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OF
SOUTH AFRICA



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No. 16025

TERMS OF REFERENCE

*of the
President*

*of the Republic of South Africa
to the*

COMMISSION OF INQUIRY INTO THE ALLEGED SMUGGLING OF AND ILLEGAL TRADE IN IVORY AND RHINOCEROS HORN IN SOUTH AFRICA

The Commission's terms of reference are as follows:

1. To inquire into, consider and report to me on—
 - (a) the alleged smuggling of ivory and rhino horn, particularly of Angolan and Mozambican origin, to and through South Africa over the past ten years;
 - (b) the involvement of South African citizens in such smuggling activities;
 - (c) the illegal trade in ivory and rhino horn of South African origin;
2. to make recommendations regarding steps to be taken to prevent such irregularities; and
3. to report to me as soon as this can conveniently be done, using all diligence, the result of your inquiry.

OPDRAG

*van die
President*

*van die Republiek van Suid-Afrika
aan die*

KOMMISSIE VAN ONDERSOEK NA DIE BEWEERDE SMOKKEL VAN EN ONWETTIGE HANDEL IN IVOOR EN RENOSTERHORING IN SUID-AFRIKA

Die Kommissie se opdrag is soos volg:

1. Om ondersoek in te stel na, oorweging te skenk aan en aan my verslag te doen oor—
 - (a) die beweerde smokkel van ivoor en renosterhoring, veral van Angolese en Mosambiekse oorsprong, na en deur Suid-Afrika oor die afgelope tien jaar;
 - (b) die betrokkenheid van Suid-Afrikaanse burgers by sulke smokkelbedrywighede;
 - (c) die onwettige handel in ivoor en renosterhoring van Suid-Afrikaanse oorsprong;
2. om aanbevelings te doen aangaande stappe wat geneem kan word om sulke onreëlmatighede te voorkom; en
3. om so spoedig moontlik, en met alle ywer, aan my verslag te doen oor die uitslag van u ondersoek.

PROCLAMATION

by the
President

of the Republic of South Africa

No. R. 148, 1994

COMMISSION OF INQUIRY INTO THE ALLEGED SMUGGLING OF AND ILLEGAL TRADE IN IVORY AND RHINOCEROS HORN IN SOUTH AFRICA

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act No. 8 of 1947), I hereby declare that the provisions of that Act shall be applicable to the Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa and I hereby make the regulations (English and Afrikaans) in the Schedule with reference to the said Commission.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Twenty-ninth day of September, One thousand Nine hundred and Ninety-four.

N. R. MANDELA,

President.

By Order of the President-in-Cabinet:

D. J. DE VILLIERS,

Minister of the Cabinet.

SCHEDULE
REGULATIONS

1. In these regulations, unless the context otherwise indicates—

“**Chairman**” means the Chairman of the Commission;

“**Commission**” means the Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa, referred to in this proclamation;

“**document**” includes any book, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture;

“**inquiry**” means the inquiry conducted by the Commission;

“**member**” means a member of the Commission;

“**officer**” means a person in the full-time service of the State who has been appointed or designated to assist the Commission in the execution of its functions;

“**premises**” includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft;

2. The proceedings of the Commission shall be recorded in the manner determined by the Chairman.

PROKLAMASIE

van die
President

van die Republiek van Suid-Afrika

No. R. 148, 1994

KOMMISSIE VAN ONDERSOEK NA DIE BEWEERDE SMOKKEL VAN EN ONWETTIGE HANDEL IN IVOOR EN RENOSTERHORING IN SUID-AFRIKA

Kragtens die bevoegdheid my verleen by artikel 1 van die Kommissiewet, 1947 (Wet No. 8 van 1947), verklaar ek hierby dat die bepalings van daardie Wet van toepassing is op die Kommissie van Onderzoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renosterhoring in Suid-Afrika, en vaardig ek hierby die regulasies in Engels en Afrikaans in die Bylae vervat met betrekking tot genoemde Kommissie uit.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Nege-en-twintigste dag van September Eenduisend Negehonderd Vier-en-negentig.

N. R. MANDELA,

President.

Op las van die President-in-Kabinet:

D. J. DE VILLIERS,

Minister van die Kabinet.

