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Our Ref. : sdp/letters
Your Ref. :

2002-02-21

Office of the State Attorney
Private Bag X91
Pretoria
0001

Attention : Ms C. Dreyer

Dear Sir

Re: Recent Correspondence

We refer to the correspondence that has taken place recently between Adv S. Fourie of the Office of the Public Protector and ourselves.

We advise that there appears to be confusion on the part of Adv Fourie in respect of the following :

- our Request for Access to Information in terms of Section 18(1) of the Promotion of Access to Information Act No. 2 of 2000 (the 'Act') to the records of the Office of the Public Protector pertaining to the Strategic Defence Packages ;
- our request in respect of the unsigned statements of Messrs P. Moynot and E. Mary;
- our Application to the High Court to appeal the Auditor-General's decision to refuse access to information in which the Public Protector has been cited as a Respondent by virtue of the interest that he may have in the Application ;

Accordingly, we would like to clarify matters and have the following noted :

1 Issue of 'Legal Action'

- 1.1 In respect herewith of the email received on 19 February 2002 from Adv Fourie, a copy of which is enclosed for your information, we advise that at no stage did the writer provide Adv Fourie with any explicit undertaking to inform the State Attorney that we were instituting legal action against the Public Protector. The writer merely informed him that, in event that the position should change in the future, the correct procedures would be followed, i.e. we would communicate with the Office of the Public Protector via your offices.
- 1.2 In referring to Adv Fourie's repetitive requests for clarification on the issue of whether we had commenced legal action in respect of the Joint Investigation Team's Report, we refer to his letters dated 9 January 2002 and 5 February 2002. We have received other numerous requests for clarification from the Office of the Public Protector on the issue of whether C²I² Systems (Pty) Ltd had commenced legal action dating back to 17 July 2001.

2 Statements of Messrs P. Moynot and E. Mary

- 2.1 We advise further that our email dated 12 February 2002 was **not** an attempt to respond to Adv Fourie's letter of 5 February 2002, but was a separate request from that of our Request for Access to Information in terms of Section 18(1) of the Promotion of Access to Information Act No. 2 of 2000.
- 2.2 In respect of our query as to which parties received copies of the unsigned and undated statements of Messrs P. Moynot and E. Mary, we request that Adv Fourie confirm that the following parties received copies of the aforementioned unsigned statements :
 - 2.2.1 GFC ;
 - 2.2.2 Armscor ;
 - 2.2.3 Ministry of Defence ;
 - 2.2.4 Mr L.R. Swan;
 - 2.2.5 Mr S. Shaikh.
- 2.3 We enclose hereto a letter dated 8 February 2002 from Deneys Reitz, the attorneys of record for ADS. We request that the Office of the Public Protector provide us with a formal response to the statements made by Deneys Reitz, i.e. :
 - 2.3.1 "*certain documents were made available to the Office of the Public Protector at the instance of the Public Protector*" and that;
 - 2.3.2 Deneys Reitz do not "*concede we should be in possession of the documents*".

3 Request for Access to Information

We shall address you in due course in respect of your client's letter dated 5 February 2002.

We advise further that we hereby fully reserve our rights and that our failure to traverse all the issues raised in the various correspondence between the parties may not be construed as an acceptance or admission of the correctness of anything contained therein.

Yours faithfully

Ms M. Abreu
Legal Officer