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ARMS PROCUREMENT COMMISSION

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Date: 19 March 2015

To: Foreign Office

Ref: 506-10-53100/46503 ZAF

DECLARATION OF THE ITEMS REQUESTED BY THE ARMS PROCUREMENT COMMISSION WOULD BE SUBJECT TO A SEIZURE IF THEY WERE LOCATED IN SOUTH AFRICA

1. Pursuant to a request of the Foreign Office that a seizure order or a relevant declaration be added to the Arms Procurement Commission request for legal assistance which was forwarded by means of Note Verbale no. 43/2014 of 8 May 2014, which the Arms Procurement Commission received by means of Note Verbale from the Foreign Office dated Berlin, 2 September 2014 and a subsequent Note Verbale dated Berlin, 25 February 2015, I, the undersigned, hereby make a declaration and state that:

(a) The Arms Procurement Commission was appointed by the president of the Republic of South Africa in terms of section 84(2)(f) of the Constitution of the Republic of South Africa, 1996, which reads:

"84(2)(f) The President is responsible for appointing commissions of inquiry."

(b) The Terms of Reference of the Arms Procurement Commission were published in the Government Gazette No. 34731 of 4 November 2011. Paragraph 3 of the said Terms of Reference state that:

"The Commissions Act, 1947 (Act 8 of 1947) shall apply to the Commission, subject to such amendments and exemptions as may be specified by proclamation from time to time"

Commissioners: LW Sedit JA (Chairperson); ITM Musi JP

Head of Secretariat: P N Lephondo

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RESOURCES & REGULATORY UNIT OF THE ARMS PROCUREMENT COMMISSION

(c) Furthermore, paragraph 5 of the said Terms of Reference state that:

"Regulations shall be made in terms of the Commissions Act, 1947 and shall apply to the Commission in order to enable the Commission to conduct its work meaningfully and effectively and to facilitate the gathering of the evidence by conferring on the Commission powers such as are necessary, including the power to enter and search premises, secure the attendance of witnesses and compel the production of documents."

(d) The Regulations referred to in paragraph (c) above were promulgated by means of a Proclamation by the President of the Republic of South Africa which was published in the Government of Gazette No. 35023 of 6 February 2012, Regulation 11 of the said Regulations provided that:

"(1) Any officer may, with a warrant, for the purpose of the inquiry, at any reasonable time without prior notice, or with such notice as he or she may deem appropriate, enter and inspect any premises and demand and seize any documents or article which is on such premises."

(e) Sub-regulation 11(2)-(5) require such entry and seizure to be conducted with strict regard to decency; by means of a warrant issued either by a judge or magistrate in chambers in the area of jurisdiction within which such premises are situated and only if he or she is satisfied that there are reasonable grounds to believe that there is a need for warrant authorizing search and seizure and that there are reasonable grounds to believe that any document is on or at such premises.

Commissioners: LW Sertu JA (Chairperson); HTM Musi JP;

Head of Secretariat: P.N Luphanda

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ARMS PROCUREMENT COMMISSION

Security, Arms and Explosives

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(f) Regulation 1 defines an officer as follows:

"Officer" means a person in the full-time services of the State who has been appointed or designated to assist the Commission in the execution of its functions."

2. It is clear from the legislative provisions referred to in the preceding paragraphs that the Arms Procurement Commission has the power to enter premises, with or without prior notice, and seize documents that are relevant to its Terms of Reference. Therefore, if the items requested by the Commission from the German Authorities that conducted investigations into the affairs of the German Frigate Consortium were located in the Republic of South Africa, they would have been subject to the provisions referred to above.

Adv F. M. Mdumbe

Declaration confirmed and signed before me at Pretoria, Gauteng Province, South Africa on this the ^{4th} day of March 2015

Full Names:

MATHEGO JACQUELINE RAMAGAGA
12th Floor Mabasa Building / 148 Pretorius Street
PRETORIA 0002
Commissioner of Courts / Ex Officio
Practising Attorney

Commissioners: LW Sertti JA (Chairperson); HTM Must JP;
Head of Secretariat: P.N Lufhondo

Office Translation

Foreign Office

Re: 506-10-531.00/46503 ZAF

Note Verbale

The Foreign Office is honoured to inform the Embassy of the Republic of South Africa, under reference to the request for legal assistance of the Arms Procurement Commission that was forwarded with Note Verbale no. 43/2014 of 8 May 2014 and its Note Verbale of 2 September 2014, to point out again that further documents are required to settle the requested actions of legal assistance.

The release of items is *inter alia* only permissible if a seizure order from the authority in charge of the requesting state is submitted or if a declaration of this authority states that the conditions of the seizure would be adhered to if the items were located in the requesting state. This is stipulated in § 66 of the German law on international legal assistance in criminal matters.

The Foreign Office requests that such a seizure order or a relevant declaration be added to the request for legal assistance if it aims at the surrender of items.

The Foreign Office avails itself of this opportunity to renew to the Embassy of the Republic of South Africa the assurance of its highest consideration.

Berlin, 25 February 2015

To the
Embassy of the Republic of South Africa

Berlin



C. W.

Adv F Mdumbe

From: Van Der Vyver, K : Section Consular Europe I and II <VanDerVyverK@dirco.gov.za>
Sent: 17 March 2015 10:10 AM
To: Gelderblom Isak
Subject: GERMANY: Mutual Legal assistance German Frigate Consortium. (CO)NS-5413/2014)
Attachments: NOTE VERBALE ARMS PROCUREMENT COMMISSION GERMAN FRIGATE0001.pdf

Dear Isak

Your 9/14/4 German Frigate refers.

Attached herewith is a note received from the SA Embassy in Berlin.

Please note no documentation is being dispatched by diplomatic bag to and from our missions due to a dispute between DIRCO and the service provider.

I have no idea when the originals will reach our office.

