

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 45

10 December 2021



PROCLAMATION
by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA

**SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996:
REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT:
ALEXKOR SOC LIMITED**

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as "the Act"), have been made in respect of the affairs of Alexkor SOC Limited (hereinafter referred to as "Alexkor"), which is a state owned mining company.

AND WHEREAS Alexkor or the State may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of Alexkor, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged—

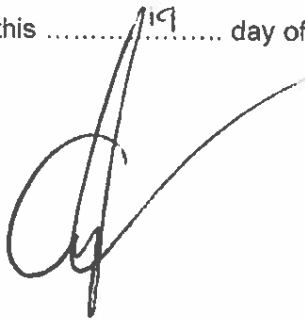
(a) serious maladministration in connection with the affairs of Alexkor;

- (b) improper or unlawful conduct by officials or employees of Alexkor;
- (c) unlawful appropriation or expenditure of public money or property;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offence referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of Alexkor; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 1 October 2016 and the date of publication of this Proclamation or which took place prior to 1 October 2016 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including the recovery of any losses suffered by Alexkor or the State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this 19 day of November Two thousand and twenty one.

President



By Order of the President-in-Cabinet:



Minister of the Cabinet

SCHEDULE

1. Serious maladministration in the affairs of Alexkor in respect of the marketing, valuation, sale and beneficiation of diamonds, pursuant to agreements concluded between Alexkor and service providers, including the causes of such maladministration.

2. Any improper or unlawful conduct by officials or employees of Alexkor or any other person or entity, in relation to the allegations set out in paragraph 1 of this Schedule.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 45

10 Desember 2021



PROKLAMASIE
van die
PRESIDENT van die REPUBLIEK van SUID AFRIKA

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996:
VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE
ONDERSOEKEENHEID: ALEXKOR SOC BEPERK**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenheede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleentehede van Alexkor SOC Beperk (hierna na verwys as "Alexkor"), wat 'n Staatsbeheerde myn maatskappy is;

EN AANGESIEN Alexkor of die Staat verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleentehede in die Bylae vermeld ten opsigte van Alexkor, vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleentehede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleentehede van Alexkor;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van Alexkor;

- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die Alexkor; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Oktober 2016 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Oktober 2016 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur Alexkor of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria
op hede die 19 dag van November Twee duisend
een-en-twintig.

President



Op las van die President-in-Kabinet

Minister van die Kabinet



BYLAE

1. Ernstige wanadministrasie in die aangeleenthede van Alexkor met betrekking tot die bemarking, valuasie, verkoop en benefikasie van diamante, uit hoofde van ooreenkomste gesluit tussen Alexkor en diensverskaffers, insluitend die oorsake van sodanige wanadministrasie.

2. Enige onwettige of onbehoorlike optrede deur beamptes of werknemers van Alexkor of enige ander persoon of entiteit, met betrekking tot die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.