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MTN counsel in anticipation of litigation**

**SOUTH AFRICA'S POLICY TOWARDS IRAN AND ITS NUCLEAR  
DEVELOPMENT PROGRAMME AND IN RELATION TO ARMS TRADING  
BETWEEN THE TWO COUNTRIES**

**REPORT TO THE HOFFMANN COMMITTEE**

Professor Richard Calland

**3 AUGUST 2012**

## **INTRODUCTION & PRELIMINARY MATTERS**

### **Terms of Reference & Statement of Purpose**

1. I am instructed by Freshfields Bruckhaus Deringer and Webber Wentzel on behalf of MTN Group Limited and MTN International (Mauritius) Limited (together, MTN). I understand that this report is being provided to MTN's counsel and that it may be used in connection with legal proceedings in the United States and elsewhere.
2. The Board of Directors of MTN Group Limited has established a special committee under the chairmanship of Lord Hoffmann (the Hoffmann Committee) to investigate and advise MTN on claims made by Turkcell Iletisim Hizmetlari AS and East Asian Consortium (Turkcell) against MTN in litigation launched in the United States related to the award of a major telecommunications licence (the 2<sup>nd</sup> GSM License) by the government of Iran in November 2005 to a consortium including MTN (the Turkcell Complaint). I attach my letter of instruction as Annex One.
3. The purpose of my engagement is to provide expert advice on the relevant context pertaining to South Africa's policy-making on Iran and the diplomatic stance that South Africa took on Iran's civil and military nuclear development programme and in relation to arms trading and defence co-operation between the two countries.
4. On the basis of research undertaken for the purpose, and my expert opinion, I will in essence attempt to answer the following question: what conclusion can reasonably be drawn from the available evidence, or on the basis of reasonable supposition, as to the extent to which, if at all, South Africa's policy-making on Iran was affected in any material or substantive respect by MTN during the period in question (2002-7: "the relevant period")?

### **Scope of Inquiry; Methodology & Approach**

5. The full scope of the issues to be addressed is set out in my letter of instruction dated 30 April 2012.
6. As I understand my assignment, it is not to seek to uncover evidence or attempt to determine any of the issues of fact that arise in Turkcell's Complaint. Instead, I am to assist the Hoffmann Committee, by providing it with sufficient political and diplomatic background and context to be able to understand the South African governmental policy-making environment as regards Iran and the primary drivers, actors and other influences on it.

7. The research that I have undertaken, therefore, has been directed towards gaining an appreciation of the nuances of the politics of the policy-making of the relevant period so as to be able to comment meaningfully on the trajectory of the South African government's positions on two of the issues that are germane to the Hoffmann Committee's investigation. The two issues I have been instructed to focus on are:
  - A. Trade of Influence to Secure the IAEA Vote
  - B. Trade of Influence to Procure Illicit Arms for the 2<sup>nd</sup> GSM License(And not, therefore, those allegations made by Turkcell under headings C-E of its Complaint).
8. My analysis draws on the following sources and methodology:
  - 6.1 Desktop review of relevant academic and 'grey'<sup>1</sup> literature;
  - 6.2 Identification of available media sources;
  - 6.3 Examination of the "wiki-leaks" cables<sup>2</sup>;
  - 6.4 Background information obtained from a small number of informal, off-the-record discussions conducted with people connected to, or familiar with, the policy-making process or apparatus of the South African government during the relevant period;
  - 6.5 My own knowledge and experience of South African politics and the policy-making architecture and actors, which I have observed closely and sought to understand and analyse for over fifteen years (Jacobs & Calland 2002; Calland & Graham 2005; Calland 2006; Calland 2010).
9. South Africa's academic and 'think tank' community is not especially well-endowed with foreign policy experts or 'watchdogs'. As a result, a relatively small circle of scholars and commentators occupy the policy space, but very little of it receives much public

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<sup>1</sup> 'Grey', in this context, means references that are not academic in the proper scholarly sense, but policy analysis or commentary, often from think tanks or other non-governmental organisations.

<sup>2</sup> The wikileaks cables present an inevitably one-sided/one-eyed account of events, given that they are predominantly cables from US Embassies worldwide back to the US State Department. They generally record the views of individual US diplomats on particular issues or their reports of encounters and discussion with foreign government sources and counterparts. However, given that at the time they were written the embassy authors had no reason to suppose that they would remain anything other than confidential, their contents can be relied on as accurate and authentic records of US diplomatic attitudes at the time. Given that Iran was a very high priority in US foreign policy, it would be expected that anything of relevance to their policy interests in the period under review in this report would be covered by the wikileaks cables. An extensive review of the wikileaks cables has revealed only a relatively small number of cables concerned with SA policy towards Iran and related matters. They shed useful, and interesting, light on certain germane matters, and are cited below where their contents are relied on or else where they offer collaborative material to the analysis provided in this report. In the main text, references to "the Americans" or the "American view" tend to be reliant on the wikileaks cables and are referenced accordingly.

attention. Consequently, foreign policy-making, perhaps even more so than in other democracies, is rarely in the news and rarely the subject of intense scrutiny or oversight. This has implications both for the preparation of a report such as this, in terms of the available material, and also in terms of policy-making itself, which invariably takes place far removed from public or media spotlight. Notwithstanding various reforms that have modernised the policy-making process and institutions, some of which are canvassed in this report, policy-making in South Africa, especially foreign policy-making, remains heavily dependent on individual actors and to that extent is personality-orientated.

10. As a preliminary matter, I should briefly set out my own relevant professional credentials: I was called to the Bar in London in 1987, where I practised until moving to South Africa in 1994. In addition to an LLB in Law and an LLM in Human Rights Law (which included a course on South Africa's foreign policy), I have a diploma in World Politics from the London School of Economics (which included a course on Foreign Policy Analysis). Since 1994 I have worked primarily in the arena of South African democracy and governance, in various positions at the African democracy institute, Idasa, and have published a number of books, book chapters and journal articles on South African politics. Since 2007, I have held the position of Associate Professor in Public Law at the University of Cape Town, where I also head the Faculty of Law's Democratic Governance & Rights Unit.
11. In presenting this report, I declare that I know of no conflicts of interest, either political or commercial, that would intrude on my independence of outlook or my dispassion in the outcome of the Hoffmann Committee's work or the Turkcell litigation.
12. As to structure, the report has two main sections: Context and Analysis, followed by a Conclusion.

## **CONTEXT**

### **South Africa's 'Macro' Foreign Policy Journey: History, Background & Meta-Trajectory**

13. Prior to the emergence of a democratic South Africa, most countries in the Middle East had no diplomatic relations with South Africa. The only exception was Israel. While countries like Lebanon, Egypt and Iran had previously had diplomatic relations with South Africa, such diplomatic relations were severed on the basis of South Africa's continued apartheid policy.<sup>3</sup>

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<sup>3</sup> Michael Bishku, 'South Africa and the Middle East' online journal essay published by the Middle East Policy Council. Available on <http://mepc.org/journal/middle-east-policy-archives/south-africa-and-middle-east?print> [19 May 2012].

14. With the advent of a democratically elected government and the dismantling of apartheid, diplomatic relations with these Middle East countries were restored. During the apartheid era, the ANC maintained close ties with the Iranian government - a not inconsiderable factor when evaluating Pretoria's future stance towards Iran. When Nelson Mandela became President, these ties were sustained, and Iran formally established diplomatic relations with the South African government. This was hardly surprising: Iran had been one of the ANC's supporters in exile during the apartheid years, a fact that was emphasized on the South African Department of Foreign Affairs' website.
15. South African Deputy Foreign Minister Aziz Pahad subsequently stressed the significance of the relationship by stating, in 2006, that Iran was the first country that South Africa had established a joint economic commission with after 1994. In an interview carried by the Iran News Agency on 7 May 2006, Minister Pahad noted that "Iran has been an important oil supplier to South Africa" and that "our companies are now moving into Iran with new investments"<sup>4</sup>. "Both countries", he added "are members of the non-aligned movement and the Group of 77 and almost on all issues, regardless of the differences that might exist, we have a common approach in dealing with global problems, let it be the UN reforms or the African issues".
16. As noted later in this report, Aziz Pahad was a central player in South African foreign policy-making for more than a decade, as a close confidante of President Mbeki and as someone with an identical outlook on issues. Thus, when Pahad spoke, informed listeners would know that they were gaining an insight into Mbeki's own thinking on the issue in question. So when Pahad said, in the same 7 May 2006 interview, that "we try to say to our private sector that Iran is an important country, which after these tensions, [Iran] will continue to play a major role in the region and that it is vital for our private sector to begin to understand the potential there"<sup>5</sup> one can say with confidence that this was a clear statement of South African policy towards Iran.
17. Indeed, as a starting point, it is important to recognise that a major driver of Mbeki's foreign policy was the need to find new markets for South African business and South African products and services. Iran represented, and was regarded by Pretoria, as a significant opportunity in this regard.. As Deputy Foreign Minister, Aziz Pahad, said in May 2006:

Iran has been an important oil supplier to South Africa. Our companies are now moving into Iran with new investments...we try to say to our private sector that Iran is an important country, which after these tensions, it will continue to play a major

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<sup>4</sup> Pahad Comments on Tehran-Pretoria relations. Iran News Agency. 7 May 2006.

<sup>5</sup> Ibid.

role in the region and that it is vital for our private sector to begin to understand the potentials there.<sup>6</sup>

18. And in 2005, Ambassador Martin Slabben, South African department of foreign affairs Director for Gulf Relations, was said to be “thrilled” by the Iranian government decision to award the contract to MTN<sup>7</sup>
19. The other major driving force behind South African foreign policy during the period 1997-2007 was the commitment to South-South relations, based partly on political solidarity but also on common economic interests. ‘South-South’ relations refers to diplomatic and economic relations between countries of the ‘global South’, as opposed to Western, developed nations; it is now an established term of art, used by diplomats, policy-makers, academics and commentators when referring to economic, trade, technological, diplomatic and political co-operation between developing countries and/or emerging economies.
20. In South Africa’s case, a distinct element of this was Pretoria’s self-regard in terms of its potential role as a mediatory force in international relations. After South Africa’s transition to democracy, it assumed the status of leader in the Non-Aligned Movement (NAM) and was considered a middle power because of its involvement in ‘international “bridge-building” and multilateralism’.<sup>8</sup>
21. These characteristics only emerged later, under Mbeki’s presidency. When Nelson Mandela was President (1994-1999), some commentators were of the opinion that South Africa did not have a clearly articulated foreign policy.<sup>9</sup> Rather, foreign policy decisions were made on an ad-hoc basis, partly as a consequence of the perhaps inevitable kinks in the smooth transition from an apartheid-era foreign policy to that of a democratic government assuming its place in relation to foreign policy matters.
22. However, the foreign policy decisions of the government were intended to be primarily hinged around the protection of human rights, the promotion of democracy, respect for international, peaceful resolution of conflicts, and cross-border economic cooperation.<sup>10</sup> Political scientist, Eduard Jordaan, suggests that the newly-elected ANC government

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<sup>6</sup> Pahad Comments on Tehran-Pretoria relations. Iran News Agency. 7 May 2006.