Regards

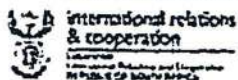
Ms Karien van der Vyver
Consular Services: UK, Ireland, Benelux,
German Speaking & Nordic Countries
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From: Mashigo, G Ms : Berlin, Corporate Services Manager
Sent: 13 March 2015 05:24 PM
To: Van Der Vyver, K : Section Consular Europe I and II
Cc: Ntloko, M : Berlin Assistant Accountant, LRP
Subject: Mutual Legal assistance German Frigate Consortium.

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**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

CASE NO: 81368/16

In the matter between:

CORRUPTION WATCH

First Applicant

RIGHT 2 KNOW CAMPAIGN

Second Applicant

And

THE ARMS PROCUMENT COMMISSION

First Respondent

WILLIE SERITI NO

Second Respondent

HENDRICK MMOLLI THEKISO MUSI NO

Third Respondent

**THE MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**

Fourth Respondent

**THE PRESIDENT OF THE REPUBLIC OF SOUTH
AFRICA**

Fifth Respondent

THE MINISTER OF DEFENCE

Sixth Respondent

THE MINISTER OF TRADE INDUSTRY

Seventh Respondent

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Dear Ms. Van der Vyver

I hope this email finds you well.

Kindly receive the Note Verbale Arms Procurement Commission. The originals will be sent by Diplomatic Bag in due course.

Kind regards,

Given Mashigo.

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Given Mashigo



ARMS PROCUREMENT COMMISSION

Transparency, Accountability and the Rule of Law

**Minutes of meeting at Strafjustizzentrum, Nymphenburger St, 16 Munich, Room A 822
on 25 June 2012**

Opening:

The meeting was convened at 14:30

Present:

Members of the Arms Procurement Commission: Judge W L Seriti, Advocate Mdumbe and Ms Painting

Officials of the Public Prosecutor's Office in Munich: Chief Public Prosecutor, Dr Strötz; Head of Prosecutor's Office Munich 1, Manfred Nötzel; Senior Prosecutor, Joachim Ettenhofer; and Florian Schlosser, Mutual Legal Assistance.

Purpose of Meeting

To introduce ourselves to the relevant officials and obtain information and evidence gathered by their office during their investigations into the affairs of MAN Ferrostaal, one of the companies that was awarded a contract by the South African government in 1999.

Matters discussed

The Chairperson of the Arms Procurement Commission, Judge Seriti, thanked the officials of the German Prosecuting Authority for agreeing to meet with us. He introduced us to the officials and gave them background information pertaining to the formation and functioning of the Commission: that we were appointed as a result of public pressure urging that public officials be held accountable and the subsequent Constitutional Court case; that the Commissioners were three judges; that we are chiefly concerned with investigating South African people and entities; that for

WLS

democracy to be sustained corruption would have to be rooted out ; that we are independent from Government and are not a court of law and will make findings that the South African prosecuting authorities will take further; politicians are of specific interest to the public and corrupt officials must be brought to book; how the Commission's teams would be made-up and how they would function; all hearings will be conducted mainly in public; our main target is South Africans and we do not have extra-territorial jurisdiction.

We indicated that we were trawling for information at this point and were interested in the investigations they had done. Judge mentioned Tony Yengeni and the Daimler Chrysler discounts, which 32 other people are alleged to have received. Mr Nötzel indicated that they had carried out that investigation and were in possession of information relating to Yengeni but that he could not recall reference to other persons on the file.

Ms Painting asked the officials whether they had in their possession a report about the R30 million bribe paid by Ferrostaal to Thabo Mbeki. They indicated that they were not in possession of such a document and they did not have jurisdiction over Ferrostaal, as its headquarters were in Essen and hence fell under the jurisdiction of the Dusseldorf prosecutors.

Adv Mdumbe referred to the Lesker case and the report by Debevoise and Plimpton, they indicated that they were in possession of excerpts of the report. Mr Nötzel telephoned a colleague who indicated that the report had been leaked online in the last few days and we could download the same from the internet, he provided us with a link.

They indicated that they would need an MLA before they could share any information with us and explained the MLA process to us. Adv Mdumbe asked what form the MLA should take and what specific requirements the Commission would be expected to comply with. It was stated that MLA would have to include facts, cases, specific documentation we required and a court decision or formal document that gave us authority to have access to documents that were obtained in a search and seizure. They indicated that they were prepared to peruse the draft to ensure that no information was missing in advance via email or fax. Judge explained the difficulty with having to submit an MLA via the Department of Justice as we had received criticism for not distancing ourselves from them. Mr Ettenhofer indicated that he would provide us with the name and contact details of an official at the Federal Bureau of Justice who could give us advice on the process and requirements.

Miss Painting for the purpose of clarification asked them whether they had carried out raids on Ferrostaal offices, they indicated that they had on several occasions. When asked whether they could have come across information pertaining to Ferrostaal's bribes of South Africans, they said it was doubtful. Miss Painting indicated that the partial Debevoise report, that was leaked online and that discussed the alleged South African bribes, made reference to the fact that the firm took information, provided by

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the Office of the Public Prosecutor in Munich, into account in formulating their views, this was initially denied. Mr. Schlosser then indicated that they shared information with Debevoise as the two investigations overlapped and they had access to limited information that Debevoise had. Mr Schlosser indicated that the information we are after would be in the possession of the Public Prosecutor in Dusseldorf. When asked if they had submitted an MLA to South Africa they said they had not and it was in all likelihood Dusseldorf.

