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Our ref. Mr. WD Spies

16 August 2017

HIS EXCELLENCY THE PRESIDENT OF ZIMBABWE – HONOURABLE R G MUGABE

**C/o THE CHIEF SECRETARY
IN THE OFFICE OF THE PRESIDENT AND CABINET**
The Office of the President and Cabinet
Munhumatapa Building
Off Samora Machel Avenue
HARARE

and

THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE
C/o The Office of the President and Cabinet
Munhumatapa Building
Off Samora Machel Avenue
HARARE

and

THE MINISTER OF STATE IN THE OFFICE OF THE PRESIDENT AND CABINET

The Office of the President and Cabinet
Munhumatapa Building

Off Samora Machel Avenue / S MACHEL AVENUE
HARARE

and

THE MINISTER OF LANDS & RURAL RESETTLEMENT

Block 2 Makombe Complex
 Off Herbert Chitepo / Harare Street
HARARE

and

THE MINISTER OF FINANCE

New Composite Building
 Corner Simon Muzenda Street/Samora Machel Avenue
HARARE

Your Excellencies,

FORMAL WRITTEN NOTIFICATION IN TERMS OF ARTICLE 28 (1) OF THE SADC PROTOCOL ON FINANCE AND INVESTMENT, 2006

We act on behalf of Messrs Dave Connolly, Ian Ferguson and various other individual investors adversely affected by the Zimbabwean programme of land reform and resettlement (hereinafter referred to as "our Clients").

1. We are writing to notify you of Zimbabwe's continuing failure to comply with its obligations under international law, including the SADC Treaty and the Protocol on Finance and Investment to the SADC Treaty (the "**Finance and Investment Protocol**"), in respect of the judgment delivered by the Southern African Development Community ("**SADC**") Tribunal in the matter between *Mike Campbell (PVT) Ltd. and others and the Republic of Zimbabwe*, SADC (T) Case No. 2/2007 (the "**Mike Campbell Judgment**"), and to request consultations to resolve this ongoing dispute.
2. As is well-known and has been widely reported worldwide, the SADC Tribunal ruled that Zimbabwe, including by its adoption of Amendment No. 17 to the Constitution of Zimbabwe, has "*deprived [the Applicants] of their agricultural lands without having had the right of access to the courts and the right to a fair hearing, which are essential elements of the rule of law*" and "*discriminated against the Applicants on the basis of race*" in breach of its obligations under Articles 4(c) and 6(2) of the Treaty of the Southern African Development Community (the "**SADC Treaty**"). The Tribunal consequently ordered Zimbabwe:

"to take all necessary measures, through its agents, to protect the possession, occupation and ownership of the lands of the Applicants, except for Christopher Mellish Jarret, Tengwe Estates (Pvt) Ltd. and France Farm (Pvt) Ltd. that have already been evicted from their lands, and to take all appropriate measures to ensure that no action is taken, pursuant to Amendment 17, directly or indirectly, whether by its agents or by others, to evict from, or interfere with, the peaceful residence on, and of those farms by, the Applicants, and

... to pay fair compensation, on or before 30 June 2009, to the three Applicants, namely, Christopher Mellish Jarret, Tengwe Estates (Pvt) Ltd. and France Farm (Pvt) Ltd."

3. Zimbabwe has refused to register the Mike Campbell Judgment and failed to comply with the SADC Tribunal's orders contained in that judgment which, as is confirmed by Article 16 of the SADC Treaty, are final and binding on Zimbabwe. Indeed, the SADC Tribunal in its ruling of 16 July 2010 emphasised that Zimbabwe "has continued to violate the decision of the Tribunal."
4. Zimbabwe has thus failed steps to protect our Clients' lands or to provide any compensation to any of them. On the contrary, in direct violation of the Mike Campbell Judgment and its obligations under international law, Zimbabwe has proceeded to expropriate other properties belonging to our Clients' and other land owners in Zimbabwe.
5. The Government of the Republic of Zimbabwe not only refused to comply with the Mike Campbell Judgment, but it has taken steps to suspend the SADC Tribunal following this judgment. As a direct consequence of the Zimbabwean Government's actions, the SADC Member States have resolved that the SADC Tribunal's mandate should be confined to interpretation of the SADC Treaty and its Protocols relating to disputes between SADC Member States, thereby denying access to the SADC Tribunal by individual applicants.
6. As a result of these and other actions of Zimbabwe, our Clients have been denied justice in their attempts to obtain restitution or compensation from Zimbabwe, and have continued to be treated unlawfully.
7. We refer in this regard to the Finance and Investment Protocol to the SADC Treaty. Our Clients have made investments in Zimbabwe for purposes of Annex 1 to the Finance and Investment Protocol, and consequently enjoy the legal protections contained therein, including the right to prompt, adequate and effective compensation in respect of investments that are expropriated and to fair and equitable treatment, including protection against denial of justice (Article 5 and Article 6 of Annex 1 to the Finance and Investment Protocol, respectively).
8. Zimbabwe, through its continuing failure to register or to comply with the Mike Campbell Judgment and by the steps that it has taken to deny our Clients justice, has clearly breached its obligations under international law generally and the Finance and Investment Protocol in particular.
9. Our Clients have taken all steps that they can reasonably be expected to take before the Zimbabwean courts to remedy this situation and hereby request consultations with the Zimbabwean Government in order to reach an amicable settlement in accordance with Article 28(1) of Annex 1 to the Finance and Investment Protocol.

Unless Zimbabwe and our Clients manage to arrive at an amicable settlement, our instructions are that our Clients will have no option but to refer this dispute to arbitration in accordance with Article 28(2) of Annex 1 to the Finance and Investment Protocol.

Yours faithfully


HURTER SPIES INC.
Per WD Spies

Cc: **Honey and Blanckenberg**
Correspondent Legal Practitioners
200 Herbert Chitepo Avenue
HARARE (DD/za)

RECEIVED

The Chief Secretary
In The Office of the President and Cabinet
The Office of the President and Cabinet
Munhumatapa Building
Off Samora Machel Avenue
HARARE

Received on: 16/08/17 [insert date] 13:53

By: Mkheparanda [insert name of recipient]

Official stamp of office:

and

The Government of the Republic of Zimbabwe
The Office of the President and Cabinet
Munhumatapa Building
Off Samora Machel Avenue
HARARE

Received on: 16/08/17 [insert date] 13:53

By: Mkheparanda [insert name of recipient]

Official stamp of office:

and

The Minister of State in the Office of the President and Cabinet
The Office of the President and Cabinet
Munhumatapa Building
Off Samora Machel Avenue
HARARE

Received on: 17/08/17-09:46 hrs [insert date]

By: E. CHIROGA [insert name of recipient]

Official stamp of office:

and

The Minister of Lands & Rural Resettlement
Block 2 Makombe Complex
Off Herbert Chitepo / Harare Street
HARARE



Received on: 17/08/17-856am [insert date]

By: W. MATANHEDE [insert name of recipient]

Official stamp of office:

and

The Minister of Finance
New Composite Building
Corner Simon Muzenda Street/Samora Machel Avenue
HARARE

Received on: 17/08/17-09:20 [insert date]

By: M. Manyeta [insert name of recipient]

Official stamp of office: