', 5.

<sup>135</sup> NCA, 'Monitoring the Replacement of the F-16: Situation in December 2011', 7.

<sup>136</sup> Netherlands Court of Audit, 'House lacks information on deployability and costs of fighter aircraft', *Netherlands Court of Audit* <<http://www.courtfaudit.nl/dsresource?objectid=15825&type=org>> (3 April 2012) accessed 8 February 2016.

Also in 2012, the Dutch Minister of Finance requested the NCA to validate the 'In the Interests of the Netherlands' policy statement,<sup>137</sup> which was 'required because initial plans to replace the F-16 had proved untenable'.<sup>138</sup> The Finance Minister tasked the NCA to:

validate the Minister of Defence's vision of the future of the armed forces, to comment on the Ministry of Defence's financial underpinning, [and] more generally, to express an opinion on the quality of the information provided to date on investment costs, operational costs and the number of fighter aircraft.<sup>139</sup>

Although the Minister of Defence had lowered deployability objectives, the NCA found that there was 'still a gap between the lowered ambitions and the armed forces' capabilities' and that the 'Ministry's deployability calculations [were] incomplete'.<sup>140</sup> The NCA provided an analysis of the investment and operational 'risk reserve' for the F-16 Replacement project, and noted there was 'no information on risk control' to ensure the appropriate use of the contingency funds.<sup>141</sup> It recommended that the MoD 'carry out a clear risk analysis and periodically inform the House of Representatives of developments in risks'.<sup>142</sup>

To support public accountability, the NCA created the *F-16 Replacement* [Vervanging F-16] website,<sup>143</sup> which provides comprehensive information on the Dutch procurement, and some information on the international aspects. While procurement process documents are in Dutch, all of the NCA assessments and general information is provided in English. The website provides documents, information and analysis on decision making, and financial, international, industry, and operational issues. It provides web links to the report of other Supreme Audit Institutions (SAI) involved in the JSF Program, and it is worth noting that the Italian, Norwegian and Turkish SAIs have not published reports on their JSF procurements.

### Bureau for Economic Policy Analysis

As well as conducting economic forecasting, the Netherlands' Bureau for Economic Policy Analysis [Centraal Planbureau] (CPB) undertakes economic policy analysis.<sup>144</sup> The CPB has autonomy to initiate its own research, but also conducts work 'at the request of the government, parliament, individual members of parliament, national trade unions or employer federations'.<sup>145</sup> In 2001, at the request of the Minister of Defence, Economy and Finance, the CPB conducted 'a rough cost benefit analysis' of Dutch participation in the JSF Program, which found that it would 'lead to higher costs, ... limit the range of options for the government', and suggested 'buying-off-the-shelf in a later stage' as economic advantages did not 'appear to be sufficient to offset the costs'.<sup>146</sup> However, following a request by the Lower House Committees on Defence, Economy and Finance and the Committee on Government Expenditure, CPB updated the report in 2002, taking a more favourable position as more information on

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<sup>137</sup> Netherlands Court of Audit, 'Validation of the policy document 'In the Interests of the Netherlands'', *Netherlands Court of Audit* <<http://www.courtsofaudit.nl/dsresource?objectid=15582&type=org>> (9 September 2013) accessed 8 February 2016, 3.

<sup>138</sup> NCA, 'Validation of the policy document 'In the Interests of the Netherlands'', 3.

<sup>139</sup> NCA, 'Validation of the policy document 'In the Interests of the Netherlands'', 6.

<sup>140</sup> NCA, 'Validation of the policy document 'In the Interests of the Netherlands'', 4.

<sup>141</sup> NCA, 'Validation of the policy document 'In the Interests of the Netherlands'', 19.

<sup>142</sup> NCA, 'Validation of the policy document 'In the Interests of the Netherlands'', 19.

<sup>143</sup> <http://vervanging-f16.rekenkamer.nl/en>

<sup>144</sup> Netherlands' Bureau for Economic Policy Analysis, 'About CPB', *Netherlands' Bureau for Economic Policy Analysis* [Centraal Planbureau] <<http://www.cpb.nl/en/about-cpb>> (no date) accessed 22 January 2016.

<sup>145</sup> Netherlands' Bureau for Economic Policy Analysis, 'About CPB'.

