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LEGAL NOTICE NO. 66 OF 2021

Commission of Inquiry (Purported Supply Agreement Between Frazer Solar GmbH and the Government of Lesotho) Notice, 2021

Pursuant to section 3(1) of the Public Inquiries Act, 1994¹, I,

MOEKETSI MAJORO

PRIME MINISTER of Lesotho, appoint a commission of inquiry into events that led to the signing of the purported Agreement of supply between the Government of Lesotho and the services of notices in respect of the matter before arbitration and subsequent arbitration award.

Membership

2. The Commission of Inquiry, (referred to in this notice as “the Commission”) shall consists of the following members -

(a) Justice Molefi Makara - Chairperson;

(b) Hounarable Mohlabi - Member;
Tsekoa (Former Minister)

and

(c) Advocate Sekake Malebanye - Member.

Terms of reference

3. (1) Consistent with section 3(2) of the Public Inquiries Act, 1994, the Commission shall inquire into and investigate -

(a) how the company of Frazer Solar was introduced to the Government of Lesotho including the persons in the country who -

(i) were involved in the events that led to the signing; and

- (ii) enabled the company to lodge claims against the Government of Lesotho;
- (b) the events which led to the signing of the purported agreement between Frazer Solar and the Government of Lesotho;
- (c) whether the person or official who concluded the agreement on behalf of the Government of Lesotho had the legal authority or approval from an authorized authority to do so and if not, was there any undue interest or influence received by any person;
- (d) whether there was compliance with relevant legal or administrative procedures and established practices of the laws of Lesotho by all key parties or any other person to the purported agreement when it was drawn or entered into;
- (e) the effectiveness of the office of the Prime Minister in handling and responding to summons submitted to it and why there was no response to the summons;
- (f) who were the public officials within relevant Government departments who knew about the matter, but failed to take the necessary steps to inform and defend the Government of Lesotho in the arbitration proceedings instituted by Frazer Solar in the Republic of South Africa; and
- (g) any other issue relevant to the above mentioned events and occurrences which may impinge on the inquiry and investigation.

(2) The Commission shall, consistent with its nature, make such recommendations as to actions that can be under taken to prevent a repetition of such incidences and which may bring clarity to the public on the events that led to the current status of the events.

Reporting

4. The Commission shall, pursuant to sections 3(2) and 8 of the Public Inquiries Act, 1994, submit a written report to the Prime Minister within thirty (30) days of the commencement of the work of the Commission or on such an extended date which the Prime Minister may agree to in terms of section 3(3) and upon a written request by the Chairperson of the Commission to the Prime Minister.

Powers of the Commission

5. The Commission shall exercise all powers vested in it by the Public Inquiries Act, 1994, in particular but without limiting or excluding the generality of this provision, shall exercise the powers vested under sections 16,17 and 18 of the Public Inquiries Act, 1994.

Professional legal assistance

6. In the performance of its functions, the Commission of Inquiry may enlist legal services of legal counsel of its own choice, who shall first have been duly approved by the Attorney-General to assist the Commission and in terms of the Laws of Lesotho.

Other professional assistance

7. The Commission shall, if it considers desirable, engage the services of experts, persons having special technical or other knowledge or any other qualified person, to assist it in the performance of its functions and while caring out the duties of the Commission, and such experts or persons shall enjoy the same protection, privileges and immunity as enjoyed by a member of the Commission under item 9.

Proceedings of the Commission

8. (1) The decisions of the Commission shall be by simple majority and in the event of an equality of votes, the Chairperson shall have a casting vote as well as a deliberative vote.

(2) The Commission may determine the conduct of its proceedings as it considers fit.

(3) The inquiries and investigations of the Commission shall be held public subject to the power of the Commission to decide otherwise pursuant to section 9 of the Public Inquiries Act, 1994.

Protection, privileges and immunity

9. A member of the Commission shall enjoy the protection, privilege and immunity as a member in accordance with the provisions of section 5 of the Public Inquiries Act, 1994.

Honorarium

10. A member of the Commission is entitled to be remunerated such allowances as the Prime Minister in consultation with the Minister responsible for finance may determine.

Secretariat

11. The Commission shall be assisted in the performance of its functions and discharge of its duties, by officers in the Public Service as the Prime Minister may determine, who shall act as the Secretariat of the Commission.

DATED:

**DR. MOEKETSI MAJORO
PRIME MINISTER OF LESOTHO**

NOTE

1. Act No. 1 of 1994