BYLAE
REGULASIES

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“**beampte**” iemand wat in die voltydse diens van die Staat is en wat aangestel of aangewys is om die Kommissie by die verrigting van sy werksaamhede behulpsaam te wees;

“**dokument**” ook 'n boek, pamflet, aantekening, lys, omsendbrief, plan, plakkaat, aanplakbiljet, publikasie, tekening, foto of prent;

“**Kommissie**” die in hierdie proklamasie bedoelde Kommissie van Onderzoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renosterhoring in Suid-Afrika;

“**lid**” 'n lid van die Kommissie;

“**ondersoek**” die ondersoek wat deur die Kommissie ingestel word;

“**perseel**” ook grond of 'n gebou, bouwerk, gedeelte van 'n gebou of bouwerk, voertuig, vervoermiddel, vaartuig of lugvaartuig;

“**Voorsitter**” die Voorsitter van die Kommissie.

2. Die verrigtinge van die Kommissie word genotuleer op die wyse deur die Voorsitter bepaal.

3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical means or to transcribe such proceedings which have been so taken down or recorded shall at the outset take an oath or make an affirmation in the following form:

I, **A.B.**, declare under oath/affirm and declare—

- (a) that I shall faithfully and to the best of my ability take down/record the proceedings of the Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa, in shorthand/by mechanical means as ordered by the Chairman of the Commission;
- (b) that I shall transcribe fully and to the best of my ability any shorthand notes/mechanical record of the proceedings of the said Commission made by me or by any other person.

(2) No shorthand notes or mechanical record of the proceedings of the Commission shall be transcribed except by order of the Chairman.

4. Every person employed in the execution of the functions of the Commission, including any person referred to in regulation 3 (1), shall aid in preserving secrecy in regard to any matter or information that may come to his knowledge in the performance of his duties in connection with the said functions, except in so far as the publication of such matter or information shall be necessary for the purposes of the report of the Commission, and every such person, except the Chairman, a member or any officer, shall, before performing any duty with the Commission, take and subscribe before the Chairman an oath of fidelity or secrecy in the following form:

I, **A.B.**, declare under oath/affirm and declare that except in so far as it shall be necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa, or by order of a competent court, I shall not communicate to any person any matter or information which may come to my knowledge in connection with the inquiry of the said Commission, or suffer or permit any person to have access to any records of the Commission, including any note, record or transcription of the proceedings of the said Commission in my possession or custody or in the possession or custody of the said Commission or any officer.

5. No person who is in terms of regulation 4 required to take and subscribe an oath of fidelity or secrecy shall communicate to any other person any matter or information which may have come to his knowledge in connection with the inquiry of the Commission or suffer or permit any other person to have access to any records of the Commission, except in so far as it shall be necessary in the performance of his duties in connection with the functions of the Commission or by order of a competent court.

3. (1) Iemand wat aangestel of aangewys is om die verrigtinge van die Kommissie in snelskrif aan te teken of op meganiese wyse op te neem of om sodanige verrigtinge wat aldus aangeteken of opgeneem is, te transkribeer, moet vooraf 'n eed of bevestiging in die volgende vorm aflê:

Ek, **A.B.**, verklaar onder eed/bevestig en verklaar—

- (a) dat ek getrou en na my beste vermoë die verrigtinge van die Kommissie van Onderzoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renosterhoring in Suid-Afrika, in snelskrif sal aanteken/op meganiese wyse sal opneem soos deur die Voorsitter gelas;
- (b) dat ek enige snelskrifaantekeninge/meganiese opname van die verrigtinge van genoemde Kommissie deur my of iemand anders gemaak, volledig en na my beste vermoë sal transkribeer.

(2) Geen snelskrifaantekeninge of meganiese opname van die verrigtinge van die Kommissie word getranskribeer nie behalwe op las van die Voorsitter.

4. Elke persoon wat diens doen by die verrigting van die Kommissie se werksaamhede, met inbegrip van iemand in regulasie 3 (1) bedoel, moet ten aansien van enige aangeleentheid of inligting wat by die vervulling van sy pligte in verband met bedoelde werksaamhede tot sy kennis kom, geheimhouding help bewaar, behalwe vir sover bekendmaking van sodanige aangeleentheid of inligting vir die doeleindes van die Kommissie se verslag nodig is, en elke sodanige persoon, behalwe die Voorsitter, 'n lid of 'n beamppte, moet, voordat hy enige diens by die Kommissie verrig, 'n eed van getrouheid of geheimhouding voor die Voorsitter in die volgende vorm aflê en onderteken:

Ek, **A.B.**, verklaar onder eed/bevestig en verklaar dat, behalwe vir sover dit by die uitvoering van my pligte in verband met die sake van die Kommissie van Onderzoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renosterhoring in Suid-Afrika, of ingevolge 'n bevel van 'n bevoegde hof nodig is, ek geen aangeleentheid of inligting wat in verband met genoemde Kommissie se ondersoek tot my kennis kom, aan enigiemand sal meedeel nie en niemand sal toelaat of veroorloof om toegang tot stukke van die Kommissie te verkry nie, met inbegrip van enige aantekening, opname of transkripsie van die verrigtinge van genoemde Kommissie in my besit of bewaring of in die besit of bewaring van genoemde Kommissie of 'n beamppte.