<sup>146</sup> Martin King and Bert Minne, 'Participating in the development of the Joint Strike Fighter; a rough cost-benefit analysis', *Netherlands' Bureau for Economic Policy Analysis* <<http://www.cpb.nl/en/publication/participating-development-joint-strike-fighter-rough-cost-benefit-analysis>> (29 October 2001) accessed 22 January 2015.

the JSF Program became available.<sup>147</sup> The Ministries of Economic Affairs, Finance and Defence tasked PriceWaterhouseCoopers (PwC) with studying the economic effects of the Dutch participation in the JSF Program, the results of which were published in 2008.<sup>148</sup> Following a request from the HoR, the 'CPB conducted its own audit of PwC's figures', and 'concluded that PwC's figures had considerably overestimated the employment opportunities created by the programme'.<sup>149</sup>

## United States

### US Congress

Under the US system of government, Congress has a greater and more direct role in overseeing defence policy and budgets, and is more independent of the Executive, than with Australia. The House Armed Services Committee has an Oversight and Investigations Subcommittee, whose responsibilities include conducting 'comprehensive oversight studies of major programs',<sup>150</sup> and a Tactical Air and Land Forces (TALF) Subcommittee, which is responsible for oversight of Army and Air Force acquisition programs and all Navy and Marine Corps aviation programs.<sup>151</sup> The Senate Armed Services Committee (SASC) has a Subcommittee on Airland, whose responsibilities include some Air Force programs and Air Force research and development.<sup>152</sup> Issues with the JSF are reviewed in a range of committee hearings, but were specifically addressed in 'The Joint Strike Fighter' hearing of the SASC in 2010, and the TALF Subcommittee held 'Update on the F-35 Joint Strike Fighter Program' hearings in April and October 2015.

The US budget system allows committees to demand information and assessments as a part of appropriation legislation. For example, the TALF Subcommittee's 'mark up' of the FY2015 National Defense Authorization Act (NDAA) required the Comptroller General of the United States, the director of the GAO, to annually submit a report from 2015 until the JSF enters full rate production, which is to include:<sup>153</sup>

the extent to which the F-35 aircraft acquisition program is meeting cost, schedule, and performance goals, the progress and results of developmental and operational testing, the progress of the procurement and manufacturing of F-35 aircraft, [and] an assessment of any plans or efforts of the Secretary of Defense to improve the efficiency of the procurement and manufacturing of F-35 aircraft.<sup>154</sup>

The FY2014 NDAA required the DoD to 'conduct an independent detailed review of F-35 software, including the ALIS' and the TALF Subcommittee noted that 'the subsequent report highlighted the potential risks that challenges with the ALIS program could create'.<sup>155</sup> As a follow up, the committee

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<sup>147</sup> Netherlands' Bureau for Economic Policy Analysis, 'Actualisatie CPB document inzake participatie Joint Strike Fighter (JSF)', *Netherlands' Bureau for Economic Policy Analysis* <<http://www.cpb.nl/en/publication/actualisatie-cpb-document-inzake-participatie-joint-strike-fighter-jsf>> (11 March 2002) accessed 22 January 2015.

<sup>148</sup> Netherlands Court of Audit, *Monitoring the Replacement of the F-16: Situation in December 2010; including developments regarding the Joint Strike Fighter* (The Hague: Netherlands Court of Audit, 2011) 41.

<sup>149</sup> NCA, *Monitoring the Replacement of the F-16: Situation in December 2010*, 42.

<sup>150</sup> House Armed Services Committee, 'Oversight & Investigations', *House Armed Services Committee* <<http://www.armed-services.senate.gov/about/subcommittees>> (no date) accessed 12 February 2016.

<sup>151</sup> House Armed Services Committee, 'Tactical Air and Land Forces Subcommittee', *House Armed Services Committee* <<http://armedservices.house.gov/index.cfm/oversight-investigations>> (no date) accessed 12 February 2016.

<sup>152</sup> Senate Committee on Armed Services, 'Subcommittees', *Senate Committee on Armed Services* <<http://www.armed-services.senate.gov/about/subcommittees>> (no date) accessed 12 February 2016.

<sup>153</sup> 'National Defense Authorization Act for Fiscal Year 2015', *US Government Publishing Office* <<https://www.gpo.gov/fdsys/pkg/BILLS-113hr4435pcs/pdf/BILLS-113hr4435pcs.pdf>> (5 June 2014) accessed 12 February 2016, 41.

