

PROCLAMATION
by the
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

No. R. 3, 2006

**COMMISSION OF INQUIRY TO CONDUCT AN INVESTIGATION INTO THE
ALLEGED ILLICIT ACTIVITIES OF CERTAIN SOUTH AFRICAN COMPANIES
OR INDIVIDUALS RELATING TO THE UNITED NATIONS OIL-FOR-FOOD
PROGRAMME IN IRAQ**

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 the ~~said~~ Act shall be applicable to the Commission of Inquiry to conduct an investigation into the alleged illicit activities of certain South African companies or individuals relating to the United Nations Oil-For-Food Programme in Iraq, and I hereby **make** the regulations in the Schedule with reference to the said Commission.

Given under ~~my~~ Hand and the Seal of the Republic of South Africa at Pretoria on this Thirteenth day of February Two Thousand and Six

T. M. MBEKI
PRESIDENT

By Order of the President-in-Cabinet:

B. S. MABANDLA
MINISTER OF THE CABINET

REGULATIONS

1. In these regulations, unless the context otherwise indicates -
 - “Chairperson” means the Chairperson of the Commission;
 - “Commission” means the Commission of Inquiry to conduct an investigation into the alleged illicit activities of certain South African companies or individuals relating to the United Nations Oil-For-Food Programme in Iraq;
 - “document” includes, whether in electronic form or otherwise, any **book**, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture, data, disc, harddrive or recording;
 - “investigation” means the investigation 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 Chairperson may designate one or more knowledgeable or experienced persons to assist the Commission in the performance of **some** of its functions; in a capacity other than that of a member. The Commission shall, where necessary, be assisted by officers of any Department of State seconded **to** its

service, or persons in the service of any public or other body who are by arrangement with the body concerned seconded to the service of the Commission.

3. Any officer or person designated thereto by the Chairperson may be present at any stage or aspect of the investigation or the gathering of information or the hearing of evidence at the investigation.
4. Any person appearing before the Commission may be assisted by an advocate or an attorney.
5. The Chairperson or an officer generally or specifically authorised thereto by the Chairperson may, if necessary, administer an oath to or accept an affirmation from any person appearing before the Commission.
6. (1) No person appearing before the Commission may refuse to answer any question on the grounds that the answer could incriminate him or her that he or she may be tried on a criminal charge and may be prejudiced at such trial by the answer.

(2) No evidence regarding questions and answers contemplated in sub-regulation (1), and no evidence regarding any fact or information that comes to light in consequence of any such questions or answers, shall be

admissible in any criminal proceedings, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the Commission Act, **1947** (Act No. **8** of **1947**), or regulation 15.

7. Where, at the time of any person appearing during or at any aspect or stage of the investigation, or presenting information to or giving evidence to or before the Commission, members of the general public are or have been excluded from attendance at any stage or aspect of the investigation or at the proceedings of the Commission, the Chairperson may, on the request of such a person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.
8. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's investigation 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.
9. (1) The Chairperson, any member or any officer may, with a warrant, for the purposes of the investigation, at all reasonable times and without prior notice or with such

notice as he or she may deem appropriate enter and inspect any premises and demand and seize any document or article which is on such premises.

- (2) Any entry upon or search of any premises or person thereon in terms of this regulation, shall be conducted with strict regard to decency and order including -
 - (i) a person's right to, respect for and the protection of his or her dignity;
 - (ii) the right of a person to freedom and security; and
 - (iii) the right of a person to his or her personal privacy.
- (3) Subject to sub-regulation (4), the premises referred to in sub-regulation (1) may be entered only by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises are situated.
- (4) A warrant referred to in sub-regulation (1) may be issued by a judge in respect of premises situated in another area of jurisdiction, if he or she deems it justified.
- (5) A warrant referred to in sub-regulation (1) may be issued only if it appears to the magistrate, regional magistrate or

judge from information revealed under oath or affirmation, stating the need, in regard to the investigation, for a search and seizure in terms of this regulation that there are reasonable grounds to believe that any document or article referred to in sub-regulation (1) is on or at such premises or suspected to be on or at such premises.

10. Every person employed in the execution of the functions of the Commission shall help to preserve secrecy with regard to any matter or information that may come to his or her knowledge in the performance of his or her duties in connection with the **said** functions, except in **so** far as the publication of such matter or information is necessary for the purposes of the report of the Commission, and every such person, except the Chairperson, any member or any officer, shall, before performing any duty in connection with the Commission, take and subscribe before the Chairperson 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 is necessary in the performance of my duties in connection with the functions of the Commission or by order of a competent court, I shall not communicate to any person any matter or information which comes to my knowledge in connection with the investigation, or allow or permit any person to have access to any records of the Commission, including any notes, record or transcription of the proceedings of the said Commission in

my possession or custody of the said Commission or any officer.

11. No person shall communicate to any other person any matter or information which may have come to **his** or her knowledge in connection with the investigation, or allow or permit any other person to have access to any records of the Commission, except in **so** far as it is necessary in the performance of his or her duties in connection with the functions of the Commission or by order of a competent court.
12. No person shall without the written permission of the Chairperson -
 - (1) disseminate any document submitted to the Commission by **any** person in connection with the investigation or publish the contents or any portion of the contents of such document; or
 - (2) peruse any document, including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.
13. 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 any other person with the report or any interim report of the Commission or a copy or a part thereof or information regarding the consideration **of** evidence by the Commission.

- 14.** No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the investigation or proceedings or findings of the Commission.
- 15.** Any person who -
- (a) wilfully hinders, resists or obstructs the Chairperson, any member or any officer in the exercise of any power contemplated in regulation **9**; or
 - (b) contravenes a provision of regulation **7, 11, 12 or 13**; or
 - (c) contravenes a provision of regulation **14**,
- 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.
- 16.** These regulations may be added to, varied or amended from time to time.