5. Niemand wat ingevolge regulasie 4 'n eed van getrouheid of geheimhouding moet aflê en onderteken, mag enige aangeleentheid of inligting wat in verband met die Kommissie se ondersoek tot sy kennis gekom het, aan iemand anders meedeel of iemand anders toelaat of veroorloof om toegang te verkry tot stukke van die Kommissie nie, behalwe vir sover dit by die uitvoering van sy pligte in verband met die werksaamhede van die Kommissie of ingevolge 'n bevel van 'n bevoegde hof nodig is.

6. The Chairman may designate one or more knowledgeable persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member.

7. The Chairman or an officer generally or specially authorised thereto by the Chairman shall administer an oath or affirmation to any witness appearing before the Commission.

8. (1) If any person who gave or is giving evidence before the Commission or has been summoned so to give evidence so requests the Commission, the Chairman may direct that no person shall publish in any manner whatsoever the name or address of such person or any information likely to reveal his identity.

(2) No person shall contravene any provision of a direction referred to in subregulation (1).

9. Any witness appearing before the Commission may only be cross-examined by a person if the Chairman permits such cross-examination by such person because the Chairman deems it necessary in the interest of the functions of the Commission.

10. Any witness appearing before the Commission may, in the discretion of the Chairman and in such manner as may be determined by him, be assisted by an advocate or an attorney.

11. An officer, attorney or advocate designated thereto by the Chairman may present at the hearing of evidence at the inquiry and adduce evidence and arguments relating to the inquiry.

12. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's inquiry may adversely affect any existing, instituted or pending legal proceedings or any investigation instituted in terms of any law, evidence which is relevant to such legal proceedings or investigation shall be dealt with by the Commission in such a manner as not to affect adversely such legal proceedings or investigation.

13. The Chairman, any member or any officer may, for the purposes of the inquiry, at all reasonable times enter and inspect any premises and demand and seize any document on or kept on such premises.

14. (a) No person shall, without the written permission of the Chairman, disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document.

(b) No person may without the written permission of the Chairman peruse any document, including any statement, which is destined to be submitted to the Chairman or intercept it whilst it is being taken or forwarded to the Chairman.

15. No person shall, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish to any other person the report of the Commission or a copy or part thereof or information regarding the consideration of evidence by the Commission unless and until the President has released the report for publication or until the report has been laid upon the Table in Parliament.

6. Die Voorsitter kan een of meer kundige persone aanwys om die Kommissie in 'n ander hoedanigheid as 'n lid behulpzaam te wees by die verrigting van sekere van sy werksaamhede.

7. Die Voorsitter of 'n beamppte deur die Voorsitter in die algemeen of spesiaal daartoe gemagtig, moet 'n getuie wat voor die Kommissie verskyn 'n eed oplê of van hom 'n bevestiging afneem.

8. (1) Indien 'n persoon wat getuie is voor die Kommissie afgelê of wat opgeroep is om aldus getuie af te lê, die Kommissie aldus versoek kan die Voorsitter gelas dat niemand die naam of adres van sodanige persoon of enige inligting wat waarskynlik sy identiteit sal openbaar, op enige wyse hoegenaamd bekend maak nie.

(2) Niemand mag 'n bepaling van 'n lasgewing bedoel in subregulasie (1) oortree nie.

9. 'n Getuie wat voor die Kommissie verskyn, kan slegs deur 'n persoon in kruisverhoor geneem word indien die Voorsitter sodanige kruisverhoor deur daardie persoon toelaat omdat die Voorsitter dit in die belang van die werksaamhede van die Kommissie nodig ag.

10. 'n Getuie wat voor die Kommissie verskyn, kan na goeddunke van die Voorsitter en op die wyse wat hy bepaal, deur 'n advokaat of prokureur bygestaan word.