Adjournment:

Meeting was adjourned at 15:30

Minutes submitted by:

Adv Mdumbe and Ms Painting

Approved by:

Judge W L Seriti

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Kate Pairting

From: Ettenhofer, Joachim <Joachim.Ettenhofer@gensta-m.bayern.de>
Sent: 25 June 2012 04:59 PM
To: kpainting@armscomm.org.za
Subject: Contact Federal Office of Justice

Dear Ms Pairting,

As promised during our meeting today I send you the contact details of Bianca Malguth-Hampel who is the competent person in the Federal Office of Justice for South Africa:

Bianca.Malguth-Hampel@bfj.bund.de

Tel. +49-228-99410-5344

Fax: +49-228-99410-5591

Best regards

Joachim Ettenhofer
Senior Prosecutor
Office of the Prosecutor General Munich
EJN contact point for Bavaria
Nymphenburger Str. 16
80097 München
GERMANY
Tel. +49-89-5597-4466
Fax +49-89-5597-4159

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**ARMS PROCUREMENT
COMMISSION***Impoverish the Country and the Rule of Law***MINUTES OF MEETING OF EVIDENCE LEADERS AND COMMISSION LEGAL TEAM HELD ON 11 APRIL
2013 AT THE CONFERENCE ROOM, SAMMY MARKS CHAMBERS**

(draft)

PRESENT**EVIDENCE LEADERS**

Adv. Tayob Aboobaker SC

Adv. Simon Lebala SC

Adv. Moss Mphaga SC

Adv. Phumlani Ngobose

Adv. Mahlape

Adv. Tshupo Sibeko SC

Adv. Carol Sibiya

Adv. Barry Skinner SC

Ms. Jacqueline Ramagaga

Adv. Sibusiso Zondi

COMMISSION STAFF

Riena Charles

Keitumetse Mahlangu

Thabo Malatji

Mcebisi Mama

Fanyana Mdumbe

Lindiwe Mtimkulu

Ernest Nemosimbori

Mariam Sirkhotte

1. Welcome

Adv. Aboobaker SC chaired the meeting.

Adv. Aboobaker welcomed all members present. He said that in a meeting as big as the present one discussions tend to get lost therefore there is a need to pay attention and to raise issues where necessary.

He invited all members to add items onto the agenda. Adv. Aboobaker added as Item 8.A Commissioner Legodi's Memorandum. Adv. Mdumbe added as item 9A, the Investigations conducted by the Internal Legal Team and the extension of the duration of the Commission and Budget.

2. Appointment of minute secretary for meeting

Adv Mdumbe and Ms Charles volunteered to take the minutes of the evidence leaders' meetings.

3. Matters arising from the meeting of the evidence leaders held on the 1st of March 2013.

3.1 Rebuttal evidence

The common understanding of the Evidence Leaders was that rebuttable evidence should be normally be adduced at the end of each phase of the hearings. Adv. Aboobaker raised the question of the instance when rebuttable evidence is given and the evidence leader is not in a position to cross-exam at that time. Adv. Skinner suggested that it should be placed on record that the rebuttal evidence will be taken but that cross-examination would be conducted at a later stage. Adv. Lebala reiterated and supported the view of Ms Ramagaga's that all witnesses should discover documents and indicate whether they are classified. He added that a letter setting out this requirement was given to Adv. Mdumbe. He also informed the meeting that the evidence leaders also drafted a policy which addresses access to classified documents.

Adv. Aboobaker raised the question as to who should discover, whether it should be witnesses who are called or those who have been implicated.

Ms Ramagaga said that lawyers who want to present evidence will normally prepare in line with the evidence led by the evidence leader. A witness who gives evidence should present documents on which he or she relies on. This would be done way of discovery. Furthermore, the witness must state whether he or she has documents in his or her possession or whether they are in the possession of someone else. The need to rebut if it arises will be determined from the evidence of the witness.

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Adv. Lebala added that if having consulted with a witness the witness indicates that there is no evidence or document to back the allegation he or she has made then there would be no need to call the implicated person.

The general consensus was that all witnesses must discover. If there is no documentation to substantiate an allegation made then there is no need to call the witness or person implicated.

Adv. Aboobaker said that he was talking about a witness who is not likely to be called or a witness that is not likely to cooperate with the Commission. The general feeling was that that witness too must discover.

Ms Ramgaga said that if during consultation a witness implicates a person and says that there is a document at a particular place, e.g the department of Trade and Industry, then that document must be obtained through the Secretariat of the Commission. By the time the evidence is presented the evidence leader would have looked at all the information and would determine whether any person has been correctly implicated. A person who wants to rebut evidence must have documents to rebut otherwise he or she would not rebut if there is no document substantiating an allegation. The decision whether or not to rebut will depend on the evidence presented.

Adv. Aboobaker reiterated that he was talking about an instance where there is a need to cross-exam but the document is not available at that stage. In that case, the evidence leader should ask for an adjournment and ask for the document and re-exam at a later stage.

The witness must be informed of the procedure and his right to rebut and the obligation to discover documents that will be relied on.

Adv. Sello pointed out that a witness who is implicated may not necessarily bring documents to the hearing but may come to listen to the evidence. After hearing the evidence he or she may decide to exercise his right to rebut the evidence and call for documents. The general view was that at the stage of rebuttable the witness would have heard the evidence and would know what documents to discover and must discover the documents.

The general consensus was that if during the course of cross-examination a witness says there is a document which he or she does not have, then the evidence leader must request the document in question from the Commission. The same applies where the evidence leader requires a document during preparation, including analysis of banking accounts where necessary. With regard to bank accounts Ms Charles informed the meeting that the Commission together with the auditors are investigating bank accounts. Adv Mdumbe further indicated that notices have been sent to the witnesses who will be called during the 1st phase of the hearings to make discovery of documents. With regard to persons implicated he said that all the documents containing information relating to the witness who will be appearing before the Commission must first be read and names of people likely to be implicated identified and a consolidated list produced of persons that the witnesses are going to implicate. A general notice would then be issued to all the persons implicated and this approach would obviate sending notices to implicated persons in drib and drabs.