<sup>154</sup> 'Defense Authorization Act for Fiscal Year 2015', 41.

<sup>155</sup> 'Subcommittee on Tactical Air and Land Forces Mark: H.R. 1735 - FY16 NDAA', *House of Representatives Committee Repository* <<http://docs.house.gov/meetings/AS/AS00/20150429/103288/BILLS-114HR1735ih-TAL.pdf>> (no date) accessed 12 February 2016, 6.

included a requirement in the FY2016 NDAA that the Comptroller General provide a comprehensive report on the ALIS by 2016.<sup>156</sup>

### Government Accountability Office

The GAO is the:

audit, evaluation, and investigative arm of Congress. It exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and ensure accountability of the federal government for the benefit of the American people.<sup>157</sup>

The GAO 'conducts a wide range of financial and performance audits and program evaluations and reviews the business and mission of government' and is also 'committed to ... helping government agencies become organizations that are results oriented and accountable to the public'.<sup>158</sup> The GAO has two teams which are mainly responsible for supporting congress oversee defence matters. GAO's Defense Capabilities and Management team 'support[s] congressional oversight of the DoD as it pursues broad-based initiatives to modernize, and transform its forces to address a more diverse range of threats'.<sup>159</sup> The team provides 'analyses, recommendations, and policy options to congressional and executive branch officials to improve federal policies and programs' in the defence areas of 'planning and force structure, readiness and training, warfighter support, emerging threats, irregular warfare, and homeland defense, strategic human-capital management, logistics, infrastructure, business operations [and] budgeting'.<sup>160</sup> The Acquisition and Sourcing Management team helps Congress determine whether 'money is being spent efficiently and effectively and if acquisitions protect the government's interest and maximize agencies' return on investment' as well as 'assist[ing] the federal government to adopt better ways of buying systems, equipment, and services', and identifying 'trends in national security industries and weaknesses in protecting critical capabilities and technologies'.<sup>161</sup>

Since 2000, the GAO has published 22 reports on the JSF, as well as 19 statements of testimony provided to congressional hearings. In 2000, the GAO began specifically reviewing the JSF Program, at the request of the House Committee on Government Reform, to 'provide information on the acquisition strategy' and to 'determine whether the strategy is being implemented in a manner that will ensure that the acquisition strategy objectives will be achieved'.<sup>162</sup> This review, as with all subsequent reviews of the JSF Program, was conducted 'in accordance with generally accepted government auditing standards'.<sup>163</sup> The GAO recommended that the JSF Program Office 'should focus on risk reduction efforts by maturing critical technologies prior to entering engineering and manufacturing development'.<sup>164</sup> The Committee

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<sup>156</sup> 'National Defense Authorization Act for Fiscal Year 2016', *US Government Publishing Office* <<https://www.gpo.gov/fdsys/pkg/BILLS-114hr1735enr/pdf/BILLS-114hr1735enr.pdf>> (6 January 2015) accessed 12 February 2016, 60.

<sup>157</sup> United States General Accounting Office, 'Fiscal Year 2016 Performance Plan', *United States General Accountability Office* <<http://www.gao.gov/assets/670/669240.pdf>> (25 March 2015) accessed 12 February 2016, G-1.

<sup>158</sup> United States General Accounting Office, 'GAO: Supporting Congress for the 21st Century: Statement of David M. Walker Comptroller General of the United States', *United States General Accountability Office* <<http://www.gao.gov/assets/110/108555.pdf>> (18 July 2000) accessed 12 February 2016, 5.

<sup>159</sup> United States General Accountability Office, 'Defense Capabilities and Management', *United States General Accountability Office* <<http://www.gao.gov/careers/dcm.html>> (no date) accessed 12 February 2016.

<sup>160</sup> GAO, 'Defense Capabilities and Management'.

<sup>161</sup> United States General Accountability Office, 'Acquisition and Sourcing Management', *United States General Accountability Office* <<http://www.gao.gov/careers/asm.html>> (no date) accessed 12 February 2016.

<sup>162</sup> United States General Accounting Office, 'Joint Strike Fighter Acquisition: Development Schedule Should Be Changed to Reduce Risks', *United States General Accountability Office* <<http://www.gao.gov/assets/240/230286.pdf>> (May 2000) accessed 12 February 2016, 3.

<sup>163</sup> GAO, 'Development Schedule Should Be Changed to Reduce Risks', 22.