11. 'n Beamppte, prokureur of advokaat deur die Voorsitter daartoe aangewys, kan by die aanhoor van getuie by die ondersoek aanwesig wees en getuie en argumente wat op die ondersoek betrekking het, aanvoer.

12. Wanneer die Kommissie op getuie of inligting aan hom voorgelê, oortuig is dat die Kommissie se ondersoek enige bestaande, ingestelde of hangende regsproses of enige ondersoek wat ingevolge die bepalings van enige wet ingestel is, nadelig kan raak, word getuie wat relevant is tot sodanige regsproses of ondersoek op so 'n wyse deur die Kommissie hanteer dat daardie regsproses of ondersoek nie daardeur nadelig geraak word nie.

13. Die Voorsitter, 'n lid of 'n beamppte kan vir doeleindes van die ondersoek te alle redelike tye enige perseel betree en besigtig en enige dokument wat op sodanige perseel is of bewaar word, opeis en in beslag neem.

14. (a) Niemand mag, sonder die skriftelike toestemming van die Voorsitter, 'n dokument wat in verband met die ondersoek deur enige persoon aan die Kommissie voorgelê is, versprei of die inhoud of 'n gedeelte van die inhoud van so 'n dokument publiseer nie.

(b) Niemand mag sonder die skriftelike toestemming van die Voorsitter enige dokumente, met inbegrip van enige verklaring, wat bestem is om aan die Voorsitter voorgelê te word, insien of onderwyl dit na die Voorsitter geneem of aan hom versend word, onderskep nie.

15. Niemand mag, behalwe vir sover dit by die uitvoering van die Kommissie se opdrag nodig is, die verslag van die Kommissie of 'n afskrif of 'n gedeelte daarvan of inligting met betrekking tot die oorweging van getuie deur die Kommissie publiseer of aan iemand anders verstrek nie, tensy en voordat die President die verslag vir publikasie beskikbaar gestel het of voordat die verslag in die Parlement ter Tafel gelê is.

16. No person may insult, disparage or belittle the Chairman or a member of the Commission or prejudice, influence or anticipate the proceedings or findings of the Commission.

17. Any person who—

- (a) wilfully hinders, resists or obstructs the Chairman, any member or any officer in the exercise of any power referred to in regulation 13; or
- (b) contravenes a provision of regulations 5, 8 (2), 14 or 15; or
- (c) contravenes a provision of regulation 16, shall be guilty of an offence and liable on conviction—
 - (i) in the case of an offence referred to in paragraph (a) or (b), to a fine, or to imprisonment for a period not exceeding six months; and
 - (ii) in the case of an offence referred to in paragraph (c), to a fine, or to imprisonment for a period not exceeding 12 months.

GOVERNMENT NOTICE

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

No. R. 1762

7 October 1994

APPOINTMENT OF A COMMISSION OF INQUIRY INTO THE ALLEGED SMUGGLING OF AND ILLEGAL TRADE IN IVORY AND RHINOCEROS HORN IN SOUTH AFRICA

It is hereby notified for general information that the President has been pleased to appoint the Honourable Mr Justice Mark Ernest Kumleben as only member and Chairman of the Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa.

The Commission's terms of reference are as follows:

To investigate and report on the alleged—

- smuggling of ivory and rhino horn, particularly of Angolan and Mozambican origin, to and through South Africa over the past 10 years;
- involvement of South African citizens in such smuggling activities;
- illegal trade in ivory and rhino horn of South African origin;

and to recommend steps to be taken to eliminate such irregularities.

Representations to the Commission should be in writing and addressed to The Secretary, Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn, Private Box 6028, Durban, 4000, within eight weeks from the date of publication of this Notice.

16. Niemand mag die Voorsitter of 'n lid van die Kommissie beledig, neerhaal of verkleineer of die verrigtinge of die bevindings van die Kommissie benadeel, beïnvloed of vooruitloop nie.

17. Iemand wat—

- (a) die Voorsitter, 'n lid of 'n beamppte by die uitoefening van 'n bevoegdheid in regulasie 13 bedoel, opsetlik hinder, teengaan of dwarsboom; of
- (b) 'n bepaling van regulasie 5, 8 (2), 14 of 15, oortree; of
- (c) 'n bepaling van regulasie 16 oortree, is aan 'n misdryf skuldig en is by skuldigbevinding strafbaar—
 - (i) in die geval van 'n misdryf in paragraaf (a) of (b) bedoel, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens ses maande; en
 - (ii) in die geval van 'n misdryf in paragraaf (c) bedoel, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande.