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5. Minutes of meeting of evidence leaders and the commissioners held on the 7th March 2013

6. Matters Arising from the above minutes

6.1 Commissioner Legodi's Memorandum

Adv Aboobaker stated that Commissioner Legodi proposed that the different themes as per the Terms of Reference should be considered in the presentation of evidence, for example, the Rationale for the procurement of the armaments and so forth. Adv. Aboobaker suggested it is convenient to start the hearings with the Rationale because it sets out the basis on which the armaments were purchased and sets the tone for the Commission's hearings. Thereafter, a hybrid situation can be looked when dealing with the other witnesses where the themes would not necessarily be followed. He indicated that there was a difference of opinion among the Commissioners with regard to this matter.

Adv Aboobaker further stated that Commissioner Legodi suggested that once a document is considered to be relevant to a witness it is incumbent on the Commission to ask for declassification of the document. It is not the duty of the witness to ask for declassification. Adv. Aboobaker suggested that the issue of classification of documents be discussed under item 22.

There was general consensus that the approach to the leading of evidence should be the one which was originally agreed upon as a change in approach at this stage could lead to confusion. A concern was raised that there is no guarantee that expert reports and witnesses from government will be available.

Adv. Mdumbe informed the meeting that letters have been written to the government departments for example, the Department of Defence, Trade and Industry and others requesting them to provide witnesses who can testify on the issues on behalf of government. He said that the criticism levelled against the JIT (Joint Investigation Team) was that these entities conducted investigations, sourced documents and statements under oath from witnesses under duress and drew conclusions. Government was side-lined and was not asked to give its version. The Commission has now sent letters to the government departments to come and give evidence and set the tone of what happened.

Adv. Mdumbe requested the Evidence Leaders to thoroughly consider Commissioner Legodi's Memorandum and to formulate a response in writing.

Commissioner Legodi suggests that the Rationale and Utilisation be dealt with together in the beginning of the evidence of the Commission's hearings. Concerns were raised by the evidence leaders as to whether it will be practical to start with both the Rationale and Utilisation. Adv. Palmer is currently considering the issue of Rationale; the team has started working and will give a report in June. The issue of Utilisation may not be ready by June. The initial agreement was to start with the Rationale and to prepare the witnesses dealing with the Rationale, for example, Patricia de Lille, Terry Crawford-Browne etc.

Adv. Sibeko mentioned that during the consultations some of the witnesses, for example, David Maynier, said that he would like to give evidence on Utilisation. This was confirmed by Richard Young. This witness is prepared to speak on more than one of the Terms of Reference. Whilst there

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The process suggested was to start with the Rationale, follow with Utilisation provided it is feasible to do so and then follow with the other witnesses who may speak on more than one theme. This is what the Evidence leaders have been preparing.

Adv Sello suggested that the evidence should proceed along the following lines: commence with (1) the Rationale, (2) the Offsets, (3) Utilisation and then items, (4) Items 1.4 and (5) 1.5 of the Commissions Terms of Reference. Expert witnesses should be called to deal with items 1, 2 and 3. Once these have been placed on record the other items can then be dealt with.

After much deliberation on the issues it was finally recommended that the process should in summary be as follows:

- Commence with the Rationale, Utilisation and the Offset. Subject to the proviso that the Commission is able to provide the Evidence Leaders with witnesses who can deal with these issues. Failing which they will revert to the witnesses who were originally agreed upon.
- The Commission must provide the government and expert witnesses by 31 May 2013. (Expert and Best fact witnesses).
- The Evidence Leaders will formulate their resolution in relation to this and provide it in writing to the Commission.

8. Investigations by the Internal legal team

Adv. Mdumbe informed the meeting that investigations are being conducted by the internal legal team. The persons conducting the investigations are tasked to source all documents relating to that investigation, compile dossiers and to identify issues which need to be further investigated. After this exercise is a determination would be made relating to allocation of further witnesses to the Evidence Leaders.

Adv. Aboobaker commended the Commission on this exercise which he said will be beneficial to team. Witnesses who are likely to be called before the Commission can be identified from the documents compiled.

Adv. Mdumbe further said that the NUMSA allegations are also being investigated. This matter is being dealt with by the team investigating the BAE issues. The allegations relating to the ANC and the former President forms part of these investigations. The list of the allegations that are being investigated was circulated to the Evidence Leaders.

Adv. Lebala cautioned against so-called implications. He said that a distinction should be drawn between factual and non- factual implication. He does not know the basis on which it is said that the ANC for example is implicated. Adv Sello made the point that you cannot say that someone is implicated until the person making the allegation makes a sworn statement implicating the particular person or entity, for example, the ANC and has documents to prove the allegation.

Adv. Mdumbe drew attention to the fact that there are about 10 000 articles written on the arms deal. He said that the matters investigated by the Commission are matters which were brought to the attention of investigative bodies for investigation but were not finalised. The list consists of

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allegations that have been investigated by the SFO and other investigative bodies in Germany, Lichtenstein and other countries.

Adv. Aboobaker said that evidence leaders may also bring issues to the Commission for investigation.

Adv. Sello posed the question whether an issue which has not been complained of and in respect of which no witness has come forward would be dealt with by the Commission. She was of the view that the Commission should not be restricted to the issues or allegations reported to the investigative bodies and the issues that have been brought formally by witnesses in the submissions made to the Commission.

Ms Charles indicated that the Commission has called upon all interested parties to make submissions to the Commission. These issues should have been dealt with in the submissions otherwise it would be difficult to enquire into. Adv Aboobaker concurred and said that the Commission is not an investigative body and that it would be difficult to follow up on issues that have not been formally raised.

Adv. Mdumbe added that if witnesses are to implicate a person that person must receive notice. If a person or entity is to be subpoenaed to produce documents to the Commission substantive information would be necessary to enable the Commission to make that decision. This would apply equally, for example, if it is suggested that the books of the ANC should be subpoenaed.

Adv. Sello raised the question what would happen in instances where on the basis of the documents before the Commission a person or entity appears to be implicated. How will this be dealt with?

Adv. Aboobaker suggested that if on the documents an allegation or implication is suggested maybe this should be investigated.