<sup>164</sup> GAO, 'Development Schedule Should Be Changed to Reduce Risks', 5.

followed the issue of technological risk the following year, requesting the GAO assess whether the JSF's 'critical technologies will have matured to a low technical risk' at the start of the next development phase'.<sup>165</sup> The GAO 'disagree[d]' with the DoD's 'assertion that technology is mature enough to move forward'.<sup>166</sup> In 2003, the GAO provided a report on the implications of the JSF international program structure to the Committee on Government Reform, but it was not directed to do so by the committee.<sup>167</sup>

In 2005, the GAO began a five year annual review of the JSF Program as required by the 2005 NDAA, broadly reporting to all congressional committees.<sup>168</sup> The first GAO report analysed the 'JSF program's business case for delivering new capabilities to the warfighter and determine[d] whether the JSF program's acquisition strategy follows an evolutionary, knowledge-based approach'.<sup>169</sup> The GAO found that 'the original business case for the JSF program has proven to be unexecutable'.<sup>170</sup> The GAO received a new mandate in the 2010 NDAA, to provide annual reports on the JSF Program till 2015, which required the GAO to 'determine the JSF program's progress in meeting cost, schedule, and performance goals; assess plans and results in manufacturing; and evaluate plans, progress, and risks with testing plans and related technical challenges'.<sup>171</sup> The GAO's review found that 'cost increases, schedule delays, and continuing technical problems also increase the risk that the program will not be able to deliver the aircraft quantities and capabilities in the time required by the warfighter', and recommended that the DoD:

make a new, comprehensive, and independent assessment of the costs and schedule to complete the program, including military construction, JSF-related expenses in other budgets, and life-cycle costs, and reassess warfighter requirements and, if necessary, defer some capabilities to future increments.<sup>172</sup>

Subsequent reports detail the continuing slipping of goals despite the 2010-11 restructure of the program, and focussed on the need to address issues of affordability.

### Congressional Budget Office

The CBO produces 'independent analyses of budgetary and economic issues to support the Congressional budget process', which includes 'estimates of the cost of virtually every bill approved by Congressional committees to show how the bill would affect spending or revenues over the next 5 or 10 years'.<sup>173</sup> It also produces budget projections 'beyond the standard 10-year budget window', out to 25 years.<sup>174</sup> The CBO

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<sup>165</sup> United States General Accounting Office, 'Joint Strike Fighter Acquisition: Mature Critical Technologies Needed to Reduce Risks', *United States General Accountability Office* <<http://www.gao.gov/assets/240/232918.pdf>> (October 2001) accessed 12 February 2016, 2.

<sup>166</sup> GAO, 'Joint Strike Fighter Acquisition: Mature Critical Technologies Needed to Reduce Risks', 3-4.

<sup>167</sup> United States General Accounting Office, 'Joint Strike Fighter Acquisition: Needs Greater Oversight to Ensure Goals Are Met', *United States General Accountability Office* <<http://www.gao.gov/assets/240/239020.pdf>> (July 2003) accessed 12 February 2016.

<sup>168</sup> United States General Accounting Office, 'Tactical Aircraft: Opportunity to Reduce Risks in the Joint Strike Fighter Program with Different Acquisition Strategy', *United States General Accounting Office* <<http://www.gao.gov/products/GAO-05-271>> (15 March 2005) accessed 12 February 2016.

<sup>169</sup> GAO, 'Opportunity to Reduce Risks in the Joint Strike Fighter Program with Different Acquisition Strategy', 2.

<sup>170</sup> GAO, 'Opportunity to Reduce Risks in the Joint Strike Fighter Program with Different Acquisition Strategy'.

<sup>171</sup> United States General Accountability Office, 'Joint Strike Fighter: Additional Costs and Delays Risk Not Meeting Warfighter Requirements on Time', *United States General Accountability Office* <<http://www.gao.gov/assets/310/302156.pdf>> (March 2010) accessed 12 February 2016, 2.

<sup>172</sup> GAO, 'Additional Costs and Delays Risk Not Meeting Warfighter Requirements on Time', 32.

<sup>173</sup> Congressional Budget Office, 'An Introduction to the Congressional Budget Office', *Congressional Budget Office* <<https://www.cbo.gov/sites/default/files/cbofiles/attachments/2015-IntroToCBO-v2.pdf>> (July 2015) accessed 12 February 2016, 1.