<sup>7</sup> <http://wikileaks.org/cable/2005/10/24PRETORIA4297.html> [24 July 2012]

<sup>8</sup> Eduard Jordaan, ‘Barking at the big dogs: South Africa’s Foreign policy towards the Middle East’ (2008) 97 (397 ) *The Round Table* 547-559 at 547.

<sup>9</sup> Laurie Nathan, ‘Consistency and inconsistency in South Africa’s foreign policy’, (2005) 81 (2) *International Affairs* 361-372 at 361

<sup>10</sup> Nelson Mandela, ‘South Africa’s future foreign policy’ (1993) 72 (5) *Foreign Affairs* 86-97 at 87.

embarked on 'highly visible and idealistic foreign policy pursuits'.<sup>11</sup> Over time, however, South Africa's foreign policy began to gravitate towards foreign policy that placed more emphasis on national interest.<sup>12</sup>

23. A leading South African expert on South Africa's foreign policy-making, Garth Le Pere, provided a description of South African foreign policy post 1994 as "vacillating between 'realist' and 'moral' internationalism". This is a helpful description, not least because he adds that "this ambiguity and hesitancy was replaced by a stronger sense of identity" once Mbeki became president in 1999. This is a key topic and one to which the report now turns.

#### **The Mbeki Era & the Mbeki 'Doctrine'**

24. During the Presidency of Thabo Mbeki, South Africa's foreign policy was largely dominated by President Mbeki's own ideology and politics, which some would qualify as democratic, Africanist and anti-imperialist.<sup>13</sup> Like Mbeki himself, his foreign policy legacy defies a single dimensional characterisation, though one commentator is willing to label it as one of "transformational diplomacy" (Landsberg 2010): it was complex and intricate, ambitious, in some respects visionary, and at times, obscure. Another respected commentator and academic has summarised South African foreign policy leading up to and over the relevant period in the following terms:

"Critics who view South Africa's foreign policy as essentially realist and as limited to the advancement of national interests are mistaken. While the policy is necessarily intended to further domestic interests, it also embraces an ambitious continental and global agenda that has idealist, internationalist and emancipatory tendencies" (Nathan 2005: 362).

25. Mbeki relied extensively on diplomacy and abhorred any manifestation of modern imperialism by clamouring for a consistent application of rules to every country. He was "committed to bringing about transfers of power and greater equality between rich and poor, at home and abroad...using a dialectical approach of explicitly linking state and the economy on the one hand, and peace and development on the other. It made use of statecraft and diplomacy to promote first peace, then democratisation and development, and lastly state-building" (Landsberg 2010: 213-214).

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<sup>11</sup> Eduard Jordaan, 'Barking at the big dogs: South Africa's Foreign policy towards the Middle East' (2008) 97 (397) *The Round Table* 547-559 at 550.

<sup>12</sup> Ibid.

<sup>13</sup> Laurie Nathan, 'Consistency and inconsistency in South Africa's foreign policy', (2005) 81 (2) *International Affairs* 361-372 at 363.

26. President Mbeki strongly believed in an ‘African Renaissance’ in which South Africa was to play a vital role<sup>14</sup>, characterised in many quarters as being fundamentally concerned with ensuring that ‘African problems would be solved by Africans’. In this, Mbeki persistently, with virtually no exceptions, stressed multilateralism as the appropriate approach to solving international problems and preventing or addressing conflict. Also often characterised as ‘quiet diplomacy’, it was this fixation on multilateralism that arguably explains his heavily-criticised stance towards the Mugabe regime in Zimbabwe.
27. In terms of his vision for Africa, he partnered with President Obasanjo of Nigeria in creating the New Partnership for Africa’s Development (NEPAD).<sup>15</sup> Working closely with President Obasanjo on the NEPAD project also helped him restore friendly diplomatic relations with Nigeria- a relationship that had gone sour during the Mandela era – but which Mbeki saw as vital to African unity and his own vision of an ‘African Renaissance’. Although South Africa-Nigeria diplomatic relations were not without their difficulties, Mbeki’s substantial diplomatic investment in the relationship paid off in terms of propagating Mbeki’s African renaissance agenda and at the same time enabled South African companies to gain access to the Nigerian market.<sup>16</sup>
28. It is worth noting how MTN seized this opportunity in 2001 by acquiring a GSM licence in Nigeria and became one of the first investors in Nigeria’s newly deregulated telecommunications industry.<sup>17</sup> This can be seen as entirely consistent with Mbeki’s view of political economy – that diplomatic efforts should be aligned with economic reform. To Mbeki’s mind, the fact that it was an African company that was advancing through the continent to acquire the benefits of access to new, growing markets, would be entirely consistent with his vision for transforming Africa and in creating a new equilibrium in power relations between the global South and the West/Global North. As Landsberg describes it:

“Cultivating an international and inter-continental partnership among Africa, Asia and South America, Mbeki emphasized development goals, notably the expansion of trade, poverty reduction through growth, and modernisation through infrastructure development and technical co-operation....A key rationale behind his neo-Bandung<sup>18</sup>

<sup>14</sup> Peter Vale and Sipho Maseko, ‘South Africa and the African Renaissance’ (1998) 74(2) *International Affairs* 271- 287 at 273.

<sup>15</sup> Giants of Africa Limp Along – South Africa and Nigeria  
<http://www.saiia.org.za/sa-foreign-policy-african-drivers-opinion/giants-of-africa-limp-along-south-africa-and-nigeria.html> [24 May 2012]

<sup>16</sup> RSA: Commentator Discusses Rift in 'Marriage' Between RSA, Nigeria. [serial online]. January 1, 2006; Available from: Africa-Wide Information, Ipswich, MA. Accessed May 25, 2012.

<sup>17</sup> Combining efforts and pooling resources, *Business Day* 01/10/2001.  
<http://www.samedia.uovs.ac.za/cgi-bin/getpdf?year=2001&refno=6557&topic=45>.

<sup>18</sup> “Bandung” refers to the “Bandung Spirit” propagated by the Non-Aligned Movement under the leadership of Indian Prime Minister Jawaharlal Nehru in the 1950s.

spirit was to urge states from the South to go beyond mere sentimental and solidarity politics and become more focused on hard-nosed economic dimensions” (Landsberg 2010: 227).

29. As his foreign minister, Nkosazana Dlamini-Zuma, put it herself: “we prioritized economic diplomacy and played a pioneering role in establishing South-South institutions like the India-Brazil-South Africa Forum (IBSA), New Asia-Africa Strategic Partnership and others”<sup>19</sup>.
30. This thinking would invariably inform Mbeki’s response to global events. Specifically in terms of South Africa’s policy on the Middle East, the Mbeki regime was often at loggerheads with the Western powers. Mbeki’s administration condemned outright the 2003 Iraq invasion<sup>20</sup> and consistently called on Israel to respect the 1967 border with Palestine. The most contentious aspect of South Africa’s foreign policy in the Middle East was South Africa’s approach to Iran’s nuclear programme. Despite the various sanctions that were imposed on Iran, South Africa still maintained both diplomatic and economic ties with Iran.
31. On global nuclear diplomacy, Mbeki never wavered in his approach; he “consistently challenged both the so-called ‘nuclear have’ states – the US, France, Britain, Russia and China – and the ‘nuclear have-not’ states, to live up to their commitments contained in the 1969 Nuclear Non-Proliferation Treaty (NPT)” (Landsberg 2010: 238). In support of his averment that Mbeki was consistent in his approach, Landsberg cites Mbeki’s “strong positions against those states that acquired nuclear weapons outside of the NPT regime, including Israel, Pakistan, India and North Korea and, while [he] defended Iran’s right to acquire nuclear technology for civilian purposes, [he] did insist that Tehran respect the authority of the International Atomic Energy Agency (IAEA)” (Landsberg 2010: 238).
32. A further feature of the Mbeki approach to foreign relations can be found in his determination to structure relations – often, or usually, around a bi-national commission of some sort – and to thereby intertwine the trade and political dimensions of the relationship. In this regard, it is noteworthy that bi-national commissions were established in many countries, including (as at 2002): India, Japan, Nigeria, Algeria, Egypt, the United States, Germany and the United Kingdom (Le Pere 2002: 10). As Le Pere notes “Another instrument in prioritising South Africa’s bi-lateral relations is what President Mbeki calls a co-ordinated strategic relationship with the South, involving influential countries such as Brazil and Chile, India, Malaysia, Singapore, the People’s

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<sup>19</sup> Dlamini-Zuma N. Budget Vote Speech 2008/9, 13 May 2008, National Assembly, South Africa.

<sup>20</sup> Department of Foreign Affairs (South Africa) (2003). Available at <http://www.dfa.gov.za/docs/2003/iraq0320.htm> [23 May 2012].

Republic of China, and so on” (Le Pere 2002: 10). The establishment of a SA-Iran Joint Bi-national Commission should be seen in this context; it was nothing out of the ordinary – a common-place occurrence for the Mbeki government.

### **Political Drivers of South African Foreign Policy**

33. As noted in the Introduction, South African foreign policy-making is often made in isolation from domestic politics. This does not necessarily mean that domestic political considerations have no bearing on foreign policy – far from it – but rather that the relationship is rarely explicitly expressed. Nor is foreign policy the subject of regular commentary in the press or elsewhere. The combined effect is that the accountability of those who do control foreign policy-making in South Africa is rather weak.
34. Mbeki’s attitude to Mugabe’s autocracy in Zimbabwe was an exception to the rule as it attracted considerable criticism in the media and amongst liberal and progressive analysts. Generally, however, South African foreign policy can be made relatively surreptitiously without the need to ‘spin’ or otherwise seek to persuade domestic political actors.
35. In addition, the main domestic drivers of policy – the trade union federation, COSATU, and to a lesser degree, the SA Communist Party (SACP), on the one hand, and big business on the other – have tended to invest little of their political capital on international affairs, preferring to reserve it for the big domestic disputes over economic policy, or industrial policy, or social issues such as HIV-AIDS, or crime and security.
36. Even the multi-billion dollar Strategic Defence Procurement Package (commonly known as the ‘arms deal’), which attracted considerable media attention from 1999 onwards, was positioned in and by the media and by other analysts (including this writer) as primarily as a corruption or accountable governance issue, rather than one concerned with international relations.
37. Public participation, or public scrutiny, played little part in South African foreign policy-making during the relevant period and nor did parliament. Although certain portfolio committees play a significant law-making and/or oversight role, the Foreign Affairs committee has not generally been one of them. Certainly, during the period in question, and on the issues that are germane, parliament’s role is conspicuous by its absence.

