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## STATEMENT TO THE STATE CAPTURE COMMISSION OF INQUIRY

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I, the undersigned,

**NHLANHLA MUSA NENE**

state as follows:

**INTRODUCTION**

1. I provide this statement in order to assist the inquiry into State of Capture (the Commission), which is chaired by Deputy Chief Justice Raymond Zondo.
2. I am the Minister of Finance appointed as such on 27 February 2017 by President Cyril Ramaphosa.
3. I have over 20 years of experience in the finance industry. I have an advanced Diploma in Economic Policy from the University of Western Cape, a Certificate in economics and Public Finance from the University of South Africa, B.Com Honours in Economics from the University of Western Cape, a Certificate in Micro Economic Theories and Applications and Macro Economic Principles and Issues from the University of London. I am extensively involved in the finance sector and have acquired vast knowledge on how it operates and how it is regulated. My further qualifications and expertise and positions I have held appear from my Curriculum Vitae.
4. On 8 November 2008 I was appointed as the Deputy Minister of Finance under the leadership of President Kgalema Motlanthe. The Minister of Finance at that time was Mr Trevor Manuel.

5. I served as Deputy Finance Minister under the leadership of former President Jacob Zuma (“the President” or “Mr Zuma”). The Minister of Finance was Mr Pravin Gordhan. President Zuma assumed office on 9 May 2009. Mr Gordhan was appointed as Minister of Finance on 11 May 2009. He served in this portfolio until 25 May 2014. He was reappointed on 13 December 2015 and served until 31 March 2017 when he was unceremoniously removed.
6. I served as the Minister of Finance from 25 May 2014 until I was removed from office by President Zuma on 9 December 2015.
7. I believe that I was removed from office because of my refusal to toe the line in relation to certain projects. In hindsight, it seems that those projects may have benefited the Gupta family and other close associates of the President. I shall describe the examples of the nuclear deal and the SAA strategy. These two issues, like other procurement processes within government and state-owned companies, were subject to intense scrutiny by National Treasury (“Treasury”).
8. The Minister of Finance works under pressure, particularly when it comes to approving decisions that would have implications for the fiscus. Sometimes the Minister of Finance is referred to as “Mr No” when government departments are advised that their proposals must fall within the Cabinet-approved medium term policy, strategic and fiscal framework and/or comply with governance requirements and agreed policies. It is an unfortunate appellation because the role of the Minister of Finance is to be scrupulous in managing fiscal sustainability and the finances of the country in order to ensure economic

growth and the sound and transparent management of the public finances. Ultimately this is critical for the delivery of services to the public to transform people's lives and to comply with socio-economic obligations for which the government is responsible under the Constitution.

9. Because almost everything that government does has implications for fiscal policy, Treasury participates, or is consulted, on all government policy proposals or proposed major projects. Guided by the need to safeguard long-term fiscal sustainability and economic interests of the country, Treasury takes a critical view of these policy or project proposals. However, irrespective of Treasury's initial position, once Cabinet has deliberated and decided on the policy or project, it is Treasury's role and responsibility to find the funds for such a policy or project, taking into account the approved fiscal framework and the long-term fiscal sustainability and economic interest of the country.
  
10. It is important for me to first explain the role of Treasury in government so that the significance of the attacks on Treasury are understood.

#### **THE MINISTER OF FINANCE AS HEAD OF TREASURY**

11. The structure of the fiscal and public finance system of the country is set out in Chapter 13 of the Constitution, 1996. Chapter 13 deals with the National Revenue Fund, the division of revenue between national and provincial and local governments, establishment of the Treasury, procurement, borrowing,

treasury norms and standards.<sup>1</sup> Many of these provisions are then given effect in the Public Finance Management Act<sup>2</sup> and the Municipal Finance Management Act<sup>3</sup> and annual budget legislation.

12. The key finance institutions established in the Constitution are National Treasury<sup>4</sup>, the Central Bank (the South African Reserve Bank)<sup>5</sup> and the Financial and Fiscal Commission.<sup>6</sup> Although the Reserve Bank is required to perform its primary function independently the Constitution requires regular consultation between the Bank and the Minister of Finance.<sup>7</sup>
  
13. The Treasury is required to ensure expenditure control in each sphere of government by ensuring compliance with legislated measures that regulate expenditure.<sup>8</sup> The Treasury is empowered by the Constitution to stop the transfer of funds to any organ of state if it has committed a serious breach of those measures.<sup>9</sup> The head of the Treasury is the Minister of Finance. The Minister bears unique obligations in law. The Minister is responsible for tax policy and is the executive authority for the South African Revenue Service, to oversee the collection of tax revenue and the management of the National Revenue Fund.

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1 Sections 213 to 219 of the Constitution  
2 Act, 1 of 1999  
3 Act, 56 of 2003  
4 Section 216  
5 Sections 223 to 225  
6 Sections 220 to 222  
7 Section 224(2)  
8 Section 216(1)  
9 Section 216(2)

14. Only the Minister of Finance can introduce a money bill, which is either a tax or spending bill, in the National Assembly or the Division of Revenue Bill.<sup>10</sup> Hence only the Minister of Finance can introduce the tax and spending proposals in Parliament as part of the Budget.
15. It is also only the Minister of Finance who can introduce a bill before the National Assembly that determines the equitable division of revenue raised and each province's equitable share of that revenue (the Division of Revenue Bill).<sup>11</sup>
16. Draft legislation that amends the budget (tax, appropriation and Division of Revenue bills) may only be introduced in the National Assembly by the Minister of Finance.<sup>12</sup>
17. A loan by the national government may only be concluded by the Minister of Finance and only for the following purposes: To finance national budget deficits; to refinance maturing debt or a loan paid before the redemption date; to obtain foreign currency; to maintain credit balances on a bank account of the National Revenue Fund; to regulate internal monetary conditions should the necessity arise; or any other purpose approved by the National Assembly by special resolution.

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<sup>10</sup> Section 73(2)(a)

<sup>11</sup> Section 73(2)(b) read with s 214

<sup>12</sup> Section 73(2)(a) reads with ss 77 and 214

<sup>13</sup> Section 71 of the PFMA

18. Similar to loans are guarantees, indemnities or other securities, which bind the national government to a future financial commitment. Before guarantees, indemnities or other securities, that bind the national government to a future financial commitment, may be issued, the concurrence of the Minister of Finance must be sought. Conditions may be attached.<sup>14</sup>
  
19. The Chief Procurement Officer (CPO) falls within the ambit of the political responsibilities of Minister of Finance. Public sector procurement must be undertaken in a manner that is fair, equitable, transparent and cost-effective. The CPO is responsible for permitting deviations and exemptions under circumscribed conditions.<sup>15</sup>
  
20. The effect of this is that the Minister of Finance has weighty responsibilities and often has to make unpopular decisions taking into account the long-term fiscal sustainability and economic interests of the country. It is this office that drives the budget process, approves loans and guarantees, oversees compliance with financial management and procurement processes and is the final bulwark against corrupt dealings that jeopardise public finances. This is why the optimal relationship is for any Minister of Finance to have the full support of the President at all times. The complexity of the position of Minister of Finance is more fully explained in a document prepared by former Minister Trevor Manuel as a handover memorandum when he left the office in 2009. I attach this document as **NN1**.

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<sup>14</sup> Section 70 of the PFMA

<sup>15</sup> Section 217

21. It makes sense, therefore, that those who wish to pursue a systematic strategy to raid the public coffers or those who are intent on taking decisions that have potential to undermine fiscal sustainability, would attack role or credibility of Treasury as a means of getting access to government funding allocations and guarantees or obtain permission (for exceptions or deviations) to conceal dubious and irregular procurement.
22. This is evident in the sinister document titled 'Project Spider Web' that suddenly surfaced in July 2015. Styled as an 'intelligence report' the document suggested that Treasury had been "captured" by apartheid-era intelligence operatives as well as "white monopoly capital" in order to control the country's finances. The document came to my attention on or just after 20 July 2015. It was forwarded to me by email from Anthony Julies who himself was mentioned in the document. The origin of the document and how it ended up in Treasury is still unknown to me. I annex the document as **NN2**.
23. When I read this document, it reminded me of a remark made by former President Zuma about a month earlier where he told me that there are "apartheid agents" within the Treasury. I recall conveying this remark to the Director-General at the time, Mr Lungisa Fuzile. I dismissed it as a conspiracy theory. However, it was clear to me that the Treasury did not enjoy the support and confidence of the President.
24. President Zuma made this comment at a meeting he had called me to around mid-2015. I recall that it was in the afternoon when my PA Mary Marumo came



into a meeting at our small boardroom in Pretoria to give me a note whilst I was having a meeting with the Director-General Lungisa Fuzile and other senior managers of the Treasury. She left me a note (which the Director-General saw, as he was sitting next to me) which read “the President would like to see you”.

25. I scribbled a response on the note saying that I would do so as soon as I finished the meeting. My PA returned a few minutes later with another note, saying I needed to go “now!!!”. I left the meeting immediately, murmuring that perhaps I was going to be fired.
26. On arrival, I found President Zuma with a senior Malaysian official from Engen/Petronas who I did not know. He explained that South Africa needed to own a refinery and that Petronas was prepared to sell its refinery to PetroSA. Further and most importantly, President Zuma stated that PetroSA would need a guarantee to be able to raise the funds and, as Minister of Finance, I would have to approve the guarantee.
27. I indicated that I was not aware of this transaction, but if I received an application from the entity via the relevant department, I would consider a guarantee subject to the normal evaluation process.
28. It was at that point that President Zuma, in the presence of the Malaysian official connected to PetroSA, raised the issue of spies within Treasury. This was about a month before the document “Project Spider Web” surfaced.

29. I briefed Mr Fuzile on President Zuma's request and a possible application that might come to Treasury for him to consider through the normal processes.
30. The Spiderweb document mentioned names of several officials of Treasury including Deputy Minister Mr Mcebisi Jonas, officials Mr Lungisa Fuzile, Mr Kenneth Brown, Mr Andrew Donaldson, Ms Avril Halstead, Mr Anthony Julies, Mr Ismail Momoniat, and employees of SOE's including Mr Daniel Matjila CEO of the Public Investment Corporation (PIC).
31. The key objectives of 'Project Spider Web' were alleged to be to:
  - 31.1. influence the design and implementation of the economic and fiscal policy;
  - 31.2. influence the appointment of key leaders in the Reserve Bank, Treasury, DTI and SOE's that fall under their Ministries;
  - 31.3. manage the outcomes of these institutions;
  - 31.4. defend the position of the Spider Web through media; and
  - 31.5. attack and prosecute critics of Project Spider Web through SARS and other means.
32. The main allegations made in relation to me were:

- 32.1. that I am being handled by Ms Maria Ramos whom the document code names the “Queen of Leaves”.
- 32.2. that during the recent World Economic Forum in Cape Town, I assembled all the DDG’s and Chief Directors from Treasury at a Cape Town hotel for a brief meeting and the outcomes of the meeting were that:
- 32.2.1. Mr Lungisa Fuzile, the then DG for Treasury will not be extending his contract at the end of August 2015. He will be joining the faculty of economics at the University of Stellenbosch and his departure would be a catalyst for some big changes inside Treasury.
  - 32.2.2. Ms Avril Halstead will be promoted to the position of DG at Treasury. She will be promoted to position of DDG very soon as a stepping stone for her to become the next DG.
  - 32.2.3. Mr Michael Sachs, the then DDG will be transferred to one of the SOE’s.
  - 32.2.4. Mr Tumi Moleke, will be transferred to another ministry as a DDG that works with treasury.

- 32.3. that I stated that Treasury must play a key role in the management of SOE's and expect my officials to play a firm hand in managing the affairs of the SOE's. A number of changes will be happening at the SOE's. One of the key actions of Treasury is to facilitate the participation of the private sector in the SOE's.
- 32.4. that I stated that the Government Technical Advisory Centre (GTAC) will be given a huge task of identifying private sector companies to partner with the SOE's.
- 32.5. that I stated that the board of SAA must be terminated by September 2015 and I indicated that Ms Maria Ramos was helping me to identify the new board members for the board of SAA. The former CEO of Kulula.com has been identified as a replacement for Mr Nico Bezuidenhout at SAA and GTAC will be given the task of identifying a strategic equity partner for SAA.
- 32.6. that I stated that Treasury must support the appointment of Mr Brian Molefe and that Eskom will be creating a position of COO and that Mr Matshela Koko will be filling in that position. Further that Treasury is very close to sell the government stake in Vodacom and Eskom will be getting some cash injection.
- 32.7. that Ms Maria Ramos was also invited by the Minister to give a word of support to the staff at Treasury. She praised the staff for the wonderful

work they are doing. She stated that she will be assisting Minister Nene to identify skills for the key positions at Treasury. She has already assisted in placing the key Chief Investment Officer at the GEPF. She will be assisting in identifying the CEO of GTAC, since Andrew Donaldson will be the Chairman.

33. I deny each and everyone of the allegations. They are baseless and have no merit.
34. I was concerned that Treasury was now going to be targeted in an attempt to undermine its legitimate role and function. On 26 August 2015 I issued a media statement condemning the Project Spiderweb 'dossier' as follows:

*"MEDIA STATEMENT: PROJECT SPIDER WEB DOCUMENT BASELESS*

*National Treasury has become aware of a document called "Project Spider Web" that has been circulated in the media and would like to condemn it in the strongest terms.*

*The faceless people behind it allege a conspiracy to influence economic policy and the work of the National Treasury.*

*The document is baseless and vexatious. It appears calculated to sow seeds of suspicion and may be motivated by an unexplainable desire to undermine and destabilise the institution. The contents neither warrant a response nor further comment.*

*The Treasury has passed it on to relevant authorities to investigate its source and will be transparent about the outcome of that process, once completed."*

35. As indicated in my statement, I tasked the Director-General Mr Lungisa Fuzile to forward the report to the relevant authorities for further investigation regarding the genesis of the 'dossier'. I understand that Mr Fuzile sent it to Minister Mahlobo and Dr Bathandwa Siswana. Mr Fuzile indicated that they visited him twice to ask for access to the email system of the people who received the document and those who were named. I have never received any follow-up report on whether an investigation was actually initiated by the relevant authorities or the outcome of any investigation.

#### **MY MEETING WITH DEPUTY MINISTER MCEBISI JONAS**

36. I first heard that I may be removed from office when I met with the then Deputy Finance Minister, Mr Mcebisi Jonas (Mr Jonas) on the morning of Monday, 26 October 2015. I have read his statement dated 8 August 2018 to this Commission and I confirm paragraphs 31, 33, 39 and 41 to 43 of that statement.

37. Mr Jonas telephoned me on Friday, 23 October 2015 in the afternoon. I had earlier left a Nedlac meeting at Nedlac House, Rosebank. I got the impression that Mr Jonas was agitated. He told me that there was an urgent matter that he wanted to share with me. I was on my way to O R Tambo International Airport for a flight to KwaZulu-Natal. We agreed to meet on Sunday, 25 October 2015 when I came back to Johannesburg.

38. However, on Sunday 25 October 2015, I arrived in Gauteng later than planned. I called Mr Jonas and requested that we postpone our meeting to Monday morning.
39. We met on the Monday morning, 26 October 2015 around 8:15. We were supposed to meet in my office but we decided to go to his office as he had a good balcony. I could see that Mr Jonas was flustered. He informed me of an uncomfortable meeting he had had with Mr Ajay Gupta, Mr Fana Hlongwane and Mr Duduzane Zuma in Saxonwold. He told me that during that meeting, he was offered the position I was holding at the time, that of Minister of Finance. He also told me that Mr Ajay Gupta offered him R600 000.00 in cash immediately and a further R600 million to be deposited in a bank account offshore. Mr Jonas told me that he rejected the offer of the deposit and the cash that he was invited to take immediately.
40. At that stage, there were rumours circulating in the media about an imminent Cabinet reshuffle. My name was amongst the Ministers who were reported to be due for removal. I had paid these rumours no regard.
41. Mr Jonas informed me that the Guptas were aware of this intended reshuffle and that they had informed him that they were influential in the removal of certain Ministers from their positions. I recall saying to Mr Jonas "Who are they to offer you the job of Minister?"

42. I suggested to Mr Jonas that I should resign since I was to be fired anyway. Mr Jonas pointed out, and I agreed, that I should continue to hold the line at Treasury and not give in to the threats. I was already concerned about attacks on Treasury and the intentions of those behind the Project Spider Web 'dossier' that had been released a few months earlier.
43. Although I was perturbed by what Mr Jonas had conveyed to me, I immediately returned to the business of the day. I had a very busy day that Monday with many meetings scheduled including a meeting with the Executive Director and Alternate Executive Director of the World Bank, Preparatory Meeting on SAA and a briefing on Eskom and Independent Power Producers. I did not wish to be distracted from the tasks I had to perform. We were working under pressure at Treasury and, amidst the particular challenges of the nuclear procurement programme, the troubles with SAA and Eskom, the economy was underperforming and we were required to consider where we could reduce expenditure as government. We had just presented the Medium Term Budget Policy Statement five days before on 20 October 2015 which is followed by many investor and public briefings I was required to attend. This is a busy period in the Treasury schedule and it required my full attention.

#### **MY OWN CONTACT WITH THE GUPTAS**

44. I met members of the Gupta family, particularly Mr Ajay Gupta, at official government events. The Gupta family were regular attendees at government events. I did not discuss government business with them.



45. The first time I met the Gupta family was at a Presidential dinner after the State of the Nation address in 2009. I was the Deputy Minister of Finance at the time.
46. I was later invited to tour the Guptas' Sahara Computers offices in Midrand. I did so on two occasions in 2010. They marketed themselves as good corporate citizens, that they do not do any business with the state, and they pay their taxes. They indicated that they were in the computer and mining industries. Mr Ajay Gupta, who had also served on the President's Investment International Marketing Council, indicated that he was an economist, and was also an advisor to the President. He invited me to tea to his house, to discuss the economy.
47. Whilst Deputy Minister, I visited their home in Saxonwold on four occasions, always taken by my protectors. I regarded the visits as one of my tasks as Deputy Minister to engage with different stakeholders in the economy. The visits were short, and initially was to discuss the economy, and to contribute an article to their magazine at the time "The Thinker". The later visits were related to a briefing on the impending launch of the New Age. I also visited their Midrand offices again in 2013 before the launch of their television channel ANN7. They indicated that they wanted to present a different perspective in their media, to shift it away from undue criticism of the ANC, to a more balanced perspective and to discuss the economy. They constantly indicated to me that he wanted to talk about the economy.

48. On all my visits, I and was driven to their home by my protectors. I recall seeing Mr Duduzane Zuma at the house in Saxonwold on most occasions but we did not speak.
49. I really first became suspicious of the family's intentions around 2013, after reports on the funding of the Estina Dairy farm. I had also been invited to the Gupta niece wedding in Sun City, but had declined the invitation, and did not attend it.
50. After becoming Minister of Finance in 2014, I went to their house on two occasions, around August and again in November 2014. On the first occasion Mr Ajay Gupta raised with me an issue that he was having with Mr Iqbal Surve of Independent Media. He wanted to know from me whether it could be correct that an agreement between Mr Surve and the PIC precluded Mr Surve from entering into a partnership with the Guptas to form an independent media group. On the second visit, I recall clarifying that this was not the case.
51. I was not requested to do anything to benefit the Gupta family or Mr Ajay Gupta nor was I offered any inducement.
52. I have also made my position clear, on 12 June 2018, in a response to a parliamentary question from MP Floyd Shivambu who insinuated that I facilitated the Guptas' access to the PIC during my tenure as Deputy Minister of Finance. I confirmed that *"I met some members of the Gupta family during government functions, specifically the dinner hosted by the Presidency after the*

*presentation of the State of the Nation address. On one occasion, I was invited to tour the Midrand offices of Sahara Computer offices. ... In both my role as Minister of Finance and my previous position as Deputy Minister of Finance, I have been approached by numerous individuals and companies asking for my assistance in securing finance, specifically from the PIC. In all instances, these individuals and companies were informed that they should approach the PIC directly through its formal channels." I attach the full response as NN3.*

53. On 14 September 2018 I received another set of questions from Mr Shivambu again insinuating that I had meetings with the Gupta family when I was Deputy Minister of Finance to discuss business dealings and in particular in relation to PIC funding of the Gupta Family. He further insinuates that I was contacted by the Gupta family when I was Minister of Finance to secure promises that I made to them whilst I was Deputy Minister of Finance. I am yet to respond to these subsequent questions raised by Mr Shivambu. However, I wish to confirm that, other than what I have indicated above, I have never had any meetings with the Gupta family to discuss their business funding from the PIC when I was Deputy Minister of Finance or when I was Minister of Finance.
54. I would like to point out that I became chair of the PIC between 2009 to 2014, in my capacity as Deputy Minister. It was the practice that the Deputy Minister is appointed by Cabinet as a non-executive director and Chair of the Board of the PIC. As is the practice with this role, I was not involved in investment decision-

making, except where a specific transaction would have had to be approved by the Board (as per delegation of authority).

