

Date: 22 January 2013

## **MEMORANDUM**

With reference to recent reports and comments concerning the alleged lack of transparency by the Arms Commission, we the undersigned evidence leaders wish to point out the following:

1. The Commission was appointed by the President of the Republic of South Africa in terms of section 84 (2) of the Constitution of the Republic of South Africa, 1996 read with the applicable Regulations setting out the terms of reference for the Commission.
2. The Chairperson and the Commissioners are respected Judges of the Superior Courts. We the evidence leaders are all independent legal practitioners in private practice and are not employed by the Arms Commission. Cumulatively we have many decades in practice and most of the senior practitioners have served as acting judges in the High Court on numerous occasions.
3. We each accepted a brief to lead evidence before the Commission.

4. At all material times our understanding, which has not been contradicted by anyone including the Chairperson is that:
  - 4.1. We are required to execute our mandate with integrity, dignity and dedication to the truth;
  - 4.2. We are required without fear and favour to contribute to the successful achievement of the Commission's goal;
  - 4.3. We are entitled to as much information as we deem fit. Such information includes documents and witnesses that we identify as relevant and material in execution of our duties.
5. At all times we have been treated by the Commission with the respect that as professionals we would expect and at no time have we gained the impression that matters are being hidden from us. Instead we have been actively and consistently encouraged to make contributions on how best the Commission should achieve its mandate.
6. Generally the evidence will be presented in public. At all times it is the intention, purpose and function of all the evidence leaders

that the evidence of each witness shall be led in a transparent manner. There are no areas which are “off limits” or which will not be investigated in the event that there is evidence relating thereto.

7. Arrangements are being made for the respective evidence leaders to consult with each of the witnesses designated for the hearings commencing in March 2013. During such consultation, the witnesses will again have every opportunity to raise whatever aspects they wish which will include areas for investigation and further consideration.
8. When any witness is led in evidence, such witness will have full opportunity to refer to all relevant matters relating to the scope of the Commission. In so doing the witness will also be invited and encouraged to produce all relevant documents in their possession.
9. None of us have had any “instructions” in any form. We as evidence leaders have never at any time:-
  - 9.1. Been cajoled to have a particular outcome in as far as the objective of the arms deal commission is concerned;

- 9.2. Been dictated to or deprived of our views in order to reach a particular envisaged outcome.
10. Our independence and views have been respected by the Chairperson and co-commissioners throughout the consultations, meetings and strategic planning sessions the commission held since its inception.
11. We therefore have confidence in the leadership of the Honourable Chairperson and the Commissioners in the execution of their mandate.

T N Aboobaker SC	S H Zondi
B L Skinner SC	C Sibiya
M J Ramagaga (Senior Attorney)	
L T SibekoSC	M Sello
M MphagaSC	
S M LebalaSC	I P Ngobese