## ANALYSIS

### The Actors: Who were the main players?

#### Thabo Mbeki:

38. It will be plain from the context-setting above, that Thabo Mbeki was the dominant individual throughout 2002 to 2007 - the period under consideration in this report. One close confidante of Mbeki quipped to me that Mbeki “was probably the greatest foreign minister South Africa never had”, or as a leading scholar has described it: “To be plain: in foreign policy and its making Mbeki was the first among equals; a position that was strengthened by the vast array of contacts he was said to have developed throughout the international community” (Vale 2010: 246).
39. Such was the dominance of Mbeki in foreign policy-making, and such was the primary preoccupation of his cabinet on domestic matters, even Cabinet would not have played an especially hands-on role in international relations during the relevant period. It is likely that South Africa’s specific foreign policy positions on Iran – for example its stance on the IAEA – would have been noted in cabinet documents, at most, but would not have received specific cabinet attention or have been the subject of specific cabinet decisions. The fact is that the great majority of cabinet ministers lacked the interest in, or inclination to pursue, issues of foreign policy, knowing as they did how dominant Mbeki’s own role was in that particular policy-making arena.

#### Aziz Pahad

40. Pahad served as Deputy Minister of Foreign Affairs for all the Mbeki years; indeed, he was first appointed to that position in the first democratic government post-1994 led by President Mandela. South Africa’s first post-1994 foreign minister was Alfred Nzo, an ANC veteran, with vast experience of Africa, who was the ANC’s longest serving secretary-general (from 1969-1991). Nzo was foreign minister in the Mandela government of 1994-99. His principal focus during his term was relations with other African governments, with whom he had detailed personal knowledge and contacts from his many years of shuttle diplomacy from the ANC’s exile HQ in Lusaka. Having taken office in 1999, Mbeki appointed Nkozasana Dlamini-Zuma as Nzo’s successor. Dlamini-Zuma is highly regarded in most quarters of the ANC, as both tough and capable, and she certainly provided a more dynamic and assertive presence as Minister than Nzo, who was in the twilight of his political career (he died in 2000). Yet, despite Dlamini-Zuma’s more energetic role in building foreign relations, Pahad continued to exercise greater influence than the foreign minister, not least because as with her predecessor, Nzo, Dlamini-Zuma prioritised continental diplomacy over global international relations.

41. Pahad was one of Mbeki's closest and most loyal friends and political colleagues. They were in exile in Britain together and Pahad, along with his brother Essop, have never been far from Mbeki's side. On international relations, Mbeki relied heavily on Pahad's thinking. Like Mbeki, Pahad was prone to 'over-complicate' or 'over-theorize' the various many dilemmas of international politics, but was equally no less of a neo-realist in his overall positioning. Whereas successive foreign ministers (Nzo, Dlamini-Zuma) were required to 'front' South Africa's positions in various international forums, such as the United Nations, and especially the African Union, Pahad's role was to be a 'backroom thinker' and the eyes and ears of Mbeki in the department of foreign affairs (which, as noted elsewhere, was not trusted by Mbeki during the first years post-1994). Politically, Pahad had a special interest in the middle-east region, particularly the plight of the Palestinians.
42. As such, and also because of the extensive and ambitious nature of Pretoria's foreign policy agenda, it was entirely possible for Dlamini-Zuma and Pahad to operate almost independently of each other. Pahad could, therefore, continue to enjoy a degree of 'special access' to Mbeki, and the influence that came with it, without undermining Dlamini-Zuma.
43. Like Mbeki, Pahad had a somewhat inflated view of South Africa's potential as a diplomatic broker, informed and encouraged by the attention that was paid to the ANC in exile and by the international community to apartheid South Africa. During the period leading up to the second Gulf War, and America's invasion of Iraq in 2003 specifically, Pahad spent a good deal of time in Baghdad in the probably mistaken belief that South Africa's own experience of both nuclear de-commissioning and transition negotiations would equip them to either persuade Iraq to concede sufficient ground to ward off a US attack and/or to persuade the international community to continue to pursue a diplomatic solution to the impasse. Again, it is important to note that South Africa's position in the region was already well-entrenched by the turn of the century, especially with regard to relations with the Palestinian authorities and the Palestinian Liberation Organisation (with whom the ANC enjoyed close relations based on political solidarity). South Africa's position became further entrenched due to events leading up to the Iraq war of 2003. This influenced South Africa's stance towards Iran over its nuclear programme.

#### Abdul Minty

44. Minty was a key player during the relevant period, primarily because he was South Africa's representative on the IAEA. Minty was responsible for multilateral negotiations generally, and with, and in relation to, Iran, specifically - as the Americans noted: "Handling of [Iranian Secretary of Supreme National Security Council] Larijani visit [to South Africa in October 2005] confirmed Minty's strong influence over the [South

African government's] willingness to give Iran the benefit of the doubt regarding Iran's development of nuclear technology for 'peaceful' purposes"<sup>21</sup>). As a committed multi-lateralist, and leading member of the ANC's exile movement (Honorary Secretary of the British Anti-Apartheid Movement between 1962-1995), he was 'chip off the Mbeki block' in terms of his attitudes to international relations, and, therefore, a trusted lieutenant.

Mosiua 'Terror' Lekota (Minister of Defence during the relevant period):

45. Even though Lekota was chairman of the ANC during the time in question – a very senior position in the ANC's national executive committee – there were many complaints about his handling of the responsibilities and so his political stock was not especially high. Indeed, he was one of the many ANC leaders who was deposed during the Polokwane 'putsch' of 2007. Lekota was sufficiently bruised by that experience and discomfited by Zuma's ascent to the ANC presidency that he took the very substantial step of leading a break-away party in 2008 called the Congress of the People (COPE).
46. As chairman of the ANC, with valuable links to various domestic constituencies, Mbeki was required to give Lekota a senior position when he formed his new cabinet after the general election of 2004, and Lekota was duly appointed as Defence Minister. Although the genial Lekota was generally popular within the ANC, he did not command Mbeki's respect intellectually and would not, therefore, have been a close confidante of the President on intricate matters of international diplomacy. Lekota, it should be recalled, was not a part of the ANC 'exile' community. On the contrary, he was a leader of the 'internal/incile' United Democratic Front (UDF) that had a markedly different approach to decision-making, and a decidedly different political character. As defence minister, Lekota was not a 'detail' person, preferring to focus on the big picture. There can be little doubt that on matters as sensitive as relations with Iran, Lekota would have been guided by the Presidency, and Mbeki himself specifically. It is highly unlikely that he would have gone out on a limb, whether on defence co-operation or otherwise, without Mbeki's express approval.

Dumisani Khumalo:

47. Although Khumalo does not appear in the *Dramatis Personae* presented by Turkcell, he was a significant player in South Africa's diplomacy during the relevant period, as its permanent representative to the United Nations (a position he held for the unusually long period of nine years from 1999-2008). He, too, was a highly trusted servant of Mbeki; Khumalo essentially took his instructions directly from Mbeki and was given a large amount of discretion in the positions that he adopted at the UN, giving rise to

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<sup>21</sup> <http://wikileaks.org/cable/2005/10/24PRETORIA4297.html> [24 May 2012].

considerable consternation amongst the Great Powers when South Africa assumed a seat on the UN Security Council in 2007.

### **The Architecture: What were the main structures and processes of South African policy-making?**

#### The Department of Foreign Affairs

48. The Department of Foreign Affairs (DFA), as it then was, constituted, as one would expect, the primary formal structure of foreign-policy *implementation*. As noted above, the principal individual and institutional architects were neither the specialist public servants in the DFA nor the Minister of Foreign Affairs (Nkosazana Dlamini-Zuma, who held the position for ten years from 1999-2009). Foreign policy, especially on issues with a big geo-political 'footprint', was made by Mbeki and his most trusted lieutenants (in which category one would place Pahad and Minty, even as a senior member of the DFA).

#### The Presidential Support Unit

49. Despite its anodyne name, the Presidential Support Unit (PSU) played an influential role in foreign policy-making because it constituted, in essence, Mbeki's own 'private' or 'personal' intelligence service (Calland 2006: 38-40). A small group of around 4-5 loyal, mostly former liberation movement intelligence operatives was constituted in order to provide Mbeki with direct briefings. Individuals such as Dr Andre Zaaiman would be assigned particular geographical areas (the Middle East in his case) and deployed on missions to gather intelligence that would then be reported back directly to Mbeki, and which would then inform his own positioning.

#### The National Conventional Arms Control Committee

50. Established by the National Conventional Arms Control Committee Act of 2002, the National Conventional Arms Control Committee (NCACC) was created in order to provide regulatory oversight over trading in conventional arms by South Africa<sup>22</sup>. Pursuant to the Act, no person may trade in conventional arms or render foreign military assistance unless that person is registered with the Directorate Conventional Arms Control and is in possession of a permit issued by the NCACC. So far as disclosure and non-disclosure is concerned, the NCACC is required to:

46.1 Ensure compliance with the annual reporting requirements of the United Nations Register of Conventional Arms and simultaneously present to Parliament a copy of South Africa's annual report to the UN;

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<sup>22</sup> For the most recent reports of parliamentary hearings on the NCAC see: <http://www.pmg.org.za/report/20120315-national-conventional-arms-control-committees-ncacc-2011-2nd-3rd-and->

46.2 Make quarterly reports to the Cabinet and to a committee of parliament on all conventional arms sales concluded during the preceding quarter. As is noted below, in practice the NCACC has apparently not come even close to meeting this requirement.

46.3 In terms of the Act, the parliamentary reports must include the names of the importing states and the type, quantity and value of all the conventional arms in question;

46.4 At the end of the first quarter of the year present an annual report to parliament and the public.

51. The reporting of the NCACC has been erratic, and in some respects lacking in transparency – with the opposition Democratic Alliance having to push hard in parliament for the required reports from the NCACC.<sup>23</sup> Nonetheless, during the relevant period the NCACC was a functional committee and under the Chairmanship of the esteemed former human rights lawyer, the late Professor Kader Asmal, established itself during its founding period as a serious new institution.
52. This needs some qualification. Asmal was himself not beyond criticism: despite seeking to develop a strong culture of oversight, he excluded parliament from the ambit of the NCACC's work or, at the very least, made it hard for parliament to play the role that the legislation intended of it (as the recipient of disclosures made to and by the NCACC). Arguably, therefore, the positive impact of the NCACC was its direct influence on the executive arm of government: Asmal was respected and his independence of mind was to some extent feared by colleagues in the ANC and in the cabinet. The very presence of the NCACC, despite its limitations, no doubt exercised a restraint on the government.
53. The Minister of Defence during the relevant period (Lekota) was absolutely clear about the system of oversight that had been established – in essence to ensure that South Africa would not sell any weaponry without the appropriate levels of clearance certificates (including in the case of weaponry involving parts with an origin other than South Africa) – and Minister Lekota remains convinced that government adhered to the scheme to the letter during his tenure.
54. While the NCACC scheme essentially involved ex post facto reporting – ie there is no legal requirement to get the permission of the committee prior to sale – the presence of the NCACC and its obligation to provide quarterly reports to parliament, served to help ensure that careful consideration was given to arms sales so as to ensure that South Africa's reputation was not sullied by weaponry being used by purchasers against their own citizens or for offensive purposes.