55. All investments approved by the PIC are made in terms of investment mandate and must fit the mandate. Approvals are done in terms of the Board-approved delegations of authority. If the transaction had served on the Board, I would have not been the one making the decision, but the collective Board.
56. I deny that I have ever acted inappropriately with regard to any investments made by the PIC. I deny any and every allegation that I knowingly acted to promote any funding from the PIC for any business involving my son. I reject with contempt fake whatsapp messages alleging my wife has received any foreign funds in any account belonging to her. My wife does not have any foreign accounts and did not receive any funds from any foreign sources.
57. Whenever I was confronted with making any final decision on any request made to me by any person, my practice is always to ensure that the Department first provides me with advice, and also that I approve requests that are within my legal and statutory powers.

## **THE RUSSIA SUMMIT AND NUCLEAR PROCUREMENT**

58. It is well known that the potential nuclear build programme has been contentious and controversial and the subject of media reports.
59. Preparations for the implementation of a nuclear build programme began in 2011 with the Cabinet approval and subsequent promulgation of the Integrated Resource Plan (IRP2010) which provided for nuclear power to contribute an additional 9.6GW to the energy mix by 2030, with the first new plant coming online in 2023.
60. In November 2011, Cabinet established the National Nuclear Energy Executive Committee (NNEECC) as the political structure that would oversee the nuclear programme.
61. At its inception the Committee was chaired by the then Deputy President Mr Kgalema Motlhanthe. Later on, President Zuma took over the chairing of this Committee. In 2014, this was transformed into the Energy Security Cabinet Sub-committee, which was led by the President, and included the then Minister of Energy Mr Ben Martins and other relevant Ministers.
62. The Energy Security Cabinet Sub-committee was supported by a Nuclear Energy Technical Committee which was headed by Department of Energy, but underneath it were various technical committees from different departments. For instance, the Corporate Finance and Procurement sub work group, where the Treasury officials participated, had Treasury and Department of Public Enterprises chairs.

63. The Department of Energy provided Treasury with a draft feasibility study for the nuclear programme in December 2013. Upon review of the Treasury's analysis of the draft feasibility study, it became apparent to me that regardless of the underlying policy rationale to develop nuclear energy capacity, the costs associated with it are astronomical. The envisaged 9.6GW nuclear new build programme would have constituted the largest public investment programme in South African history, and, relative to the size of the South African economy, would have been one of the largest public sector investments ever undertaken internationally. The total investment required would have had material consequences for Eskom's and the country's foreign and domestic debt, fiscal and financial position, the balance of payment and sovereign balance sheet for decades to come, as well as investment grading, which would have had implications for all South Africans.
64. I was also very concerned that the recovery of nuclear build cost through the tariff would have profound consequences for the economy and South African users of electricity. This point had become much clearer for me in the face of mounting resistance to electronic tolling in Gauteng. The "user pays principle" was being turned on its head. Construction costs that had originally been meant to be recovered through tariffs were being paid for from general tax revenue with deleterious consequences for public policy and fiscal management.
65. In addition, there would have been large risks associated with the nuclear build programme. Global experience has shown that the large upfront capital

investment, long construction period and the complexity of nuclear projects means that nuclear power projects are especially sensitive to construction risks arising from delays and disruptions, cost overruns or increases in financing costs. If these risks materialise the increased costs are locked into the cost of electricity for the lifetime of the project. Therefore, the proposed nuclear programme was not only scrutinised by the stakeholders involved but it was questioned by the public whose funds were going to be used to finance it.

66. This meant that it was critical that Treasury carefully study the feasibility and fiscal affordability of the proposed nuclear project. The funding model was central to the determination of affordability. In other words, key issues were the fiscal affordability of the funding or guarantees to secure borrowing that would be required to finance the project and the impact on the economy of the electricity tariff required to repay the debt used to finance the project. In the light of the legal obligations of my position, I would ultimately have to approve the funding model based on its viability.

67. On 22 September 2014 the new Minister of Energy, Ms Joemat-Pettersson announced that Russia and South Africa had signed an intergovernmental framework agreement. This agreement laid the foundation for nuclear programme procurement.

68. On 10 June 2015 the Minister of Energy tabled in Parliament five inter-governmental nuclear cooperation agreements that had been concluded with the Russian Federation, France and the People's Republic of China, the United

States of America (USA) and South Korea in Parliament for approval. These are annexed as **NN4**.

69. On the same day, Cabinet took a decision that, amongst others, required the Minister of Energy, in consultation with the Minister of Finance and the NNEECC, as a matter of urgency, to present a memorandum to Cabinet dealing with the financial implications, proposed funding model, risk mitigation strategies for the nuclear new build programme and the contributions by countries as contained in the Inter-Governmental Agreements.
70. Shortly thereafter, the annual diplomatic summit of heads of state or governments of the BRICS member states summit took place from 8 - 9 July 2015 in Ufa, Russia. I was a member of the South African government delegation that attended the meetings. I however first started in Moscow, Russia on 7 July 2015 where I attended the BRICS Finance Ministers' and Central Bank Governors' Meeting and the First Meeting of The Board of Governors of the New Development Bank (NDB). Accompanying me in Russia were the Director General, Mr Lungisa Fuzile who returned home after attending all the meetings that took place in Moscow where the founding documents of the BRICS bank were ratified and the Bank was formally established. I continued to Ufa with the DDG Ms Mmakgoshi Phetla-Lekhethe, who proceeded with the delegation to Ufa and Mr Marlon Geswint, the Chief of Staff.



71. In Ufa I, together with other Ministers, attended a briefing meeting with Mr Zuma on 8 July 2015. I intended to brief Mr Zuma on the summit and his forthcoming one-on-one meeting with President Putin of Russia. Mr Zuma proceeded to discuss the issue of nuclear procurement in South Africa. In essence Mr Zuma wanted to know what progress the Minister of Energy and I had made on the nuclear deal as Cabinet had directed us to prepare a memorandum on, amongst others, the financial implications and funding model of the nuclear programme. I indicated to Mr Zuma that the absence of details regarding the proposed financing of the project made it difficult to make progress with the memorandum. I was surprised that Treasury officials were not allowed in the meeting, even though the DG of DIRCO was present.
72. During this meeting, Mr Zuma criticised me for not finalising the financial aspects of the proposed nuclear deal with Russia. Mr Zuma said he was not happy that I was not doing what I was supposed to have done a long time ago so that he could have something to present when he meets President Putin for their one-on-one meeting.
73. The former Minister of Energy, Ms Joemat-Pettersson for her part, had a draft letter, a mere one page, ready for me to consider and sign. It was a letter addressed to Russian authorities. I cannot remember the exact detail of this letter, but I recall that it was essentially providing a form of guarantee to the Russian government on the nuclear programme if the Russian government were to finance it. Although it was couched in letter form, I was reluctant to sign as my signature would have resulted in a binding financial commitment by

the South African government. I said to Ms Joemat-Pettersson that I would not append my signature but if she wants to sign it, she must go ahead alone but I cautioned that whatever she ultimately signs should not have any financial commitments. She insisted that it had to be a joint decision of the both the Ministers of Energy and Finance. She was not satisfied with my response but agreed to revise the letter.