<sup>174</sup> CBO, 'An Introduction to the Congressional Budget Office', 1.

is 'strictly nonpartisan', and 'does not make policy recommendations'.<sup>175</sup> The CBO regularly produces budget analyses on defence issues, including procurement, and provides testimony to congressional committees, such as with its 'Analysis of the Navy's Fiscal Year 2016 Shipbuilding Plan'.<sup>176</sup> The CBO provides analyses of the Future Years Defense Program, which is the DoD's five year plan associated with budget submissions.<sup>177</sup> The US Senate Report on the 2008 NDAA tasked the CBO to examine

the capabilities and costs of the fighter force that would be fielded under the Department of Defense's fiscal year 2009 plans and the potential implications for DoD's long-term budget and inventory levels if planned purchases of new aircraft are insufficient to maintain fighter inventories at levels called for by current service requirements.<sup>178</sup>

The study compared 'the advantages, disadvantages, and costs of seven alternative approaches that DoD might adopt to modernize its fighter forces', but made no recommendations.<sup>179</sup> The CBO produces budget options, which contain a range of measure to reduce government expenditure. JSF options are presented, such as replacing the JSF with F-16s and F/A-18s in 2009<sup>180</sup> and 2013.<sup>181</sup>

### Findings and Recommendations

While Australia's parliamentarians have pursued the JSF procurement with greater attention than their British and Canadian counterparts, the quality of oversight is curtailed by the limited support provided by the ANAO and PBO. Compared to Britain, Australia's parliamentary oversight has been both deeper and broader in monitoring JSF activities, but while Australia's MPRs contain more information, British MPRs were reporting on the JSF much earlier. Although the oversight of Canada's procurement was minimal prior to 2011, following the PBO and OAG reports, the information and analysis provided in support of oversight has been extensive.

For the Netherlands and Canada, the focus of their parliaments' supporting agencies has been costs of the JSF, particularly long-term costs and in the context of defence budgeting. While this is to be expected given the broad mandates of parliaments to oversee the spending of public monies, this has not been a focus of Australia's oversight, both by parliamentary committees or supporting agencies. The full life cycle costs of Australia's JSF procurement have not been formally budgeted for, or publicly declared, and seems to be out scope for the ANAO. The public accounts and finance committees of the UK, Canada and the Netherlands have, unlike their Australian counterparts, addressed issues relating to their involvement in the JSF Program.

The reviews conducted by the Canadian and Dutch agencies provided different information than that provided by the defence organisation, and the contrast between the different perspectives allowed remedial actions to be taken. The contestability offered by the GAO in particular, and its extensive use by

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<sup>175</sup> CBO, 'An Introduction to the Congressional Budget Office', 1.

<sup>176</sup> Congressional Budget Office, 'An Analysis of the Navy's Fiscal Year 2016 Shipbuilding Plan', *Congressional Budget Office* <<https://www.cbo.gov/publication/50926>> (29 October 2015) accessed 12 February 2016.

Congressional Budget Office, 'Testimony on CBO's Analysis of the Navy's Fiscal Year 2016 Shipbuilding Plan', *Congressional Budget Office* <<https://www.cbo.gov/publication/50981>> (1 December 2015) accessed 12 February 2016.

<sup>177</sup> Congressional Budget Office, 'Long-Term Implications of the 2016 Future Years Defense Program', *Congressional Budget Office* <<https://www.cbo.gov/publication/51050>> (14 January 2016) accessed 12 February 2016.

<sup>178</sup> Congressional Budget Office, 'Alternatives for Modernizing US Fighter Forces', *Congressional Budget Office* <<https://www.cbo.gov/sites/default/files/111th-congress-2009-2010/reports/05-13-fighterforces.pdf>> (May 2009) accessed 12 February 2016.

<sup>179</sup> CBO, 'Alternatives for Modernizing US Fighter Forces'.

<sup>180</sup> Congressional Budget Office, 'Options for Reducing the Deficit: 2014 to 2023', *Congressional Budget Office* <<https://www.cbo.gov/sites/default/files/cbofiles/attachments/44715-OptionsForReducingDeficit-3.pdf>> (November 2013) accessed 12 February 2016.

<sup>181</sup> Congressional Budget Office, 'Budget Options: Volume 2', *Congressional Budget Office* <<https://www.cbo.gov/sites/default/files/111th-congress-2009-2010/reports/08-06-budgetoptions.pdf>> (August 2009) accessed 12 February 2016.