The general view of the meeting was that if an allegation made by a person is unsubstantiated it would be difficult to follow and to require that a person or entity be subpoenaed to submit documents.

Adv. Aboobaker added that a balance should be drawn between the resources available and the issues that can be investigated.

9. Preliminary reports from the forensic auditors Adv. Palmer's team

Mr Jabu Mahlangu gave an outline on the work of his team. He said that he was approached by the Chairperson of the Commission and requested to look into the inflow and outflow of funds and to do an analysis thereof. The forensic auditors went through the accounts that were already secured by the Commission and identified additional accounts.

The team was later requested to investigate the Offsets.

They used the MLA from the SFO as a basis to identify the parties that were involved in the procurement process.

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They first started analysing the banking accounts already secured by the Commission, approximately 45 accounts. Documents were also requested from CIPC. Mr Mahlangu highlighted that this exercise takes time. The process is to capture the documents, analyse them and draw conclusions. This also applies to the Offsets.

Adv Aboobaker asked Mr Mahlangu to give a summary of what has been found thus far and to give an indication of how long the process will take.

Mr Mahlangu referred to pages 3 to 5 of his report. He explained that all relevant documents were reviewed and relevant parties were identified. CIPC documents were obtained, bank accounts were analysed and a progress report will be compiled. The flow of moneys into the accounts have been identified and further bank statements have been requested. He explained that going through the accounts is a tedious and time consuming process. It has been resolved to work through the Reserve Bank to capture the international flow of funds. Subpoenas have been issued to the Reserve Bank requiring it to produce this information. The statements of consultants and entities relating to the Hlongwane accounts have been reviewed, including payments made by BAE.

A progress report will be issued at the end of April 2013.

The work on the Offsets began in earnest in February 2013. The process involves getting all the offset contracts by the prime contractors to determine what they contracted for and to see what they have delivered. Relevant documents have been obtained from DTI. Consultations were also conducted with DTI on various aspects. It was found that the prime contractors have committed themselves to certain contracts but in the implementation process a lot of the projects have been substituted and new business plans were submitted. The issue of the multipliers also came to the fore. DTI has submitted an electronic version of these projects in totalling approximately 110 projects. The auditors will analyse the selection process, compliance with guidelines, what was benefitted from the offsets and the beneficiaries of the offsets.

On the probable timeframes, Mr Mahlangu indicated that there are challenges in obtaining the information. Ms Charles makes the requests for information. Some banks are more cooperative than others. Sometimes there is only a name and no account number. The banks have to go through various systems to ascertain whether this is a customer or not before providing the information. This is a lengthy process.

DTI and CIPC are cooperative but the challenge is to obtain the information speedily.

The volume of work is daunting. There are discs dating from 2001 to 2008 that has still to be analysed. This will take approximately 2 to 3 months. 18 boxes have also been received from the DPIC and still have to be analysed. This could take another 6 months before a progress report is compiled.

It placed on record that the forensic audit work will not be ready by 5 August 2013.

The first Audit Report that will be submitted by the end of April 2013 will only cover what has been done thus far relating to the BAE leg of the investigations. By the end of June the report will cover something on the offsets. He emphasised that these would be preliminary reports. The offsets will be the easier part of the investigation.

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Adv. Aboobaker enquired whether it would assist the team to drop everything else and to focus on the offsets and to finish this in time for the August hearings. Mr Mahlangu said that it would assist.

It was recommended that the forensic audit team should concentrate on the offsets for the August hearings. Adv. Mdumbe indicated that the team was also looking at the issue of job creation as part of the offsets.

It was resolved that items 11, 12, 13, 14, 15, 16 and 17 will be dealt with the following day.

18. Discussion on arms deal timeline, list of witnesses implicated and annexures submitted by Adv Zondi and Adv. Aboobaker

This is a summary of Feinstein's book. It gives an indication of the entire process. Adv. Aboobaker said that this is an example of how to summarize the evidence. It is for information purposes and is intended to assist the team. Timelines are helpful.

19. Discussion of timetable attached and amendments if necessary.

It was agreed that the allocation and dates to call witnesses will be done the next day.

It was agreed that each evidence leader will prepare a bundle for the witnesses whose evidence they will be leading. It is agreed that draft bundles should be compiled by mid-June and concrete bundles to be compiled by the end of June and July. Each group will prepare a core bundle for all their witnesses.

Adv. Mdumbe said that what has been submitted to the evidence leaders are dossiers containing information that is relevant to the witnesses who have been summoned by the Commission to give evidence during the public hearings. The dossiers also contain information relating to the people the witnesses are likely to implicate. These will be supplemented as new information comes to light.

It was further agreed that evidence leaders are best placed to determine what should go into the bundles. They will obtain the documents from the Commission and prepare the bundles and indices. They will exchange the indices amongst each other, see if there are overlaps and prepare consolidated indices. It's easier to do that and will prevent duplication.

It was further resolved that since the Commission has given the evidence leaders dossiers, the Commission team should not be burdened with this task and that the evidence leaders will prepare the bundles of the documents they will use during the hearings and the indices. These will be consolidated and distributed to the implicated parties.

Ms Ramagaga further stated that when the notices are issued to interested parties by which time witnesses should have discovered, they should be accompanied by the documents that are intended to be used at the hearings, including the discovered documents. All documents should be ready by the time the notices are issued. The responsibility of pagination will be that of the parties intending to use the documents. There should be at least 3 paginated sets, for the Commissioners, the Evidence Leaders and the witnesses.

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Adv. Aboobaker said that the documents that will be discovered by the Commission will be those appearing in the indices of the evidence leaders. The witnesses will be directed to documents on these indices.

It was agreed that the evidence leaders must give the indices of the documents by 15 June 2013.

Adv. Aboobaker suggested that the final bundles and indices should be prepared by 30 June 2013.

Adv. Skinner suggested 15 July 2013. It was agreed that the sooner the bundles and indices are done the better.