74. Immediately after the meeting, I had dinner with the officials I was travelling with and briefed them on the meeting and my refusal to sign the letter presented to me by Ms Joemat-Pettersson.
75. About an hour later Ms Joemat-Pettersson brought a revised letter to me. I recall reading it and concluding that the fiscal and financial implications remained. I rejected the letter again. She was quite concerned about what she should say to Mr Zuma given my stern refusal to sign. I told her that I don't know what she should say but I would not sign without seeing and approving the funding model as duly required by the Cabinet and without the necessary processes being followed for such a big project. She left and I was not presented with any further version of the letter.
76. As a result of my refusal to sign the letter, I was seen as the person standing in the way of the nuclear deal. I was accused of insubordination, not only by the President but by some of my colleagues. I recall that the attitude of my colleagues, particularly the Minister of International Relations Minister Maite Nkoana-Mashabane and the Minister of State Security Minister David Mahlobo

was hostile. They wanted me to sign and felt that it was not right that the issues on the nuclear deal had not been finalised.

77. My colleagues, with respect, failed to understand the implications of my signature on the document – that is, concurrence in my capacity as Minister of Finance to commitments which would have been binding on the South African government. As the Minister of Finance I was responsible for ensuring the secure, accountable, transparent, sound, effective and efficient management of the country's public finances, sovereign debt and the economy. Section 66 of the Public Finance Management Act (PFMA) provides that only the Minister of Finance may enter into a transaction that binds or may bind the National Revenue Fund (i.e. the fiscus) to any future financial commitment.
78. I told President Zuma in the meeting that I could not sign the letter without having first interrogated the financial and fiscal implications and proposed funding model. This was in line with my statutory mandate as well as the recent Cabinet decision of ensuring sound management not only of the government's finances but also those of the institutions governed by the PFMA.
79. Whilst still in Ufa, I asked my counterpart, the Russian Finance Minister Siluinov and his Deputy Mr Sergei Shatalov, whether they were aware of this 'nuclear deal' and what exactly our countries were talking about. The Deputy Minister responded that, although they had heard of such discussions, they had no real idea what it was about and were not involved in the discussions. This surprised me because, if I were to sign anything that had financial

commitments from the Russian government, I would have expected my counterparts to not only be aware but to play a role.

80. Following the tabling of the cooperation agreements in Parliament, I was repeatedly asked through parliamentary questions and the media whether the Treasury was consulted on the financing options for the nuclear build programme and its fiscal and financial feasibility prior to these agreements being concluded. Generally, I responded to such questions, by indicating that nuclear would be a substantial financial commitment and that government was undertaking a careful and thorough analysis of financing options and considering the costs, benefits and risks of building additional nuclear power stations to ensure the affordability and long-term sustainability of the fiscus and financial soundness of the state-owned entity tasked with undertaking such a programme.
81. I knew from Mr Zuma's treatment of me in Russia that he was very unhappy with my refusal to sign the draft letter. This was confirmed to me in a conversation with the Deputy Minister of Finance, Mr Mcebisi Jonas, after my return from Russia. I received a call from Mr Jonas about two weeks after returning from Russia. I remember that it was the day of an ANC lekgotla held towards the end of July 2015. He told me that he had been called to a meeting with Mr Zuma in which Mr Zuma expressed dissatisfaction with me, particularly the stance that I took on the nuclear procurement process in Ufa and my refusal to sign the draft letter presented by Ms Joemat-Pettersson. This confirmed what I already knew.

82. I thereafter convened the Director-General and a team of relevant senior Treasury officials and instructed them to establish a joint task team with officials from the Department of Energy. The joint task team was to be responsible for undertaking the required detailed technical work and preparing a technical report for submission to Cabinet on the financial implications, funding model and risk and mitigation strategies related to the proposed 9.6 GW nuclear new build programme, as had been instructed by Cabinet.
83. In September 2015 the team provided me with a preliminary report on the fiscal and financial implications, funding models and risk mitigation for the nuclear new build programme. The report set out the key considerations in respect of the programme; funding models and key risks; modelling of the fiscal implications and conclusions and recommendations. In essence the conclusion was that even under optimistic assumptions regarding the cost of the programme, that did not allow for the sorts of significant cost overruns seen on the Medupi and Kusile projects, and moderate economic growth assumptions of 2-3 percent, the government debt levels would grow exponentially. This would be absolutely fiscally unsustainable.
84. As a means of moderating the risks, the Treasury team recommended spreading the construction over a longer period of time, maintaining flexibility by not entering into any legally-binding commitments beyond two units of nuclear power stations upfront and making stop-go decisions based on an assessment of the progress in implementation, the economic environment, fiscal position and affordability.

85. I was advised that this approach was discussed between the officials of the Treasury and the Department of Energy and that while the latter were originally determined to motivate for the purchase of 9.6 GW, they were ultimately persuaded to accept the phased procurement.
86. I was also advised that even when there were changes at the level of the DG at Energy the Treasury DG and his colleagues took time to explain to each succeeding DG the rationale behind the phased procurement.
87. The Treasury team recommended the provision of R200 million for a feasibility study for preparatory work that would allow for a more thorough consideration of the costs, risks and benefits.
88. On 8 December 2015 Mr Zuma met with all the Cabinet members whose portfolios were relevant to the nuclear deal. We met at the presidential guest house, Mahlamba Ndlopfu, in Pretoria. The meeting was initially scheduled for 15h00 but I was later advised that the meeting would take place an hour later. When I arrived at the venue just before 16h00, I discovered that a consultation had taken place between Mr Zuma and my Cabinet colleagues, including State Security Minister David Mahlobo, International Relations Minister Maite Nkoana-Mashabane, Public Enterprises Minister Lynne Brown and Energy Minister Tina Joemat-Pettersson to the exclusion of me and my team from Treasury. I attended the meeting with Director-General Lungisa Fuzile, DDG Michael Sachs and then DDG Dondo Mogajane. We proceeded to gather in a boardroom for the nuclear committee meeting, which I had originally been requested to attend. Nothing was said about the consultation that had just

taken place. Initially I entered the meeting without my officials, as it was a Ministerial meeting, but when I noticed that the Minister of Energy had included officials from the Department of Energy, I requested the Treasury officials to participate in the meeting.