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<sup>23</sup> The report tabled in 2008 was, for example, the first for four years according to Bishku: 'South Africa and the Middle East' online journal essay published by the Middle East Policy Council. Available on <http://mepc.org/journal/middle-east-policy-archives/south-africa-and-middle-east?print>

55. South African foreign policy on arms sales during the relevant period was based on the principle of non-proliferation and was directed towards seeking to persuade other nations to adopt an arms procurement approach that was based on defence not offence. The commitment to this principle ran deep within South Africa's policy-making apparatus – a point that was emphasized to me heavily by all the sources with whom I engaged on the topic in preparing this report.
56. In this context, it is difficult to imagine that South Africa would have engaged in arms sales that either sought to evade the oversight and transparency scheme that had been established (as former Defence Minister Lekota asserted to me, the weaponry that Turkcell claimed was promised would have been impossible to hide from international observers) or which ran contrary to this pivotal policy principle.
57. However, the list of buyers of arms from South Africa acknowledged in the 2008 report included 'rogue states' Libya and Sudan, and the 2009 report showed that authorisation was given for the sale of submarine radar equipment to North Korea. At other times during the years since 2000, South Africa sold arms equipment in the sensitive A-B category<sup>24</sup> to Venezuela and Somalia. The Ceasefire Campaign pressure group have criticised the NCACC for failing to apply the criteria set out in its founding legislation – the National Conventional Arms Control Act 2002<sup>25</sup> – when reviewing the sales of arms to India, UAE, Algeria, Colombia and Saudi Arabia<sup>26</sup>.
58. South Africa would defend such sales on the basis that they did not on the one hand offend the principle of selling for offensive purposes, nor, on the other, did they do anything other than support the principle of national sovereignty.
59. The one significant concern that should be acknowledged is the gap, or possible flaws, in NCACC reporting for the period 2005–2008. The NCACC was established in 2003. Its first

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<sup>24</sup> In the reporting, arms exported are categorized in the five broad categories adopted by the Wassenaar Arrangement of which South Africa is a participating State:

A: Sensitive major significant equipment

B: Sensitive significant equipment

C: Non-sensitive equipment

D: Non-lethal equipment

G: General services.

<sup>25</sup> Section 15 of the National Conventional Arms Control Act states that when the National Conventional Arms Control Committee considers applications for the export of arms to another country, it must "avoid contributing to internal repression, including the systematic violation or suppression of human rights and fundamental freedoms." It must also "avoid transfers of controlled items [i.e. conventional weapons and related items] to governments that systematically violate or suppress human rights and fundamental freedoms."

<sup>26</sup> South African Arms Exports, 2000–2009: A Dossier

<http://www.ceasefire.org.za/images/stories/Documents/dossier%20sa%20arms%20exports%202010.pdf>

report appears to have been tabled in parliament in 2005, covering the years 2003 and 2004<sup>27</sup>. There is then a gap, until 2008<sup>28</sup>. The 2008 report covers only the period January – December 2008, so there is, in effect, a ‘black hole’ in the reporting that covers 2005 – 2008.

60. There is no clear, or indeed satisfactory, explanation for why there was a three year gap in formal reporting by the NCACC, although it is possible that reports were prepared but classified and not made publicly available. Indeed, the reports that are available are in the main only now in the public domain as a result of proceedings brought by the Open Democracy Advice Centre pursuant to the Promotion of Access to Information Act 2000 on behalf of the Ceasefire Campaign<sup>29</sup>, leading the pressure group to claim that:

The NCACC’s annual reports are extremely bland. They report no issues that the Committee had to consider. They give no details of policy with regard to process or principle in the consideration of applications for arms exports or of matters of transparency. While they give country-by-country statements of the types of conventional arms exported and the value of the exports, they give no more than is required in terms of the Act; there is evidently no commitment to proactive transparency.<sup>30</sup>

61. However, there is no evidence that arms were sold to Iran during this period, notwithstanding these defects in the NCACC reporting and oversight schema. In any case, the Turkcell case appears to be not that arms were sold but that they were promised but not delivered (citing the subsequent 2007 complaints of Iranian ministers in this regard). Indeed, the Ceasefire Campaign’s report on South African arms sales states that it had found no listing of any arms sales to Iran during the period 2004-2009<sup>31</sup>.

62. The evidence that is available is to be found in the form of statements prepared apparently by the SA Department of Defence, setting out the ‘Export Statistics for Conventional Arms’; there are reports in this format for years 2005, 2006 and 2007<sup>32</sup>. This mode and format of reporting appears to have been established in the year prior to

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<sup>27</sup> [http://www.sipri.org/research/armaments/transfers/transparency/national\\_reports/south\\_africa/SA03-04.pdf](http://www.sipri.org/research/armaments/transfers/transparency/national_reports/south_africa/SA03-04.pdf)

<sup>28</sup> [http://www.sipri.org/research/armaments/transfers/transparency/national\\_reports/south\\_africa/SA\\_08\\_Briefing](http://www.sipri.org/research/armaments/transfers/transparency/national_reports/south_africa/SA_08_Briefing)

<sup>29</sup> South African Arms Exports, 2000–2009: A dossier, at page 9.

<http://www.ceasefire.org.za/images/stories/Documents/dossier%20sa%20arms%20exports%202010.pdf>

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> All of which are available on the Stockholm International Peace Research Institute website at:

[http://www.sipri.org/research/armaments/transfers/transparency/national\\_reports/south\\_africa/south-africa-national-reports](http://www.sipri.org/research/armaments/transfers/transparency/national_reports/south_africa/south-africa-national-reports)

the NCACC scheme coming into operation and ordinarily would have been appended to the NCACC 'covering' report (such as in the case of the 2005 report covering 2003 and 2004). But in the case of 2005, 2006, and 2007, there is no publicly available NCACC covering report that would have helped put the export statistics into context. The reports for these years are, as the Ceasefire Campaign's assertion, quoted above, says bland and minimalist in terms of their adherence to the requirements of the NCACC Act. There is little or no description of the arms sold; no analysis of the exports; no exposition of the issues involved; and no contextual or other explanation for why licences were either granted or not. In other words, the rationale and basis for the approach taken by the NCACC is not provided, only the stark facts and figures of the exports reviewed.

63. The 2005 NCACC report, covering years 2003 and 2004, is the most comprehensive of any of the publicly available reports, providing a reasonable level of context and explanation, as well as the figures relating to the number, size and value of the various categories of conventional arms for which permits were sought<sup>33</sup>. The report records that in 2003 there were 1,988 export permit applications, of which 1,941 were granted for exports to 59 countries, totalling just over R3bn. For 2004, there were 2,237 applications of which 2,191 were granted for exports to 62 countries, totalling R2.7bn. Iran did not appear in either list.

#### The Bradstone Challenger

64. One matter that has attracted the attention of the NCACC and the parliamentary committee concerns the sale to Iran of The Bladerunner 51 (the 'Bradstone Challenger'), which is presently the fastest speedboat available. It was developed by a United Kingdom company Ice Marine in conjunction with an American defence contractor Navatek. As a result of its speed, it can be converted into a fast attack boat and used for naval warfare.

65. Iran had previously tried to buy the boat but the United States blocked such moves. However, reports show that a South African company (Icarus Marine Pty Ltd) may have helped purchase the boat for Iran in 2009.<sup>34</sup> Icarus Marine denies been involved in the transaction and suggests that it is being implicated because of some separate design

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<sup>33</sup> [http://www.sipri.org/research/armaments/transfers/transparency/national\\_reports/south\\_africa/SA03-04.pdf](http://www.sipri.org/research/armaments/transfers/transparency/national_reports/south_africa/SA03-04.pdf)

<sup>34</sup> [http://www.bis.doc.gov/news/2009/bis\\_press04142009.htm](http://www.bis.doc.gov/news/2009/bis_press04142009.htm); <http://www.mg.co.za/article/2010-09-24-how-sa-company-oiled-irans-war-machine/>

work it had done in the past for Tadbir Sanaat Sharif Technology (TSS) Development Centre, the importer of the Bradstone challenger to Iran.<sup>35</sup>

66. Members of the Wassenaar Arrangement filed a complaint with the National Conventional Arms Control Committee (NCACC) Inspectorate with regard to Icarus Marine (Pty) involvement in the transaction. The NCACC Inspectorate investigated the complaint and found that the Bradstone Challenger was not regulated under the NCACC Act and as such did not amount to a contravention of the Act.<sup>36</sup> While the clearance of the sale by the NCACC might look questionable as a result of the dual nature of the Bradstone Challenger and the fact that the United States had prohibited the sale to Iran, it is vital to point out that the sale of such equipment is not prohibited by any of the Security Council resolutions on Iran.

### Aviator G Suits

67. The official opposition, the Democratic Alliance (DA), has sought in recent years to expose weaknesses in the NCACC system by raising questions of it in the parliamentary joint standing committee on defence. In addition to questions raised by DA MP David Maynier about the Bradstone Challenger, the current chair of the NCACC, Justice Minister Jeff Radebe, was asked to explain the position in relation to ‘aviator G-suits’ that the DA claimed in a press conference were worn by pilots who are subjected to high levels of acceleration to prevent blackouts and loss of consciousness<sup>37</sup>. In its media statement of 2 August 2009, the DA alleged that the suits were not produced in South Africa but that a company based in South Africa was attempting to export the aviator suits to Iran. At the subsequent parliamentary hearing, the minutes of the Parliamentary Monitoring Group record that “He noted that the NCACC had denied the application to export aviator G-suits to Iran”, though it is not clear if the ‘he’ refers to Maynier who had “continued to insist on a reply to his question” or to Radebe. More recently, Maynier has called on Radebe and the NCACC to conduct an investigation into whether South African front companies are being used to sell helicopter parts to Iran.<sup>38</sup>

### **South Africa’s Relations with Iran**

68. South African-Iranian political and economic relations deepened significantly from 1994 onwards. In 1997, Mandela’s government had discussed selling enrichment expertise

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<sup>35</sup> [http://www.defenceweb.co.za/index.php?option=com\\_content&view=article&id=9990:ncacc-inspectorate-probing-icarus-marine-&catid=54:Governance&Itemid=118](http://www.defenceweb.co.za/index.php?option=com_content&view=article&id=9990:ncacc-inspectorate-probing-icarus-marine-&catid=54:Governance&Itemid=118)

<sup>36</sup> NCACC cleared sale of bladerunner 51 to Iran

<http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71654?oid=291542&sn=Detail&pid=71654> <http://www.pmg.org.za/node/32522>

<sup>37</sup> <http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71654?oid=138308&sn=Detail&pid=71654>

<sup>38</sup> <http://www.politicsweb.co.za/politicsweb/view/politicsweb/en/page71654?oid=286395&sn=Detail&pid=71654>

from its own nuclear programme to Iran<sup>39</sup>. In the years following the 1995 oil storage agreements South Africa had increased its trade with Iran, reaching \$4bn a year by 2009<sup>40</sup>. As of 2006, South Africa received 40 per cent of its crude oil from Iran.