20. Management of exhibits

Dealt with in the discussion above

21. Preparation of master index for all files distributed to evidence leaders.

Dealt with in the discussion above

22. Discussion on classified documents requested by evidence leaders and witnesses

Dealt with in the discussion below

23. Extension of time for the duration of the commission

Adv. Mdumbe informed the members that the Commission has formally approached the President and requested that the duration of the Commission be extended to November 2014. He added that this will also have an impact on the budget. He stated that commitments made by the Commission to the evidence leaders would be catered for in the current budget allocated to the Commission. However, the Commission cannot bring on board additional evidence leaders unless it is confirmed that there will be additional budget. A response is still awaited from the President with regard to the time frame of the Commission.

Adv. Mdumbe reported that one of the witnesses has threatened to bring an application against the Commission. The Commission has instructed an attorney and senior counsel on this matter. Adv. Sibiya enquired whether an opinion has been requested on whether the Commission should defend the matter. Adv. Mdumbe responded that this is implied in the instructions given to the team.

24. Date of next meeting of evidence leaders.

Proposed date of next meeting is 20 and 21 May 2013.

25. General

Some members of the internal team complained that they were given late notification of the meeting and were not provided with the minutes and documents to be discussed in the meeting. Should evidence leaders require them to attend the meetings they must ensure that they are provided with the minutes and documentation. Adv. Aboobaker requested to be provided with the emails of the internal team so that such documentation can be forwarded to them. Adv. Mdumbe said that this was not an appropriate forum to discuss the workings of the internal team. Ms Ramagaga cautioned against blurring the lines of communication with the Commission and the internal members of the Commission. After a lengthy deliberation on the matter it was resolved that

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formal lines of Communication with the Commission should be through the Secretariat and not directly with the Internal members. It was emphasised that the evidence leaders can only make recommendations to the Commission on the involvement of internal team members. It was also pointed out that there are instances where evidence leaders have their own meetings without the Commission staff and instances where the meetings are with the Commission staff.

The evidence leaders requested to have their own meeting the next day to discuss issues relevant to them and that they will inform the internal staff when to join them.

Meeting adjourned at 16h00.



Principality of Liechtenstein - Financial Intelligence Unit

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05/10/2006
sura/bavi 2006-0405

National Prosecutor
FL-9490 Vaduz

National Prosecutor of Liechtenstein
Received: 6th Oct. 2006
Annexures:
Signed: 3 ST 283/06-8

11 RS 2006.130

Notification regarding Suspects in terms of section 16 par. 1 of the duty of Care Act of the LGT Bank in Liechtenstein AG in Saxony KAYSWELL SERVICES AG, ACT WORLDWIDE S.A., PELISSIER Julien Charles Marius, WILMANS Trevor and HAILWAX Walter

Dear Madams and Sirs

Attached hereto you will receive the abovementioned Notification regarding Suspects (Pages 0001 to 00660) that was received by us on 28/09/2006. Assets to the value of app. CHF 615'000.00 are affected thereby. In this connection we also refer to our report in re ROBERTS Alexander, file reference 2006/0353 and 2006-0371 dated 13/09/2006 and your file reference 3 ST 283/06.

We were informed of the following account masters:

- | | |
|---------|---------------------------------|
| 0104645 | KAYSWELL SERVICES LTD. |
| 0102482 | ACS WORLDWIDE S.A. |
| 0120659 | PELISSIER Julien Charles Marius |
| 0104637 | WILMANS Trevor |
| 0120660 | HAILWAX Walter |
| 0058061 | HAILWAX Walter |

0104645 KAYSWELL SERVICES LTD.

This account master was opened on 14/03/1995 and was balanced on 14/10/2002.

The beneficial owners were:

- PELISSIER Julien Charles Marius, BRON 18/04/1941, British citizen, residing in Meadow Cottage, Titness Park, Sunninghill, Berkshire SL5 0PS, Great Britain;
- WILMANS Trevor John Shandos, born 30/01/1955, Namibian citizen, residing at 333 Lawley Street, Waterkloof, Pretoria 0181, South Africa;
- PASSAPORTIS Richard John Alexander, born 23/05/1953, Zimbabwean citizen, residing at Bushman Rock Estate, P.O. Box 238, Ruwa, Zimbabwe;
- HAILWAX Walter, born 06/03/1959, Namibian and German citizen, residing at 3 Franciska Street, Ludwigsdorf, Windhoek, Namibia;

Financial Intelligence Unit, Aulestraße 51, FL-9490 Vaduz
Telephone: +423-236 6125, Fax: +423-236 61 29, e-mail: info@fiu.llv.li

I, ASTRID HAMBROCK (née Gernholtz), a Sworn Translator of the High Court of South Africa, hereby certify that this is a true and correct translation of the German document to English.
Dated at Cape Town on 14th February 2010

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BREDENKAMP John Arnold, born 11/08/1940, Dutch citizen, residing at Middleton House, Titlarks Hill, Sunningdale, Berkshire SLS OJV, Great Britain.

RITTER Peter is mentioned under the authorised persons or persons authorised to sign. The FIU assumes that it is the citizen of Liechtenstein RITTER Peter, born 10/04/1938, residing at Vaduz.

0102482 ACS WORLDWIDE S.A.

This account master was opened on 03/05/1994 and was balanced on 14/10/2002, like the one of KAYSWELL.

The beneficial owner was

BREDENKAMP John Arnold, born 11/08/1940, further particulars as above.

EBERSBERG Christoph, SCHNEIDER Tim and RITTER Peter are mentioned under the authorised persons or persons authorised to sign. The FIU assumes that these are (former) organs of PRÄSIDIAL ANSTALT.

0120659 PELISSIER Julien Charles Marius

This account master was opened on 14/03/1995 and was balanced on 17/01/2006.

The beneficial owner was the account holder (particulars as above).

0104637 WILMANS Trevor

This account master was opened on 14/03/1995 and reflects an actual balance to the amount of USD 11'781.06. The beneficial owner is the account holder (particulars as above).