89. The officials who were present from the Department of Energy presented the proposed nuclear programme to the President and other Ministers. The presentation did not reflect the input from Treasury regarding the concerns with the feasibility of the programme and the possible scaled approach. Instead the Energy officials presented a procurement plan based on the production of 9.6 GW of nuclear energy. The Department's assumptions were extremely optimistic with respect to the assumed construction cost and exchange rate implications resulting in a much lower cost for the programme than was realistic. In addition, there was no consideration of the fiscal implications under different economic scenarios.
90. The presentation assumed an exchange rate of R10/\$ (USD), whereas the exchange rate assumed by the Treasury was between R12 and R14 to the dollar. In fact, on that day the exchange rate was R14.57 to the dollar.
91. Put in simply, failing to show the Committee a scenario depicting the rate at which the rand was exchanged for the dollar on that day meant that the Committee was presented with a 40 per cent understatement of the cost of nuclear. So, if the price of 9.6 GW was US\$100bn, the understatement was US\$40bn (or some R560billion). This was a truly gross material

understatement of the project. While it could have been possible to argue that the rand could regain its strength, it is instructive that the rand is trading at around R14 this week.

92. After the presentation Mr Zuma asked me if I had anything to say in response. I pointed out that the concerns of Treasury were not included in the presentation. In particular I noted that the assumptions in relation to the exchange rate were optimistic and that there was still no funding model accompanying the presentation. I didn't really think that there was any point in saying more and resisting any further. I suggested that the officials from the Departments of Energy and Treasury finalise the presentation for the Cabinet meeting the next day. I requested my Director-General at the time, Mr Lungisa Fuzile, to give his input. Mr Fuzile expressed serious concerns, at length, regarding the cost implications of the proposal and the failure by the Department of Energy to phase the construction over a longer period of time.
93. The meeting concluded with a decision to proceed with the nuclear programme proposal by the Department of Energy despite the contrary views of the Treasury. In fact the President made an off-the-cuff remark that Treasury would not "*do to us what you did with PetroSA*". The following day was a Cabinet meeting and this proposal was to be placed before Cabinet for adoption.
94. That night, after the meeting with the President was concluded, my officials and I proceeded to the Sheraton Hotel for coffee. We were astounded at what had



taken place at Mahlamba-Ndlopfu, given the magnitude of the nuclear build programme. The proposed nuclear build programme would eclipse even the Strategic Defence Procurement Packages (the arms deal) in terms of its financial implications. The arms deal was initiated before the PFMA came into effect, yet even without its prescripts the Treasury played a central role in developing affordability reports, advising the Cabinet on economic, fiscal and financial impact and risks of the procurement, and monitoring and evaluating the budgetary implications of the envisaged procurement package.

95. Officials from Treasury served, and played a meaningful role, in several committees that were to advise Cabinet on the feasibility of the arms procurement, including the Finance Negotiation Working Group (which assisted in negotiating foreign exchange loan agreements with foreign banks and in negotiating financial aspects of the procurements with the suppliers and supplier-related parties) and the Financing Evaluation Team (which, amongst others, was to conduct a fiscal analysis of the affordability and budget-impact of the proposals).
  
96. Several key reports were produced with the assistance of the finance officials including the Availability of Funding Report, which was adopted by the Minister of Finance on 30 June 1998. The reports were presented to Cabinet and once the acquisition process began the Cabinet appointed a ministerial committee, which included the Minister of Finance to lead the process with a view to achieving affordable agreements with suppliers.

97. In short Treasury played an integral role on the financial aspects of the arms procurement process, including warning of the financial and fiscal risks and defining the most appropriate way of financing the procurement of the defence packages.
98. The details of the role of Treasury was fully set out before the Seriti Commission and it is not necessary for me to expand on that here. I simply wish to point out that, in relation to the arms deal, a rigorous procurement process was conducted with the support of Cabinet. Since then our laws have been revised to require even more rigour in both the procurement process and in the management of public finances. Yet, despite the nuclear procurement process being multiple times the cost of the arms deal this rigour was not observed.
99. While we were still at the Sheraton Hotel we saw a Business Day online report saying that I would be fired and Mr Des Van Rooyen would replace me. Again I did not pay much regard to the reports. I annex the printed newspaper report the following morning as **NN5**.
100. At the meeting with the President the following morning 9 December 2015, I informed him of the documents that would be tabled at the Cabinet meeting. Of particular importance was to apprise the President of the budget allocations for the next year. As this was the last Cabinet meeting of the year, Cabinet needed to adopt the Budget recommendations so that preparations could be

undertaken over the vacation period. The President did not raise with me his intention to remove me from office.

101. The Cabinet meeting began at 8:30am. I prefer not to speak publicly about the events at the meeting due to their confidentiality. I am however happy to speak about them if I should be ordered to do so. The outcome of the meeting, on the nuclear issue, was that Cabinet decided that the Department of Energy should issue a Request for Proposals for the nuclear build programme, with the final funding model to be informed by the responses received to the request.

## **SOUTH AFRICAN AIRWAYS**

### **Introduction**

102. SAA was brought under the administration of Treasury on 11 December 2014 (gazetted on 19 December 2014) due to poor governance and financial instability. At the time of the transfer, SAA's financial position was extremely weak. In the 2012/13 financial year, the airline suffered a loss of R1.2 billion. The loss increased to R2.6 billion in 2013/14 and the airline was on track to realise an even larger loss for the 2014/15 financial year, which eventually amounted to R5.6 billion. The company was technically insolvent, with its liabilities exceeding its assets by R3.5 billion as at March 2014 and was experiencing severe liquidity challenges. It was only able to raise funding with the support of government guarantees. A total of R7.906 billion in guarantees

had already been issued to airline to enable it to continue operating as a going concern.

103. It was incumbent upon me to ensure that decisions taken by SAA were responsible and consistent with a turnaround strategy to stabilise the entity.

### **Going concern guarantees**

104. Prior to the transfer of the Executive Authority responsibilities, the former Minister of Public Enterprises (MPE) had written to me on 21 November 2014 requesting my concurrence to the issuance of a R6.488 billion perpetual going concern guarantee in favour of SAA. The guarantee was intended to enable SAA to finalise its financial statements on a going concern basis and secure the liquidity necessary to meet its commitments.

105. At the time, SAA's cash flow forecast showed that it would run out cash by mid-January 2015 unless additional guarantees were provided. This would have triggered a default by SAA on its guaranteed debt, requiring government to meet the obligations on SAA's behalf, as well as negative economic impact and loss of jobs.

106. Having reviewed the application, on 22 December 2014, in my new capacity as the Executive Authority for SAA, I issued the guarantee in favour of the airline, bringing the total guarantee facility to R14.4 billion. In reaching this decision I took into account the recommendations of the Fiscal Liability Committee

(comprising Deputy Directors-General and other officials of the relevant divisions in Treasury).

107. In August 2015, SAA submitted an application for additional guarantees totalling R5.0 billion. Like the previous year, this was required in order for the airline to be able to finalise its financial statements on a going concern basis and secure liquidity.
108. The Fiscal Liability Committee recommended that I do not approve the issuance of the requested guarantee, citing concerns that there was no financial case to support the issuance of the guarantees and that the governance challenges at SAA did not provide confidence that the airline would turn-around within the projected timeframes.
109. The Fiscal Liability Committee is a structure comprising of senior officials of the Treasury (mainly DDGs) which is chaired by the DDG who heads Assets and Liability Management. The Committee evaluates all applications for guarantees and makes recommendations to the Minister of Finance. In evaluating the applications the Committee seeks to determine the probability that a state guarantee might be called, namely that the national revenue fund might have to make good some or all of the amount guaranteed.
110. In terms of the PFMA, calls against a guarantee are a direct charge against the National Revenue Fund. So, if an SOC whose debt is guaranteed by the sovereign fails to pay its debt when it falls due, then the creditors have

recourse against the National Revenue Fund. Such a payment supersedes even the payments for social security grants.