69. In my opinion, the MTN licence was perceived by Pretoria as a perfectly ‘natural’ extension of this deepening level of trade and mutually-valuable investment between the two countries. As noted earlier, Pretoria was concerned about the trade imbalance that resulted from its substantial reliance on Iranian oil and was eager to counter it with more private sector participation in the Iranian economy. As Deputy Foreign Minister Pahad put it in 2006:

“We must encourage more movements on the part of our private sectors. The balance of trade is heavily in favor [sic] of Iran and therefore we must find projects along which we can then encourage the Iranians to invest more in South Africa and buy more goods from us”.<sup>41</sup>

70. Under President Mbeki, South Africa strengthened its diplomatic relations with Iran under the auspices of the SA-Iran Joint Bi-national Commission (JBC).<sup>42</sup> Frequent consultations were held between both countries to explore trade opportunities available in both countries.<sup>43</sup> The South African Department of International Relations and Co-operation (DIRCO) records twenty one (21) separate agreements between South Africa and Iran: the first, in 1995, established a Joint Bi-lateral Commission; thereafter agreements or Memoranda of Understanding (MOU) were signed relating to a wide range of activities: minerals and energy (1995); trade (1996); tax (1997); investments (1997); maritime matters (1999); science and technology (2000); tourism (2000); air transport (2000); sport (2002); cultural and artistic matters (2002); drug trafficking (2003); health (2003 and 2004); environment (2003); extradition (2004); health professionals (2004); housing (2004); mutual legal assistance (2004); and, customs (2006).

71. This volume of formal co-operation was not out of the ordinary. As noted above, once South Africa returned to the international fold, post-apartheid, there was a great deal of time to catch up in terms of both bilateral and multilateral relations. DIRCO’s record of bilateral agreements reached in the period 1994-2011 stretches to one hundred and sixty one pages. The fact that a JBC was established with Iran was also not in itself

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<sup>39</sup> <http://www.irantracker.org/foreign-relations/south-africa-iran-foreign-relations> [27 May 2012].

<sup>40</sup> Ibid.

<sup>41</sup> Pahad Comments on Tehran-Pretoria relations. Iran News Agency. 7 May 2006.

<sup>42</sup> Deputy Minister of Foreign Affairs, Aziz Pahad concludes Consultations with Iranian Deputy Minister responsible for Afro-Arab Affairs, <http://www.dfa.gov.za/docs/2004/iran0826.htm>

<sup>43</sup> Deputy Minister Pahad concludes Meetings with Representatives of Major Role Players in Iranian Energy Industry, <http://www.dfa.gov.za/docs/2004/iran0826a.htm> Dlamini Zuma, Joint Bilateral Commission between South Africa and Iran, <http://www.polity.org.za/article/dlamini-zuma-joint-bilateral-commission-between-south-africa-and-iran-21082006-2006-08-21>

exceptional: during the mid-1990s it was a preferred method of formalising and establishing relations with friendly governments that suited Mbeki's style and approach. DIRCO's legal department responsible for treaties provides a list of current JBCs or similar bodies (defined fairly broadly) that totals sixty six such agreements (66) - though on closer examination it would be more accurate to say that of the list, forty-four represent actual JBCs or equivalent<sup>44</sup>. The agreement to establish a JBC with Iran was reached in August 1995, and was the ninth such Commission to be established by South Africa after 1994, coming just after the Russian Federation and just before the USA and Israel in the DIRCO list.

72. Turkcell alleges that Minister Lekota made a visit to Iran "in mid-2004" (paragraph 92 of the Turkcell Complaint) that was paid for by MTN and agreed a Memorandum of Understanding (in relation to the alleged promise of weapons' sales [paragraph 98 of the Complaint]). According to Iranian news reports dated 17 August 2004, at the end of what they report as an official visit, a Memorandum of Understanding on Bilateral Cooperation was signed by both countries to expand their military, economic and political cooperation.<sup>45</sup> However, the spokesperson for the Defence Minister vehemently denied the report that a Memorandum of Understanding on Bilateral Cooperation was signed with Iran and there is no record of of any such MOU at the Department of International Relations<sup>46</sup>.

73. Unless it was intended that the engagement with Minister Lekota was to run separately or in parallel to the formal bi-lateral process, it would be surprising if such an inherently sensitive discussion and agreement had been conducted and agreement reached just months before the next session of the JBC in December 2004. Foreign minister Nkosazana Dlamini Zuma attended the December JBC and "lent weight to Iran over Tehran's right to peaceful nuclear technology" according to one news report<sup>47</sup>. At the end of the JBC a Joint Communique, issued by Iran and South Africa, stated that the parties had decided to establish two working committees in the fields of Political and Social Affairs, and Technical and Economic Affairs. The Communique also records that the parties were identifying possible areas of defence co-operation (technology, training, procurement) which 'should' culminate in an MOU being signed<sup>48</sup>.

74. The available evidence suggests that no MOU on defence was agreed in 2004.

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<sup>44</sup> A majority are named 'Joint Commission of Co-operation' (eg Kenya and Niger); others are described by name (eg the German – South African Binational Commission); some are sector specific (eg Malaysia: Joint Commission for Economic, Scientific, Technical and Cultural Co-operation).

<sup>45</sup> <http://www.payvand.com/news/04/aug/1164.html>  
<http://www.kuna.net.kw/ArticlePrintPage.aspx?id=1487188&language=en>

<sup>46</sup> Chiara Carter, 'Political row over SA-Iran nuclear links' *Thisday* 24/08/2004. Available at <http://www.samedia.uovs.ac.za/cgi-bin/getpdf?year=2004&refno=840&topic=20>

<sup>47</sup> News Agency Iran, 'South Africa backs Iran's right to peaceful' *Arabia* 2000, 12/14/2004 [22 May 2012].

<sup>48</sup> <http://www.dfa.gov.za/docs/2004/iran1217.htm>

## Pretoria's Multilateral Positioning on Iran's Nuclear Programme

### The International Atomic Energy Agency

75. In terms of Iran's nuclear programme, South Africa was of the opinion that Iran should neither be permitted to have nuclear weapons nor should there be an outbreak of war over the nuclear programme in Iran'.<sup>49</sup> In this regard, South Africa acknowledged that Iran had a treaty-right under the Non-Proliferation Treaty to exploit nuclear technology for peaceful use.<sup>50</sup> However, while South Africa believed in Iran's right to peaceful use of nuclear technology, it emphasised that caution had to be taken to ensure that nuclear technology meant for peaceful use was not diverted to development of a nuclear weapons programme. South Africa quietly had concerns about Iran's compliance with the Nuclear Non-Proliferation Treaty (NPT) but decided to accord Iran the benefit of doubt.<sup>51</sup> In order to balance both positions, South Africa was of the opinion that diplomacy rather than sanctions would be the best way to address the concerns about Iran's nuclear programme.<sup>52</sup>
76. In this regard, South Africa abstained from voting on the resolution of the Board of Governors of the International Atomic Energy Agency (IAEA) in September 2005 which stated that Iran was in non-compliance with the Nuclear Non-Proliferation Treaty.<sup>53</sup> South Africa's position on the resolution was that the Board of Governors ought to have allowed more 'time that would enable the [IAEA] to continue with its process to clarify certain issues pertaining to the Islamic Republic of Iran's peaceful nuclear programme.'<sup>54</sup>
77. In September 2005, the Board of Governors of the IAEA passed a resolution (GOV/2005/77), notwithstanding South Africa's abstention, which found Iran to be in breach of its obligations under the NPT Safeguards Agreement.<sup>55</sup> The Board held that the breach amounted to non-compliance under Article XII.C of the IAEA Statute.<sup>56</sup> The Resolution also found that Iran's history of concealment of its nuclear activities and the "absence of confidence that Iran's nuclear programme [was] for peaceful purposes [had]

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<sup>49</sup> *South Africa in the United Nations Security Council 2007-2008*, page 24. Available at <http://www.southafrica-newyork.net/pmun/PDF/bookletb5.indd.pdf> [21 May 2012]

<sup>50</sup> News Agency Iran, 'South Africa backs Iran's right to peaceful' *Arabia* 2000, 12/14/2004 [22 May 2012].

<sup>51</sup> Scope for broader ties between South Africa and Iran, *Sowetan* 09/03/2000.

<sup>52</sup> Peter Fabricius, 'SA torn on Iranian nuclear weapons threat' *Star* 25/08/2006. Available on <http://www.samedia.uovs.ac.za/cgi-bin/getpdf?year=2006&refno=741&topic=20>

<sup>53</sup> <http://www.iranwatch.org/international/IAEA/iaea-boardofgovernors-votingtally-092405.htm>

<sup>54</sup> <http://www.dfa.gov.za/docs/speeches/2005/mint1124.htm>

<sup>55</sup> IAEA Board of Governors, Resolution on the Implementation of the NPT Safeguards Agreement in the Republic of Iran GOV/2005/77. Adopted on 24 September 2005.

<sup>56</sup> Resolution on the Implementation of the NPT Safeguards Agreement in the Republic of Iran GOV/2005/77, paragraphs 1.

given rise to questions that [were] within the competence of the Security Council.”<sup>57</sup>The Resolution thus urged Iran to:

- (i) implement transparency measures,...which extend beyond the formal requirements of the Safeguards Agreement and Additional Protocol, and include access to individuals, documentation relating to procurement, dual use equipment, certain military owned workshops and research and development locations;
- (ii) re-establish full and sustained suspension of all enrichment-related activity, as in GOV/2005/64, and reprocessing activity;
- (iii) reconsider the construction of a research reactor moderated by heavy water;
- (iv) promptly ratify and implement in full the Additional Protocol; and
- (v) pending completion of the ratification of the Additional Protocol, continue to act in accordance with the provisions of the Additional Protocol, which Iran signed on 18 December 2003.<sup>58</sup>

78. In the course of the debate on the September 2005 Resolution, the Non-Aligned Movement (NAM) stressed the need to strike a balance between non-proliferation of nuclear weapons and the peaceful use of nuclear technology in a non-discriminatory manner. NAM also pointed out that there was a difference between legal obligations under the NPT Safeguards Agreements and voluntary commitments. As such, Members should not be penalised for not observing to their voluntary commitments.<sup>59</sup> NAM also pointed out that Iran’s decision to suspend its enrichment and reprocessing activities was a voluntary legally non-binding measure which was aimed at building confidence. Therefore this measure was not to be interpreted as inhibiting Iran’s right to do develop nuclear energy for peaceful purposes. NAM suggested that the issue of Iran’s non-compliance should be resolved through dialogue and peaceful means. South Africa aligned itself with the position of the NAM but also urged Iran to cooperate with the Agency so as to restore confidence in Iran’s peaceful nuclear activities.<sup>60</sup> South Africa also warned Members not to equate voluntary measures with legally binding obligations under the Safeguard Agreements.