0120660 HAILWAX Walter

This account master was opened on 22/08/1996 and reflects an actual balance to the amount of EUR 62'938.95. The beneficial owner is the account holder (particulars as above).

0058061 HAILWAX Walter

This account master was opened on 28/12/2000 and reflects an actual balance to the amount of USD 397'824.42. The beneficial owner is the account holder (particulars as above).

The transactions of which we were informed, were recorded, visualised and evaluated. The informant records that the list drawn up by her does not claim to be exhaustive. Transfers within an account master were not recorded.

The following can be gathered from the evaluations"

KAYSWELL SERVICES LTD.

For this account we were informed of receipts to the amount of app. GBP 3,8 million as well as of outgoings to the amount of app. GBP 9,1 million (Annexures – Financial transactions KAYSWELL SERVICES LTD. and Financial transactions KAYSWELL SERVICES LTD. summarised). Thereby the origins of app. GBP 5,3 million are unknown.

The receipts come from RED DIAMOND TRADING LTD.

Transfers went to a number of persons and companies, inter alia to:

- BREDENKAMP John Arnold app. GBP 2,6 million;

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- HAILWAX Walter app. GBP 335'000.00;
- WILMANS Trevor app. GBP 435'000.00;
- PASSAPORTIS R.J.A. app. GBP 294'000.00;
- ACS WORLDWIDE S.A. app. GBP 787'000.00;
- AVIATION CONSULTANCY SERVICES app. GBP 58'000.00.

AVIATION CONSULTANCY SERVICES could be identical with AVIATION CONSULTANCY SERVICES (UK) Limited, in respect of which WILMANS and PELISSIER are also recorded as organs (extract from ICC Directors – Annexure).

ACS WORLDWIDE S.A.

For this account we were informed of receipts to the amount of app. GBP 100'000.00 and USD 1'085'000.00 as well as of outgoings to the amount of app. GBP 102'627.47 and USD 7'747'873.07 (Annexures – Financial transactions ACS Worldwide summarised). Thereby the origins of app. USD 6,7 million are unknown here.

The receipts of which we were informed come from KAYSWELL SERVICES LTD. and from Julien PELISSIER. Transfers went to a number of persons and companies, inter alia to:

- BREDEKAMP John Arnold app. USD 2,6 million;
- PASSAPORTIS R.J.A. app. USD 142'000.00;
- HAILWAX Walter app. USD 160'000.00;
- WILMANS Trevor app. USD 75'000.00;
- PELISSIER Lucia app. USD 55'000.00;
- KOHLI U.A. app. USD 46'000.00;
- GLOBAL AVIATION LIMITED app. USD 2 MILLION;
- AVIATION CONSULTANCY SERVICES app. USD 1'450'000.00 and GBP 72'000.00;
- SHUN HING HONG KONG CO.LTD. USD 500'000.00;
- PRÄSIDIAL ANSTALT app. USD 950.00.

GLOBAL AVIATION LIMITED could be identical with GLOBAL AVIATION CONSULTANTS LIMITED. In the case of the latter company HAILWAX, WILMANS and PELISSIER are organs (extract from ICC Directors – Annexure).

In a report from public sources with the title "Other Facets" dated April 2001, page 2, "Namibian Diamond Mining", the following are mentioned: HAILWAX, the ACS INTERNATIONAL and John BREDEKAMP. ACS is described as an arms procurement company of the Zimbabwean arms dealer John BREDEKAMP.

Furthermore information could be found in public sources in terms of which AVIATION CONSULTANCY SERVICES (PTY) LIMITED is domiciled in Windhoek, Namibia. Walter HAILWAX is mentioned as CEO (Annexure – extract from Namibia Economic Forum).

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PELISSIER Julien Charles Marius

For this account we were informed of receipts to the amount of app. USD 661'000.00 and outgoings to the amount of app. USD 2,2 million. Thereby the origins of app. USD 1,6 million are unknown. (Annexures – Financial transactions Julien Charles Marius PELISSIER and Financial transactions Julien Charles Marius PELISSIER summarised).

The funds received come from KAYSWELL SERVICES LTD. The cash drain went to various persons and companies, inter alia to:

- PELISSIER Julien app. USD 174'000.00;
- BREDEKAMP John Arnold app. USD 266'000.00;
- MAHOMED Julekha app. USD 258'000;
- MAITLAND AND CO. app. USD 850'000.00;
- MEINTJES, VERMOOTEN AND VENNOT USD 195'000.00.

According to public sources one of the lawyers of the former South African Vice-President Jacob ZUMA, against whom criminal proceedings due to suspected corruption were held, is called Julekha MAHOMED (Annexure – Africa News dated 21/09/2006 regarding Julekha Mahomed). It is not possible to say whether the beneficiary of the abovementioned USD 258'000.00 is this lawyer.

The company MAITLAND AND CO. could not be identified.

In the case of MEINTJES, VERMOOTEN AND VENNOT it could be the accountancy firm in Pretoria, South Africa (Annexure - internet page of MEINTJES, VERMOOTEN & VENNOTE).

WILMANS Trevor

For this account we were informed of receipts to the amount of app. CHF 69'000.00 and app. USD 646'000.00. The outgoings amount to CHF 16'000.00, app. EUR 437'000.00 and app. USD 1,8 million, so that the origins of app. EUR 437'000.00 and app. USD 1,2 million are unknown. (Annexures – Financial transactions Trevor WILMANS and Financial transactions Trevor WILMANS summarised).

The receipts come from ACS WORLDWIDE S.A. and KAYSWELL SERVICES LTD. The cash drain went to various persons and companies, inter alia to:

- HAILWAX Walter app. USD 77'000.00 and app. EUR 123'000.00;
- HAILWAX Karin app. USD 46'000.00;
- PAPAGEORGE M. USD 127'000;
- HECKMAIR F. app. USD 169'000.00;
- MEINTJES, VERMOOTEN and VENNOT app. USD 1,1 million.