GOEWERMENSKENNISGEWING

DEPARTEMENT VAN OMGEWINGSKE EN TOERISME

No. R. 1762

7 Oktober 1994

AANSTELLING VAN 'N KOMMISSIE VAN ONDERSOEK NA DIE BEWEERDE SMOKKEL VAN EN ONWETTIGE HANDEL IN IVOOR EN RENOSTERHORING IN SUID-AFRIKA

Hierby word vir algemene inligting bekendgemaak dat dit die President behaag het om sy Edele Regter Mark Ernest Kumleben as enigste lid en Voorsitter van 'n Kommissie van Onderzoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renosterhoring in Suid-Afrika aan te stel.

Die Kommissie se opdrag lui soos volg:

Om ondersoek in te stel na en verslag te doen oor die beweerde—

- smokkel van ivoor en renosterhoring, veral van Angolese en Mosambiekse oorsprong, na en deur Suid-Afrika oor die afgelope 10 jaar;
- betrokkenheid van Suid-Afrikaanse burgers by sulke smokkelbedrywighede;
- onwettige handel in ivoor en renosterhoring van Suid-Afrikaanse oorsprong.

en om stappe wat geneem moet word om sulke onreëlmatighede te voorkom, aan te beveel.

Verhoë tot die Kommissie moet skriftelik wees en binne agt weke vanaf die datum van publikasie van hierdie kennisgewing gerig word aan Die Sekretaris, Kommissie van Onderzoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renosterhoring in Suid-Afrika, Private Bus 6028, Durban, 4000.

IMPORTANT!!

Placing of languages: *Government Gazettes*

1. Notice is hereby given that the interchange of languages in the *Government Gazette* will be effected annually from the first issue in October.
2. For the period 1 October 1994 to 30 September 1995, English is to be placed FIRST.
3. This arrangement is in conformity with Gazettes containing Act of Parliament etc. where the language sequence remains constant throughout the sitting of Parliament.
4. *It is therefore expected of you, the advertiser, to see that your copy is in accordance with the above-mentioned arrangement in order to avoid unnecessary style changes and editing to correspond with the correct style.*

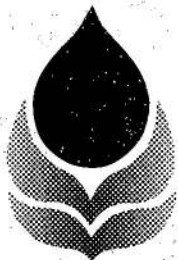
—oOo—

BELANGRIK!!

Plasing van tale: *Staatskoerante*

1. Hiermee word bekendgemaak dat die omruil van tale in die *Staatskoerant* jaarliks geskied met die eerste uitgawe in Oktober.
2. Vir die tydperk 1 Oktober 1994 tot 30 September 1995 word Engels EERSTE geplaas.
3. Hierdie reëling is in ooreenstemming met dié van die Parlement waarby koerante met Wette ens. die taalvolgorde deurgaans behou vir die duur van die sitting.
4. *Dit word dus van u, as adverteerder, verwag om u kopie met bogenoemde reëling te laat strook om onnodige omskakeling en stylredigering in ooreenstemming te bring.*

Use it

Don't abuse  it

water is for everybody



Werk mooi daarmee

Ons leef  daarvan

water is kosbaar

CONTENTS

No.		Page No.	Gazette No.
	TERMS OF REFERENCE		
	Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa....	1	16025
	PROCLAMATION		
R. 148	Commissions Act (8/1947): Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa	2	16025
	GOVERNMENT NOTICE		
	Environmental Affairs and Tourism, Department of		
	<i>Government Notice</i>		
R. 1762	Appointment of a Commission of Inquiry into the Alleged Smuggling of and Illegal Trade in Ivory and Rhinoceros Horn in South Africa	5	16025

INHOUD

No.		Bladsy No.	Koerant No.
	OPDRAG		
	Kommissie van Onderzoek na die Beweerde Smokkel van en Ontwettige Handel in Ivoor en Renosterhoring in Suid-Afrika	1	16025
	PROKLAMASIE		
R. 148	Kommissiewet (8/1947): Kommissie van Onderzoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renosterhoring in Suid-Afrika	2	16025
	GOEWERMENSKENNISGEWING		
	Omgewingsake en Toerisme, Departement van		
	<i>Goewermenskennisgewing</i>		
R. 1762	Aanstelling van 'n Kommissie van On- dersoek na die Beweerde Smokkel van en Onwettige Handel in Ivoor en Renos- terhoring in Suid-Afrika	5	16025