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<sup>57</sup> Resolution on the Implementation of the NPT Safeguards Agreement in the Republic of Iran GOV/2005/77, paragraphs 2.

<sup>58</sup> IAEA Board of Governors, Resolution on the Implementation of the NPT Safeguards Agreement in the Republic of Iran GOV/2005/77, paragraphs 4.

<sup>59</sup> Statement by the Non-Aligned Movement (NAM) at the IAEA Board of Governors Meeting Vienna, Austria, September 2005.

<sup>60</sup> <http://www.info.gov.za/speeches/2005/05092612151006.htm>

79. At the November 2005 Board of Governors meeting of the IAEA, the Director- General of the IAEA reported on the developments that had occurred in Iran since the last IAEA meeting in September 2005. He noted that Iran had been forthcoming in providing additional information in respect of a 1987 offer to procure nuclear components and equipment and had also permitted the agency to interview individuals who had been involved with the procurement network.<sup>61</sup> He also pointed out that there were still outstanding issues to be resolved in respect of the origin of P-1 components purchased in the mid 1990s and that the Agency was still “seeking additional assurance that no P-2 programme was conducted between 1995 and 2002.”<sup>62</sup> He thus urged Iran to clarify some issues relating to its enrichment programme because transparency was indispensable and in this case overdue.<sup>63</sup> The specific areas where he pointed out that transparency was necessary included the “provision of information and documentation [relating] to the procurement of dual use equipment, and permitting visits to relevant military owned workshops and R&D locations associated with the Physics Research Centre and the Lavisian-Shian site.”<sup>64</sup> No vote was held during the November 2005 meeting of the IAEA.
80. In responding to the Director-General’s November 2005 Report, South Africa through its IAEA Governor, Mr Abdul Minty restated that the September 2005 resolution (GOV/2005/77) which found Iran to be in non-compliance with Article XII.C of the Agency’s Statute was not the right course of action to follow. He stated the present report of the Director-General (GOV/2005/87) shows that progress had been made in resolving some of the issues surrounding Iran’s nuclear programme. He stated that the proper course of action would be to give the IAEA more time to enable it to clarify certain areas of Iran’s peaceful nuclear programme.<sup>65</sup> He also urged Iran to continue to demonstrate transparency in its nuclear programme and grant the IAEA access to its facilities as it had done with the Parchin site. He reemphasised the need for Members to distinguish between voluntary measures and legally binding obligations which emanate from Members’ safeguard agreements with the IAEA. As part of his concluding remarks, he commended Iran for the confidence building measures it had taken including its implementation of the Additional Protocol as if it had ratified it.

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<sup>61</sup> Report by the Director General on the Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran GOV/2005/87, Para 20, 18 November 2005.

<sup>62</sup> Report by the Director General on the Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran GOV/2005/87, Para 20, 18 November 2005. References to P-1 components and P-2 programme are to different aspects of the uranium enrichment process.

<sup>63</sup> Report by the Director General on the Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran GOV/2005/87, Para 21, 18 November 2005.

<sup>64</sup> Report by the Director General on the Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran GOV/2005/87, Para 21, 18 November 2005.

<sup>65</sup> <http://www.info.gov.za/speeches/2005/05112509151002.htm>

81. On the 4<sup>th</sup> of February 2006, the Board of Governors of the IAEA adopted a resolution (GOV/2006/14) where it restated the need for Iran to “re-establish full and sustained suspension of all enrichment-related and reprocessing activities, including research and development, to be verified by the Agency; reconsider the construction of a research reactor moderated by heavy water; ratify promptly and implement in full the Additional Protocol; pending ratification, continue to act in accordance with the provisions of the Additional Protocol which Iran signed on 18 December 2003; implement transparency measures, as requested by the Director General, including in GOV/2005/67, which extend beyond the formal requirements of the Safeguards Agreement and Additional Protocol, and include such access to individuals, documentation relating to procurement, dual use equipment, certain military-owned workshops and research and development as the Agency may request in support of its on-going investigations”.<sup>66</sup> The resolution thus requested the Director General of the IAEA “to report to the Security Council of the United Nations that these steps are required of Iran by the Board and to report to the Security Council all IAEA reports and resolutions, as adopted, relating to this issue.”<sup>67</sup>
82. South Africa abstained from voting in favour of this February 2006 resolution. Mr Minty stated the position of the South African Government before the resolution was put to vote. South Africa was of the position that the resolution represented “a watershed in the Agency’s efforts to deal with the outstanding issues related to the Islamic Republic of Iran’s peaceful nuclear programme.”<sup>68</sup> South Africa objected to the resolution because it was of the opinion that the resolution would diminish the Board’s role in verifying Iran’s nuclear activities once the Security Council became involved in the process.<sup>69</sup> Furthermore, South Africa was of the opinion “that in the absence of a definitive assessment by the Agency on the implementation by the Islamic Republic of Iran of its NPT Safeguards Agreement with the Agency, the Board cannot now consider

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<sup>66</sup> IAEA Board of Governors Resolution on the Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran GOV/2006/14, Paragraph 1. Adopted on 4 February 2006. The other points raised in paragraph 1 of the resolution are in pari material with the provisions of paragraph 4 of the 24 September 2005 Resolution (GOV/2005/77) which found that Iran had not complied with its obligations under NPT Safeguards Agreement.

<sup>67</sup> IAEA Board of Governors Resolution on the Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran GOV/2006/14, Paragraph 2. Adopted on 4 February 2006

<sup>68</sup> Statement by Mr Abdul Samad Minty, Governor of the Republic of South Africa, at the special meeting of the International Atomic Energy Agency (IAEA) Board of Governors on the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) safeguards agreement in the Islamic Republic of Iran and related board resolutions, Vienna, Austria.

<http://www.info.gov.za/speeches/2006/06020610451001.htm>

<sup>69</sup> Statement by Mr Abdul Samad Minty, Governor of the Republic of South Africa, at the special meeting of the International Atomic Energy Agency (IAEA) Board of Governors on the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) safeguards agreement in the Islamic Republic of Iran and related board resolutions, Vienna, Austria

referring a report or reports to the Security Council and General Assembly.”<sup>70</sup> It stressed that it was important to maintain the role, impartiality and integrity of the Agency and no action should be taken that could undermine the responsibilities of the Agency.

83. South Africa emphasised the same argument at the 2000 NPT Review Conference, where the IAEA was reaffirmed as the “competent authority responsible for verifying and assuring, in accordance with the statute of IAEA and the IAEA safeguards system, compliance with its safeguards agreements with States parties undertaken in fulfilment of their obligations under article III, paragraph 1, of the Treaty, with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. It is the conviction of the Conference that nothing should be done to undermine the authority of IAEA in this regard. States parties that have concerns regarding non-compliance with the safeguards agreements of the Treaty by the States parties should direct such concerns, along with supporting evidence and information, to IAEA to consider, investigate, draw conclusions and decide on necessary actions in accordance with its mandate.”
84. Mr Minty suggested that since the Agency was to report back in March 2006 as to the facilitation process it had embarked on to enable Iran to undertake corrective action and verify non-diversion of nuclear energy from peaceful uses to nuclear weapons, it might be premature to refer Iran to the Security Council. Therefore, South Africa suggested that the best approach would be to adopt a decision by consensus in order to strengthen the work of the Agency and enable it resolve all outstanding issues in terms of Iran’s peaceful nuclear programme.<sup>71</sup>
85. Within the period under review, South Africa maintained a consistent position at the IAEA. It strongly believed that the issues pertaining to Iran’s nuclear programme could be resolved through diplomacy. It also believed that the IAEA should be given more time to continue to dialogue with Iran. It opposed the idea of equating voluntary non-legally binding measures with binding legal obligations under the NPT Safeguards Agreement. South Africa always emphasised the need for a definitive assessment of Iran’s nuclear programme by the IAEA rather than rely on assumptions based solely on non-disclosure on the part of Iran. South Africa believed that for the IAEA to credibly carry out its mandate it had to be free from external pressure and seen to be impartial. It always

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<sup>70</sup> Statement by Mr Abdul Samad Minty, Governor of the Republic of South Africa, at the special meeting of the International Atomic Energy Agency (IAEA) Board of Governors on the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) safeguards agreement in the Islamic Republic of Iran and related board resolutions, Vienna, Austria

<sup>71</sup> Statement by Mr Abdul Samad Minty, Governor of the Republic of South Africa, at the special meeting of the International Atomic Energy Agency (IAEA) Board of Governors on the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) safeguards agreement in the Islamic Republic of Iran and related board resolutions, Vienna, Austria

aligned itself with the position taken by the NAM that Members States had the right to pursue peaceful nuclear programme.

86. South Africa abstained from voting on both the September 2005 and February 2006 resolutions, it continued to urge Iran to embrace a transparent approach in the pursuit of its nuclear programme in order to build confidence. No vote of the IAEA took place in November 2005.

#### The United Nations Security Council

87. South Africa sat on the United Nations Security Council from 1 January 2007 to 31 December 2008. Prior to South Africa becoming a rotating member of the Security Council, the Security Council had adopted two resolutions on Iran - Resolution 1696 (2006) and Resolution 1737 (2006).<sup>72</sup> Acting under Article 40 of the United Nations Charter, Resolution 1696 called upon Iran to immediately take measures which were “essential to build confidence in the exclusively peaceful purpose of its nuclear programme and resolve outstanding questions.”<sup>73</sup> The resolution also demanded that Iran suspend its enrichment and reprocessing activities.<sup>74</sup> The Security Council requested the Director-General of the IAEA to notify the Security Council by 31 August on the process of Iran’s compliance with the resolution.<sup>75</sup>

88. Resolution 1737 was adopted under Article 41 of the Charter of the United Nations and it called upon States to take measures to prevent the supply, sale, or transfer from their territories or by their nationals’ material, equipment, goods and technology related to the enrichment or reprocessing of nuclear material.<sup>76</sup> The resolution prohibited States from providing Iran with technical assistance or training, financial assistance, investment, brokering or other services related to the supply, sale, transfer, manufacture or use of certain prohibited items contained in paragraphs 3 and 4 of the resolution.<sup>77</sup> The resolution further called upon States to exercise vigilance in respect of the entry into their territory, individuals suspected to be involved in Iran’s nuclear programme.<sup>78</sup> The resolution also required the Director General of the IAEA to report

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<sup>72</sup> Resolution 1696 (2006) was adopted by the Security Council at its 5500<sup>th</sup> meeting on 31 July 2006 and Resolution 1737 (2006) was adopted by the Security Council at its 5612<sup>th</sup> meeting on 27 December 2006.