The persons PAPAGEORGE M. and HECKMAIR F. could not be identified.

HAILWAX Walter

For these accounts we were informed of receipts to the amount of app. EUR 123'000, app. GBP 83'000.00 and app. USD 478'000.00. The outgoings amount to app. EUR 97'000.00, app. GBP 298'000.00 and app. USD 1,5 million, so that the origins of app. GBP 215'000.00 and USD 1 million are unknown (Annexures –

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Financial transactions HAILWAX Walter and Financial transactions HAILWAX Walter summarised).

The receipts come from KAYSWELL SERVICES LTD. and from ACS WORLDWIDE S.A. The cash drain went to various persons and companies, inter alia to:

- HAILWAX Walter app. USD 193'000.00;
- WILMANS Trevor app. USD 43'000.00;
- Kohli U.A. app. USD 120'000.00 and app. USD 274'000.00.

The summary reflects the picture that funds flowed from RED DIAMOND TRADING to KAYSWELL SERVICES LTD. and from there to ACS WORLDWIDE S.A. KAYSWELL and ACS may have been managed at PRÄSIDIAL ANSTALT. Funds flowed from KAYSWELL to all five beneficiaries (PELISSIER, WILMANS, HAILWAX, PASSAPORTIS and BREDEKAMP). Similarly, funds from ACS to WB BREDEKAMP as well as to PELISSIER, WILMANS, HAILWAX and PASSAPORTIS. These transactions cannot be explained by means of the available documents. Further, it was ascertained that the origins of considerable amounts that flowed through the abovementioned accounts, are unknown.

Based on the Notification regarding Suspects and the evaluations that were performed, particularly the origins of fund from RED DIAMOND TRADING and a transfer to the company SHUN HING in Hong Kong (beneficiary probably HLONGWANE Fana), the suspicion cannot be excluded that the funds that flowed through the accounts of KAYSWELL SERVICES LTD., ACS WORLDWIDE S.A., PELISSIER Julien, WILMANS Trevor and HAILWAX Walter come from money laundering or offences prior to money laundering. The FIU therefore applied for the introduction of asset protection measures and measures for the conservation of evidence.

Please take note hereof.

Yours faithfully
[Signature: R. Sutter]
Ralph Sutter
Acting Head Staff position FIU

Annexures

- Notification regarding Suspects (001 – 0066)
- Financial transactions Kayswell Services Ltd.
- Financial transactions Kayswell Services Ltd. summarised
- Financial transactions ACS Worldwide summarised
- Financial transactions Julien Charles Marius PELISSIER
- Financial transactions Julien Charles Marius PELISSIER summarised
- Financial transactions Trevor WILMANS
- Financial transactions Trevor WILMANS summarised

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- Financial transactions Walter HAILWAX
- Financial transactions Walter HAILWAX summarised
- ICC Directors regarding Global Aviation Consultants Ltd.
- ICC Directors regarding Aviation consultancy Services (UK) Ltd.
- Extract from Namibia Economic Forum regarding ACS and HAILWAX
- Report "Other Facets" regarding HAILWAX, BREDEKAMP and ACS
- Africa News dated 21/09/2006 regarding Julekha Mahomed
- Internet page MEINTJES VERMOOTEN & VENNOTE

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 Dated at Cape Town on 14th February 2010

Astrid Hambrock

*BoC
 VMA*

Verdachtsmitteilung(en) gemäss Art. 16 Abs. 1 des SPG **FIU**

Kto. Nr. 0120659AC, lautend auf Juliën Pelissier

Transaktionen Konto Nr. 0120659 AC			Währung	
Datum	Betrag	Transaktion	Auftraggeber oder Empfänger	Zahlungsgrund bzw. Bemerkung
07.02.2002	USD 661'666.00	(Zufluss)	KAYSWELL SERVICES LIMITED	Von LGT Kto. 0104645AB
13.02.2002	USD -1'570.19	(Abfluss)	PERSONNEL RESOURCES LIMITED	6606/JCMP
19.02.2002	USD -85'000.00	(Abfluss)	ACS WORLDWIDE S.A.	An LGT Kto. 0102482
19.02.2002	USD -266'113.50	(Abfluss)	JOHN A. BREDEKAMP BANK OF BERMUDA (ISLE OF MAN) DOUGLAS	
25.02.2002	USD -10'009.50	(Abfluss)	JULIEN PELISSIER CENTEA NV ANTWERP	
22.05.2002	USD -7'392.34	Barbezug		
03.07.2002	USD -8'933.32	(Abfluss)	J.C.M. PELISSIER	
06.09.2002	USD -258'000.00	(Abfluss)	JULEKHA MAHOMED UBS AG KLOTEN	
16.10.2002	USD -8'921.61	(Abfluss)	J.C.M. PELISSIER	
12.12.2002	USD -7'928.72	Barbezug		
06.05.2003	USD -10'351.34	(Abfluss)	J.C.M. PELISSIER	
17.07.2003	USD -10'233.56	(Abfluss)	J.C.M. PELISSIER	
23.09.2003	USD -10'468.72	(Abfluss)	J.C.M. PELISSIER	
30.10.2003	USD -17'241.06	(Abfluss)	KAYSWELL SERVICES LIMITED FIRST CURACAO INTERNATIONAL BANK N.V. 18, KAYA W. F. G. (JOMBI) MENSING WILLEMSTAD	
31.10.2003	USD -5'366.31	(Abfluss)	ACS WORLDWIDE S.A. FIRST CURACAO INTERNATIONAL BANK N.V. 18, KAYA W. F. G. (JOMBI) MENSING WILLEMSTAD	
04.11.2003	USD -70.98	(Abfluss)		
10.12.2003	USD -236.22	(Abfluss)	09.669 GA	
10.12.2003	USD -11'143.57	(Abfluss)	J.C.M. PELISSIER	

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