US Congress, demonstrates the utility of comprehensive monitoring by a national audit institution. When compared to Australia's agencies, the Canadian Auditor General and PBO, and the Dutch Court of Audit have been more proactive and assertive in meeting their duties towards ensuring the appropriate use of public monies. In the Dutch case, the NCA did not express opinions as to whether the JSF should be procured or not, but was firmly of the opinion that parliament needed sufficient information to be able to make decisions regarding Dutch participation in the JSF Program.

While the NCA integrated the JSF procurement and F-16 sustainment activities, providing parliament with an understanding of the status of the Netherlands air combat capability, the ANAO's performance audits of the F-35 acquisition and Hornet Upgrades and Sustainment were conducted exclusively. An important feature of the US and Dutch SAIs is a commitment to ensuring broad defence capabilities are not undermined. While the recommendations of the NCA and GAO have not always been adopted by their respective Defence organisations, they are useful in providing Parliament and Congress a greater range of options in managing policy.

To be able to assess the fiscal effects of large defence procurements, the legislative mandate of the Australian PBO should be expanded to be able to provide long-term budget forecasting, especially to reconcile Defence's ambitions and funding. While the NCA demonstrated that this function can be conducted by an SAI, and the ANAO should have some capability with this issue, the PBO should be responsible for rigorous long-term forecasting and budget analysis.

There does not appear to be any legislative impediments to the ANAO adopting a broader scope of review activities, more in line with the NCA or the GAO. To be effective in supporting parliament's oversight of defence procurement, ANAO should adopt a broad scope of activities beyond a programmatic focus, to be more outcome focused, including determining budget adequacy and identifying risks. This could be facilitated by the annual international SAI conference on auditing the JSF, in which partner nations 'share their audit findings'.<sup>182</sup>

ANAO conducts performance audits over a large number of defence projects, but its resources might be better used by focusing its efforts on a smaller number of high risk projects, particularly with regard to cost. For high risk programs, monitoring should begin early, continue over subsequent years, and adapt to changing circumstances. It need not be the case that ANAO develops technical expertise in all areas of defence, although this could be improved, but expertise could be developed or contracted for specific issues over limited time. However, it is important that ANAO develop expertise to enable it to authoritatively present evidence before parliamentary hearings to ensure contestability with ADO claims. To ensure the quality and responsiveness of ANAO reviews, the ANAO may require full access to be granted automatically, as with other nations, rather than relying on the 'priority review' designation.

Parliamentary oversight would be improved with more resources provided to the ANAO and PBO and to enable them to conduct the expanded scope of activities described. Aside from improving parliamentary oversight, which is valuable in itself, there is potential to improve the efficiency of government spending and improve defence outcomes. As was the case in the Netherlands, scrutiny of government policy can be welcomed and sought in an effort to improve outcomes for the nation.

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<sup>182</sup> Netherland Court of Audit, 'Audit Powers', *Netherland Court of Audit* <<http://vervanging-f16.rekenkamer.nl/en/about-this-site/audit-powers>> (no date) accessed 15 February 2016.

### Comparison of Parliamentary Budget Office Functions

	<b>Parliamentary Budget Office (Australia)</b>	<b>Congressional Budget Office (USA)</b>	<b>Office for Budget Responsibility (UK)</b>	<b>Parliamentary Budget Office (Canada)</b>
Fiscal and Economic Forecasts	No	Yes	Yes	Yes
Long-term Sustainability	No	Yes	Yes	Yes
Costs requests from Parliamentarians	Yes	No	No	Yes
Broader policy analysis	No	Yes	No	Yes
Defence Budget Analysis	No	Yes	No	Yes
JSF Analysis	No	Limited	No	Yes

### Comparison of Supreme Audit Institution Functions

	<b>Australian National Audit Office</b>	<b>Government Accountability Office (USA)</b>	<b>National Audit Office (UK)</b>	<b>Office of the Auditor General of Canada</b>
Assesses Budget Adequacy (Defence Programs)	No	Yes	Yes	Yes
Identifies Future Risks	No	Yes	Yes	Limited
Assesses Implications for Capability	No	Yes	Yes	No
JSF Analysis	Limited	Extensive	Limited	Limited

Commonwealth of Australia



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