<sup>73</sup> UNSC, Resolution 1696 (2006) Paragraph 1. Article 40 of the UN Charter empowers the Security Council to take provisional measures aimed at preventing the aggravation of an existing situation.

<sup>74</sup> UNSC, Resolution 1696 (2006) Paragraph 2.

<sup>75</sup> UNSC, Resolution 1696 (2006) Paragraph 7.

<sup>76</sup> UNSC, Resolution 1737 (2006) Paragraph 4. Article 41 of the UN Charter empowers the Security Council to take measures not involving the use of armed force to give effect to its decisions and may call upon Members to give effect to such decisions.

<sup>77</sup> UNSC, Resolution 1737 (2006) Paragraph 6

<sup>78</sup> UNSC, Resolution 1737 (2006) Paragraph 10.

within 60 days on whether Iran has established full and sustained suspension of the nuclear activities mentioned in the resolution.<sup>79</sup>

89. While South Africa was a Member of the Security Council in 2007 and 2008, the Security Council acting under Article 41 of the United Nations Charter, passed Resolutions 1747 (2007) and 1803 (2008).<sup>80</sup> South Africa voted in favour of both resolutions at the Security Council. Resolution 1747 reaffirmed the desire of the Security Council to give effect to the previous resolutions passed in 2006 (Resolution 1696 and 1737). The resolution also called upon “States and international financial institutions not to enter into new commitments for grants, financial assistance, and concessional loans, to the Government of the Islamic Republic of Iran, except for humanitarian and developmental purposes.”<sup>81</sup>

90. Among other matters, Resolution 1803 (2008) reaffirmed the sanctions placed upon Iran in Resolutions 1737 (2006) and 1747 (2007). It also required States to inspect cargo to and from Iran and aircraft or vessels operated by Iran Air Cargo and Islamic Republic of Iran Shipping Line, provided that there was a reasonable ground to believe that such aircraft or vessel was transporting goods prohibited under the previous resolutions.<sup>82</sup> In instances where such inspection had been undertaken, the resolution mandated the State to submit a written report to the Security Council within 5 working days of the inspection.<sup>83</sup>

91. Before South Africa voted in favour of both resolutions, it proposed some amendments to the draft resolutions. The amendments included the recognition of the role of the IAEA as the proper international organisation responsible for safeguarding against the diversion of nuclear technologies meant for peaceful purposes. The amendment also contained provisions that would ensure that sanctions would be terminated once the Director-General of the IAEA reports to the United Nations Security Council that Iran had complied with the resolutions of the IAEA.<sup>84</sup> The essence of these proposed amendments were neither to protect Iran from scrutiny in terms of its nuclear weapons programme nor to deliberately lock horns with Western powers. Rather, adopting its customary stance, the South African Government sought to ensure that Iran was not unduly victimised or sanctioned. These amendments also reaffirmed South Africa’s

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<sup>79</sup> UNSC, Resolution 1737 (2006) Paragraph 23.

<sup>80</sup> UNSC, Resolution 1747 (2007), adopted by the Security Council at its 5647<sup>th</sup> meeting on 24 March 2007 and Resolution 1803 (2008) adopted by the Security Council at its 5848<sup>th</sup> meeting on 3 March 2008.

<sup>81</sup> UNSC, Resolution 1747 (2007), Paragraph 7.

<sup>82</sup> Resolution 1803 (2008) Paragraph 11.

<sup>83</sup> Resolution 1803 (2008) Paragraph 12.

<sup>84</sup> *South African in the United Nations Security Council 2007-2008*, page 24. Available at <http://www.southafrica-newyork.net/pmun/PDF/bookletb5.indd.pdf> [21 May 2012].

position that the IAEA was the proper institution to verify non-diversion of nuclear material.

92. Although South Africa's foreign policy towards Iran seemed favourable because it insisted that there was no concrete evidence to prove that Iran was developing nuclear weapons, South Africa did not support Iran's defiance or lack of transparency about its nuclear programme. In this regard South Africa voted in favour of United Nations Security Council Resolutions 1747 and 1803 which imposed sanctions against Iran because it had failed to meet certain transparency requirements.<sup>85</sup> South Africa voted in favour of these resolutions irrespective of the fact that not all its proposed amendments had been reflected in the adopted resolutions. Iran expressly voiced its dissatisfaction with the decision of South Africa to vote in support of these resolutions at the United Nations Security Council; speaking at the University of Pretoria on 4 July 2007 Iranian Deputy Foreign Minister Araghchi said that Iran was "a little disappointed" by South Africa's UN Security Council vote in favour of sanctions.<sup>86</sup>

#### Non-Aligned Movement (NAM)

93. In general, South Africa has always advocated for a non-discriminatory right of States to the peaceful use of nuclear energy once they adhere to the NPT. South Africa's advocacy on the inherent right of States to the peaceful use of nuclear energy often raises concern among Western states particularly because South Africa's membership of NAM which includes some States with proliferation concerns.<sup>87</sup> NAM also supports the peaceful use of nuclear energy. This includes the right to develop research, production and use of nuclear energy for peaceful purposes without discrimination once it is in conformity with Articles I, II, and III of the NPT.<sup>88</sup>

94. NAM's official position on Iran's nuclear programme has always been that Iran had the right to peaceful use of nuclear energy. NAM also took issue with the discriminatory manner in the issue of nuclear proliferation was handled. NAM maintained the position

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<sup>85</sup> Peter Fabricius, 'Has SA changed tune on Iran sanctions?' *Star* 13/04/2007. Available on <http://www.samedia.uovs.ac.za/cgi-bin/getpdf?year=2007&refno=1446&topic=7>

<sup>86</sup> <http://wikileaks.org/cable/2007/07/07PRETORIA2395.html> [22 May 2012]. Javid Ghorbanoghli, 'Mr Mbeki, this is no way to treat a friend', *Mail & Guardian* 26/07/2007. Available on <http://www.samedia.uovs.ac.za/cgi-bin/getpdf?year=2007&refno=3081&topic=7>.

<sup>87</sup> [http://www.armscontrol.org/act/2007\\_01-02/BourestonLacey](http://www.armscontrol.org/act/2007_01-02/BourestonLacey), Jack Boureston and Jennifer Lacey, Shoring Up a Crucial Bridge: South Africa's Pressing Nuclear Choices

<sup>88</sup> Final Document of the 14th Summit Conference of Heads of State or Government of the Non-Aligned Movement, paragraph 94-99. Adopted in Havana, Cuba on 16 September 2006.

that Israel should also be called to account for its development of nuclear capacity.<sup>89</sup> While the official position of NAM remained the same, some members of NAM voted in favour of IAEA Board of Governors Resolutions GOV/2005/77 and GOV/2006/14. As mentioned earlier, South Africa gave full support to the NAM position in respect of both resolutions and abstained from voting on the resolutions. Western states have opposed South Africa's position on the right to peaceful use of nuclear energy by Iran because they are of the opinion that Iran is no longer entitled to that right because it has failed to comply with its safeguard obligations under the NPT.<sup>90</sup>

95. As one commentator put it, “[o]n the face of it, South Africa played a commendable role in the Iran conflict – it sought to mediate between conflicting parties and tried to shield a developing country from being bullied by the US and its allies, in line with its duty as Chair of NAM at the time....South Africa tried to keep a lid on tensions by letting the IAEA deal with the Iran problem rather than the UNSC” (Jordaan 2008:552). Jordaan's view is that South Africa used the Iran issue on the UNSC to pursue what he calls its “anti-imperialist” agenda: “While a certain degree of foreign policy combativeness is not incompatible with the middle power role, middle powers should ultimately play a unifying role, which South Africa failed to do on the Iran question. Instead a Western diplomat on the Security Council complained that South Africa had gone ‘too far’ and that they had ‘broken the unity of the Security Council’”.

### **America's attitude towards South Africa's foreign policy on Iran**

96. In general, the United States of America (USA) regarded South Africa's foreign policy under Mbeki as sometimes too highly ideological and overly intellectualised. One example was South Africa's Security Council vote against the Burma Resolution on ‘jurisdictional grounds’.<sup>91</sup> When assessing possible changes in approach under Mbeki's successor, Jacob Zuma, US Embassy reported to the State Department that “Zuma would not micromanage foreign policy, as Mbeki has done, and would rely more on his foreign minister and team...[k]ey strands of Mbeki's approach would likely continue, such as the focus on Africa and South-South co-operation, but Zuma's foreign policy would probably be less ideological, more pragmatic, and less inclined toward complicated intellectual debates and grand initiatives”<sup>92</sup>. Although this view was expressed in late 2007, in my

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<sup>89</sup> Tanya Ogilvie-White, ‘International responses to Iranian nuclear defiance: the Non-Aligned Movement and the issue of non-compliance’ (2007) 18(3) *European Journal of International Law* 453-476 at 461-466.

<sup>90</sup> [Jack Boureston and Jennifer Lacey](http://www.armscontrol.org/act/2007_01-02/BourestonLacey), Shoring Up a Crucial Bridge: South Africa's Pressing Nuclear Choices

[http://www.armscontrol.org/act/2007\\_01-02/BourestonLacey](http://www.armscontrol.org/act/2007_01-02/BourestonLacey)

<sup>91</sup> <http://wikileaks.org/cable/2007/12/07PRETORIA4218.html> [22 May 2012].

<sup>92</sup> <http://wikileaks.org/cable/2007/12/07PRETORIA4218.html> [22 May 2012]

opinion it adequately reflects US attitudes to Mbeki's approach to foreign policy for the whole of his period at the helm.