111. While the approval of a guarantee does not lead to an immediate outflow of cash from the National Revenue Fund, if the guarantee is extended to an entity whose balance sheet and cash flows are weak it can be a huge inconvenience to the country and the way guarantees work “cuts out” parliamentary scrutiny. It is for this reason that Treasury’s approach to guarantees has always been circumspect.

112. With the above context and bearing in mind the advice I was given on the nuclear guarantee, I wrote to the chairperson, requiring that SAA finalise certain outstanding matters before 18 September 2015. Concluding these matters would assist in improving the financial performance of SAA. Amongst the outstanding matters to be finalised before the guarantee request would be reconsidered was the conclusion of the Airbus contract.

113. As no response was received from the airline, I wrote again to SAA on 28 September 2015 requiring that the outstanding matters be finalised by the following day. This would have allowed me to table the airline’s annual financial statement in Parliament by 30 September 2015, as prescribed in the PFMA.

114. In her response dated 29 September 2015, the chairperson provided a high level overview and update on the outstanding matters I had raised. On 30

September 2015, I responded that I had referred SAA's response to the Fiscal Liability Committee for due consideration. At the same time, I stressed that the decision on A320/A330 swap transaction would have a material impact on the amount of support required and that delays in reaching finality on this matter could delay a decision on the going concern request.

### **The Airbus contract**

115. The Airbus contract related to a purchase agreement that had been concluded between SAA and Airbus in 2002. Amongst other things in the agreement, SAA was to purchase fifteen (15) A320-200 aircraft (A320s). This agreement was amended in 2008 to increase the number of A320s to twenty (20). Of these, ten were delivered between 2013 and 2015. The remaining ten were due to be delivered between 2015 and 2017.

116. As a result of SAA's financial pressures and the pre-delivery payments falling due, the SAA management renegotiated the terms of the amended purchase agreement with Airbus in which the parties agreed that the purchase of the remaining 10 A320s would be cancelled and SAA would enter into operating leases of five long haul A330-300 carriers from Airbus. SAA would not be required to recognise impairments that they would otherwise have had to do. In addition Airbus would refund to SAA R1.3 billion of pre-delivery payments it had made on the ten A320s which would reduce pressure on the company's tight liquidity position. I approved this agreement on 30 July 2015 and later, in September 2015, confirmed my approval again.

117. Instead, after I had granted my approval, Ms Myeni proposed an alternative transaction in which SAA would purchase the A330s and enter into a sale and leaseback of the aircraft with a local leasing company.
118. I responded on 30 September 2015, requesting assurance that any such amendment would leave SAA in a better financial position than would otherwise have been the case had the swap transaction gone ahead and that steps must be taken to mitigate any risks that could arise from the original swap transaction not proceeding.
119. Furthermore, I notified the chairperson that, in the event that there was a material amendment to the transaction, SAA would be required to resubmit an application for approval in terms of Section 54(2) of the PFMA. I required that the rationale for reconsidering the application as well as a comprehensive business case and the financial implications of the alternatives that were being considered be provided for my consideration.
120. These requirements were reiterated several times in my subsequent correspondence to the SAA chairperson.
121. During October, I became aware that the persistent delays in reaching finality meant that Airbus was threatening to walk away from the swap transaction. This would have resulted in Airbus reverting to the original A320 purchase agreement, which was still in place, with the consequence that SAA would have



to pay the Pre Delivery Payments (PDPs) for which funds had not been secured as well as having to recognise impairments that would negatively impact the financial performance of the airline.

122. It also came to my attention that in the absence of SAA concluding the original swap transaction, Airbus was enforcing their rights under the A320 purchase agreement, and demanding payment of the PDPs. I had been informed that the most immediate payments, which were due at the end of November amounted to around \$44 million. Payment of this amount would result in a cash shortfall and the significant risk of a default by SAA. Therefore, immediate and decisive action was required to conclude the transaction.

123. Following repeated entreaties, the airline submitted a “business case” on 9 November 2015. After reviewing the “business case”, which revealed a number of gaps and flaws, I wrote to the chairperson on 12 November 2015 indicating that the business case provided little in the way of concrete information that would be required to make an informed decision and requested additional details.

124. Based on Treasury’s review of the alternative proposal during November 2015, it was evident that SAA had not demonstrated that there was certainty that the proposed amendment to the transaction structure would leave the airline in a better financial position than under the original swap transaction structure. There was even a significant risk that it would leave SAA in a materially worse off financial position where it would be unable to meet its commitments as they

fall due. This meant that there was a high probability of SAA defaulting on its government guaranteed debt, which would have had severe consequences for the fiscus and the economy. On 2 December 2015 I decided not to approve the alternative transaction. I announced this decision publicly on 3 December 2015 in a press statement. The statement explained that

*“SAA had not demonstrated that there was certainty that the proposed amendment to the transaction structure would leave the airline in a better financial position than it would otherwise have been had the airline implemented the original swap transaction structure. In fact, the information indicated that the proposed transaction structure would actually leave SAA in a materially worse off financial position where it is unable to meet its commitments as they fall due. Although possible benefits may be realised through allowing the airline to continue to pursue an alternative transaction these were far outweighed by the high probability of a default on the government guarantees and the severe consequences thereof.”*

125. I, and the Treasury, were concerned that should SAA not meet the terms of the PDPs and therefore default on its obligations it would have severe negative consequences for SAA and for the country as a whole. As with the nuclear build proposal, we were concerned about the impact of the deal on government’s capacity to deliver on its social and developmental objectives.

### **Appointment of the SAA Board**

126. I was extremely concerned by the leadership instability at the airline, and my concern increased from August 2015 when several senior executives were either replaced or resigned citing a breakdown of trust with the Board. A stable executive management team was crucial to implementing the airline's turnaround strategy, so that the airline could return to financial sustainability. At the time, I requested the board to brief me on these developments and their impact on the operations of the airline.

127. Around November 2015, I was called to a meeting with the former President, Mr Jacob Zuma, and the then chairperson of SAA, Ms Dudu Myeni. This meeting took place shortly after an ANC Study Group meeting on 3 November 2015. Some of those present at the Study Group meeting that I can recall included Mr Yunus Carrim, Ms Makhosi Khoza, Mr Des Van Rooyen, Mr Pule Mabe, Ms Pinky Kekana, Ms Cindy August and Ms Dikeledi Mahlangu. I expressed in the Study Group meeting the view that "either Ms Myeni leaves or I leave." This was reported to Ms Myeni, who was not in the study group on the day.