97. On Iran, the USA was of the opinion that while South Africa was an ardent believer of the Non-Proliferation Treaty, it had deliberately decided to adopt an 'unhelpful position on Iran's nuclear weapons programme'.<sup>93</sup> This was evidenced by South Africa's continued insistence that there had not been sufficient evidence to prove that Iran was developing nuclear weapons. South Africa also insisted that it was only under an obligation to enforce the sanctions of the United Nations Security Council and not the unilateral sanctions imposed by the United States of America on Iran.<sup>94</sup> The United States of America suggested that South Africa's pro-Iran disposition was probably premised on apartheid-era loyalties, energy dependence, its Non-Aligned Movement commitments and the fear of a possible crisis in the Middle East region.<sup>95</sup>
98. United States' diplomatic communications in November 2006 refer to Pretoria's "long-standing" support for Iran, but also observe that there were growing signs that the South African Government had become uncomfortable with Iran's behaviour<sup>96</sup>. As a result, the major challenge for South Africa was how to reverse its foreign policy towards Iran without admitting it had erred in judgment. South Africa was also careful to maintain a good relationship with Iran.<sup>97</sup> However, during the Mbeki era, the United States of America continuously exchanged information with South Africa about the possibility of Iran attempting to purchase nuclear enrichment materials from South Africa.<sup>98</sup>
99. According to the American account - and one must recognise the close attention that the United States was paying to this issue - the information was taken seriously and acted upon by the South Africa government. While there were some allegations of attempted arms trade, such allegations were against South African companies and the government always took appropriate steps to prevent such illicit activities.<sup>99</sup> As a leading proponent of the NPT, South Africa was eager to demonstrate that no stone would be left unturned despite the fact that it believed in the peaceful use of nuclear technologies. Pretoria, therefore, was keen to ensure that Iran had no access to South African materials that could be used for the development of nuclear weapons. When the

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<sup>93</sup> <http://wikileaks.org/cable/2006/11/06PRETORIA4790.html> [22 May 2012].

<sup>94</sup> Iranian company efforts to procure steel from South African company, <http://wikileaks.org/cable/2008/07/08PRETORIA1618.html#>

<sup>95</sup> <http://wikileaks.org/cable/2006/11/06PRETORIA4790.html> [22 May 2012].

<sup>96</sup> <http://wikileaks.org/cable/2006/11/06PRETORIA4790.html> [4 July 2012]

<sup>97</sup> <http://wikileaks.org/cable/2006/11/06PRETORIA4790.html> [22 May 2012].

<sup>98</sup> <http://wikileaks.org/cable/2008/07/08PRETORIA1625.html#>

<http://wikileaks.org/cable/2008/07/08PRETORIA1618.html> [22 May 2012].

<sup>99</sup> <http://wikileaks.org/cable/2008/08/08PRETORIA1900.html> [22 May 2012].

United States presented evidence of an Iranian company being interested in procuring vacuum furnaces from a possible South African provider, DFA Deputy Director: Nuclear Disarmament & NPT, Michiel Combrink, had “pledged to act on it immediately” according to the US Embassy diplomatic cable, and had gone on to indicate that the South African government had “no qualms about quietly leaning on companies who were considering entering into transactions of real concern”<sup>100</sup>. The cable concludes with the report that “While [Combrink] was unwilling to share any details, he did report that to date he was not aware of any transaction of proliferation concern that had gone forward”<sup>101</sup>.

100. One of the noteworthy features of the diplomatic cables from the US mission in South Africa, which are now available (due to the wikileaks), is the lack of concern expressed in the cables about the South African government position viz a viz Iran. There is recognition of South Africa’s non-hostile disposition towards the Iranians, but also an appreciation of its background and context. Given the significance of Iran to the United States and its foreign policy-making, and the potential influence of South Africa in the geo-politics surrounding the issue of Iranian nuclear capability, one would expect the United States to be playing very close attention to Pretoria’s positioning. If anything untoward or surprising had happened, to alter or other impact on the trajectory of South Africa’s foreign policy in relation to Iran, then one would could confidently expect that it would have been carefully noted in the US South African mission cables. But there are no such entries.

## CONCLUSION

101. A hallmark of the Mbeki regime was his insistence on the use of dialogue as opposed to sanctions.<sup>102</sup> This is reflected in South Africa’s position on the imposition of sanctions on Iran. Inasmuch as President Mbeki’s foreign policy on the Middle East appeared to be pro-Middle East and anti-West, South Africa was able to weather the storm and maintain its relevance in the West. While Iran’s nuclear weapons programme remained a thorn in its flesh because of Iran’s refusal to comply with IAEA regulations, South Africa was at a later stage able to vote in favour of increased sanctions on Iran and still maintain friendly diplomatic relations with Iran.

102. Although South Africa’s initial position on the imposition of sanctions on Iran might have been influenced by its notion of peaceful settlement of disputes through diplomacy, it is not unlikely that its economic ties with Iran also played an important role

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<sup>100</sup> <http://wikileaks.org/cable//2008/05/08/PRETORIA1122.html> [22 May 2012]

<sup>101</sup> Ibid.

<sup>102</sup> <http://wikileaks.org/cable/2006/11/06/PRETORIA4790.html> [22 May 2012]

in the shaping of its foreign policy. In this regard, it could be argued that the primary motivation for South Africa's foreign policy on Iran was economic rather than ideological. This assertion may be supported by South Africa's foreign policy on Africa during the Mbeki era. While Mbeki pushed forward an African Renaissance ideology through the NEPAD agenda, it was also used as a means of expanding South African capital in the African continent. Some commentators have argued that, for Mbeki, the motive behind the NEPAD agenda was to strengthen South Africa's hegemonic position in Africa and create new frontiers for South African companies.<sup>103</sup> As noted earlier, Ambassador Martin Slabben, SA department of foreign affairs Director for Gulf Relations was said to be "thrilled" by the Iranian government decision to award the contract to MTN<sup>104</sup>.

103. Iranian Secretary of Supreme National Security Council Larijani apparently thanked the South African government during his visit to South Africa in October 2005 for their decision to abstain on the September IAEA resolution and expressed the hope that Pretoria would maintain its stance at the next meeting of the IAEA in November 2005<sup>105</sup>.

104. There is no good reason to connect these two statements: as the US cable points out, Slabben was responsible for bi-lateral relations (encompassing trade and, therefore, the MTN licence), while Abdul Minty was responsible for the multi-lateral aspects and, specifically, the IAEA issue (as Slabben pointed out to the US diplomatic contact). While the expression of gratitude from Larijani is ostensibly consistent with the Turkcell allegations, it is no less consistent with South Africa's foreign policy trajectory and positioning on the pertinent issues. In other words, taking the context and Mbeki's own politics and ideology into account, if MTN had not existed and there had been no licence award in Iran, there is still every reason to think that South Africa's policy and specific positions would have been entirely the same.

105. In short, there is no evident material link between South Africa's position on the nuclear issue and the award of the MTN licence.

106. South Africa's engagement with Iran on defence and nuclear issues was consistent with the depth of bilateral relations and apparent frequency of meetings between the governments of South Africa and Iran. However, as will be appreciated, many diplomatic

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<sup>103</sup> Shawn Hattingh, *South Africa's Role in Nigeria and the Nigerian Elections* <http://mrzine.monthlyreview.org/2007/hattingh260607.html> Adel Ezeoha and Chibuike Uche, 'South Africa, NEPAD and the African Renaissance,' (2005) ASC Working Paper 64, University of Nigeria. Available on <http://www.ascleiden.nl/Pdf/workingpaper64.pdf>. Ishmael Lesufi, *NEPAD and South African Imperialism*, (2006) Johannesburg: Jubilee South Africa. Available on <http://foxscribe.files.wordpress.com/2011/06/nepad-and-south-african-imperialism.pdf>

<sup>104</sup> <http://wikileaks.org/cable/2005/10/24PRETORIA4297.html> [24 May 2012] /

<http://www.cablegatesearch.net/cable.php?id=05PRETORIA4297>.

<sup>105</sup> Ibid.

relations are conducted well beneath the radar, and so the complete picture of the range and depth of diplomatic contacts may not have been easily reached by my research. It is, therefore, an issue that the Hoffmann Committee may need to seek further evidence in relation.

107. Nonetheless, it is possible to conclude on the basis of what is visible at this point that the engagement with Iran generally, was consistent with, and entirely what one would have expected, in the context of the South African approach to building bi-lateral relations, especially with countries from the global South (especially those that had been supportive of the ANC in exile during the liberation struggle).
108. Equally, on the available evidence it is not possible to arrive at the conclusion that there was any 'shift' in policy towards Iran – whether on the bilateral or multilateral fronts, or in terms of either nuclear capacity or defence co-operation – or that it would be reasonable to do so.
109. While the 'black hole' in NCACC reports does undermine confidence in the integrity of both the transparency and accountability of recording arms sales, with the inevitable doubts that arise from the flaws in the standard of report, on the face of the evidence of the annual export reports for the relevant period there is absolutely no evidence to suggest that arms were sold to Iran by South Africa (and, of course, the Turkcell allegation is that they were promised and not delivered).
110. As to whether any promise was made, a deeper inquiry will be required to determine the question, and clearly much attention would centre on the alleged visit to Iran by Defence Minister Lekota in 2004 that is alleged to have been paid for by MTN (though my own sources indicate that he did not travel alone and may well have been accompanied by Defence department officials). What is clear is that any such promise would have had to have been at best conditional – on satisfying the clearance certification process and the NCACC oversight; and on obtaining the support of President Mbeki and maybe the cabinet too. It is hard to imagine any minister or other representative of South African government going out on a limb, least of all a Minister such as Lekota, without the express sanction or authority of Mbeki.
111. While President Mbeki, the dominant figure in South African foreign policy-making, would have welcomed and encouraged the MTN expansion into Iran, since it cohered both with his view of the relationship between trade and foreign policy and with his domestic economic needs, based on a proper reading of the context and trajectory of South African foreign policy under his leadership there is little or nothing to suggest that

he either needed to alter the course of policy towards Iran or that he would have been amenable to doing so.

Richard Calland

3 August 2012

## REFERENCES

Bishku M. 'South Africa and the Middle East' online journal essay published by the Middle East Policy Council. Available on <http://mepc.org/journal/middle-east-policy-archives/south-africa-and-middle-east?print>

Calland R. & Graham P. (eds). 2005. Democracy in the Time of Mbeki: Idasa's Democracy Index. IDASA.

Calland R. 2006. Anatomy of South Africa: Who Holds the Power? Zebra Press.

Calland R. & Oxtoby C. 2010. Machiavelli meets the Constitution: Mbeki and the Law in

Jacobs S. & Calland R. (eds). 2002. Thabo Mbeki's World: The Politics & Ideology of the South African President. University of Natal Press/Zed Books.

Jordaan E. 2008. Barking at the Big Dogs: South Africa's Foreign Policy Towards the Middle East. The Roundtable Vol. 97, No 397, 547-559, August 2008.

Landsburg C. 2010. Thabo Mbeki's Legacy of Transformational Diplomacy in Glaser D. (ed). Mbeki and After: Reflections on the legacy of Thabo Mbeki. Wits University Press.

Le Pere, G. 2002. South Africa's Foreign Policy in a Globalizing World – An Overview: 1994-2002. Prepared for The Policy & Co-ordination and Advisory Services in the Presidency, as a part of its 10 Year Review.

Nathan, L. 2005. Consistency and inconsistencies in South African Foreign Policy. International Affairs 81, 2 (2005) 361-372.

Vale P. 2010. Thabo Mbeki and the Great Foreign Policy Riddle in Glaser D. (ed). Mbeki and After: Reflections on the legacy of Thabo Mbeki. Wits University Press.