128. At the meeting with the President and Ms Myeni, the President said that he was trying to get us to 'find each other'. I found this odd because Ms Myeni reported to me, yet the President was treating us like two errant school children. It was an awkward meeting. Ms Myeni complained about me. I realised that there was little to be achieved at this meeting as it seemed intended to allow Ms Myeni to complain. However, I stated the issues as I saw them; that I felt that Ms Myeni was obstructive and that she played the media. I

indicated that I was of the view that Ms Myeni should be removed from the Board: under her leadership, the airline had persistently been in crisis throughout the year, and reckless action by the Board had repeatedly exacerbated, rather than averted the crisis. On a number of occasions, this had meant that there was a material threat that the airline would default on its government guaranteed obligations, which would have had negative consequences for the fiscus and the economy. After expressing my views I requested to be released from the meeting.

129. On 9 December 2015, I made a submission for the appointment of a new SAA Board which was circulated to the Cabinet, but not tabled for discussion.

### **The Khartoum route**

130. On 17 June 2015 Ms Myeni wrote a letter to me informing me that *"in a phone call discussion with His Excellency President Zuma while in Sudan 3 months ago, a request was made for SAA to evaluate the potential for a new route to Khartoum"*. The letter requested me to consider the outcome of a Business Case for SAA to open a new route from Johannesburg to Khartoum via Entebbe, Uganda. The Business case was said to provide a basis on which I can present the results to President Zuma. The letter came to me 3 days after the Sudanese President, Omar Al- Bashir, had left South Africa after having attended a summit of African heads of state. It was made in circumstances where the executive management of SAA did not agree with the proposal. A review of the letter and Business Case showed that SAA would incur losses of

approximately R30 million in the first two years of operation – money that the airline simply did not have. I attach a copy of the letter and Business Case as **NN6**.

131. I responded to Ms Myeni as follows:

*"I understand from your letter that the evaluation for a potential new route for SAA to Khartoum arose as a result of a discussion you had with his excellency, President Zuma.*

*...*

*the business case evaluating the new route projected that the route would incur losses of approximately R30 million in the first two years of operation. Notwithstanding the projected losses, you have stated some alternative measures which could make the route financially viable. These include subsidisation of SAA services by the Government of Sudan or SAA undertaking operations on behalf of the Government of Sudan as a designated flag carrier. The costs and benefits of these alternatives have not been provided and implementation, if possible would require engagement of various stakeholders within both the Governments of the Republics of Sudan and South Africa before being considered. As part of the National Treasury's on-going weekly technical meetings with SAA, continuous feedback is being provided with regard to the progress of the implementation of the network and fleet plan. During these meetings, SAA indicated that the letter received from you is purely for information purposes and is not a PFMA Section 54 application.*

*In the events that SAA decides that it would be favourable to operate the route, a comprehensive PFMA Section 54 application would need to be submitted for my consideration. Consequently, based on the current proposal, I am not in support of SAA commencing operations to Khartoum.*

*In conclusion, due to the loss-making nature of the proposed operations to Khartoum, I do not approve the commencement of operations on the envisaged route.”*

132. I attach a copy of my response and memo not approving the proposal as **NN7**.

133. This and other similar decisions frustrated Ms Myeni and the President and, I suspect, contributed to the decision to remove me.

#### **MY REMOVAL FROM OFFICE**

134. The Cabinet meeting of 9 December 2015 ended at about 17h30. I was on my way home from the meeting when I received a call from the President's office informing me that the President wished to see me. I immediately turned back to the Union Buildings.

135. I arrived at the Union Buildings at about 18.00 or 18.15. When I arrived I was required to wait in the waiting room for a short while. Ms Lakela Kaunda was in the waiting room. We greeted but nothing further passed between us. After a short while the President emerged and ushered me into his office. The first

thing the President said to me was “I had asked them to tell you that I wanted to see you after the meeting.” He had asked Ms Kaunda to contact me but she hadn’t. Nor did she mention anything about it in the waiting room. She was clearly aware of what was going on. I informed him that I did not receive that message.

136. The President then said “*You would remember that when we were discussing the establishment of the Africa Regional Centre I had said that we would have to deploy a senior, high-ranking individual to that position?*” I confirmed that I recalled the President saying that.

137. By Africa Regional Centre the President meant the African Regional Centre of the BRICS New Development Bank (the BRICS bank). The BRICS countries had signed an Agreement establishing the BRICS bank at the Sixth BRICS Summit in July 2014 in Brazil. The BRICS bank is to have regional offices, the first of which is the Africa Regional Centre in Johannesburg.

138. The President went on to say, speaking in isiZulu, “*[w]e discussed this matter with the top 6 and we agreed that we should put you there*”. I asked when this decision was to take effect and he informed me that he would be making an announcement “*shortly*”. I thanked the President for having provided me the opportunity to serve the country as Minister of Finance. We shook hands and I left. The entire meeting lasted two or three minutes.

139. The President made no mention of any other reason for my removal. I did not ask the President for reasons for this decision as I did not think it would be appropriate. That was the first and last time we ever spoke about the position at the BRICS bank.
140. It is obvious that the 'deployment' to the BRICS bank was a fabrication. I say so because the President had no authority to offer me a position or to deploy me to a position in the BRICS Bank, nor could such an appointment be considered at that stage, at least without due process, which also involves other member countries.
141. There is a formal process for appointments at the BRICS bank. Furthermore, there is a clear line of authority within the BRICS Bank. It is the Vice Presidents who are responsible for various functions within the Bank and the responsibility for the Regional Offices fell under and it would be his responsibility to lead the process of the appointment to the Africa Regional Centre of the Bank. The President has no authority to make any appointments at the Bank. As a head of state his role is limited to participation at summit meetings.
142. In any event, I already held the position of Governor at BRICS, a position more senior than that to which I was being 'deployed'.



143. Needless to say, the offer did not materialise and the position remained vacant until I returned as Minister of Finance and appointed the current holder of that position.
144. After my meeting with the President I made contact with several people via SMS and telephone calls regarding what had just happened.
145. Later on, I met the then DG at my official residence and I encouraged him to continue to keep the Treasury team together and to motivate it even in the face of what had happened. I repeated the same in the morning of the following day when I visited the Treasury to clear my office and to say my good byes to the rest of the Treasury staff.

## **CONCLUSION**

146. I have prepared this statement in accordance with the request of the legal team of the State Capture Commission of Inquiry. It may not reflect all that I witnessed during my tenure as the Minister of Finance. During my brief tenure, the key events related to the 2015 Budget and the 2014 and 2015 Medium Term Budget Policy Statements. I also tabled the Financial Intelligent Centre Amendment Bill and the Financial Sector Regulation Bill (after their approval by Cabinet) which was subsequently adopted by Parliament. I reserve the right to supplement this statement at a later stage.

DATED AND SIGNED AT *PRETORIA*..... ON THIS ..../... DAY OF OCTOBER  
2018.

A handwritten signature in black ink, appearing to read 'Nhlamhla', is written over a horizontal line. A second horizontal line is drawn below the signature.

**MINISTER NHLANHLA MUSA NENE**