



**IN THE HIGH COURT OF JUSTICE**

**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**

**COMMERCIAL COURT (QBD)**

**B E T W E E N :-**

**THE REPUBLIC OF MOZAMBIQUE**

**Claimant**

**- and -**

**(1) CREDIT SUISSE INTERNATIONAL**

**(2) CREDIT SUISSE AG**

**(3) SURJAN SINGH**

**(4) ANDREW JAMES PEARSE**

**(5) DETELINA SUBEVA**

**(6) PRIVINVEST SHIPBUILDING S.A.L., ABU DHABI (BRANCH)**

**(7) ABU DHABI MAR LLC**

**(8) PRIVINVEST SHIPBUILDING INVESTMENTS LLC**

**(9) LOGISTICS INTERNATIONAL SAL (OFFSHORE)**

**(10) LOGISTICS INTERNATIONAL INVESTMENTS LLC**

**Defendants**

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**DEFENCE OF THE THIRD DEFENDANT**

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**A. Introduction**

1. In this Defence:

1.1 references to numbered paragraphs are to paragraphs of the Amended Particulars of Claim;

1.2 the Third Defendant (“**Mr Singh**”) adopts certain headings and defined terms used by the Republic for convenience only and without making any admissions by doing so;



1.3 save insofar as a fact or matter is expressly admitted, Mr Singh joins issue with the Republic and requires it to prove each and every allegation made in the Particulars of Claim;

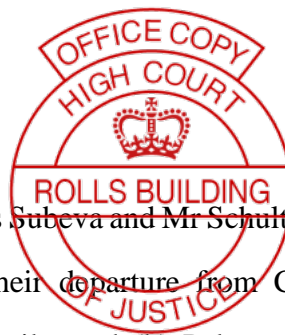
1.4 Mr Singh pleads this Defence to the best of his knowledge and based on the limited documents currently available to him. Mr Singh reserves the right to amend or supplement this Defence in due course.

THE PARTIES, AND OTHER RELEVANT PEOPLE AND ENTITIES

2. Paragraphs 1 to 3 are admitted.
3. As to paragraph 4, when Mr Singh uses the defined term, or admits an allegation relating to, “Credit Suisse”, he is not making any statement or admission as to which Credit Suisse entity was involved in or responsible for that matter.
4. As to paragraph 5:
  - 4.1 Mr Singh was employed by Credit Suisse Securities Europe Limited.
  - 4.2 Mr Singh became a Managing Director in January 2013. From about September 2013, and following Mr Pearse’s resignation, he was the Head of the Emerging Markets Global Finance Group (which engaged in debt financing in the CEEMA region).
  - 4.3 Mr Singh was approved by the Financial Conduct Authority to perform controlled function CF30 on behalf of each of CSI and CSAG in the period 1 November 2007 to 6 March 2016.
  - 4.4 Otherwise, not admitted.
5. Save that it is admitted that (a) Mr Pearse and Ms Subeva were employed by a Credit Suisse entity, and (b) each of them ceased to work for Credit Suisse in around mid to late 2013, paragraphs 6 and 7 are not admitted.



6. Save that Mr Singh:
  - 6.1 was an employee of Credit Suisse Securities Europe Limited in the roles described in paragraph 4 above, and
  - 6.2 was a member of the deal teams which were involved in the initial loans (of US\$504 million and US\$500 million respectively) made by Credit Suisse relating to the Proindicus transaction and the EMATUM transaction, and participated in the arranging of the loans to that extent,  
  
paragraph 9 is not admitted.
7. Paragraph 10 is not admitted, save that the Privinvest Group held itself out as (and Mr Singh believed that it was in fact) a leading privately-owned shipbuilding group for naval vessels, which operated a number of shipyards and conducted business with a significant number of governmental clients (in both developed and less developed regions).
8. Save that Mr Singh understood that Mr Safa was the owner of, and held a senior position in, the Privinvest Group, paragraph 11 is not admitted.
9. As to paragraph 12, Mr Singh understood Mr Allam to be a CFO in the Privinvest Group.
10. Save that Mr Singh was aware that Mr Boustani represented the Privinvest Group in its negotiations with Credit Suisse, paragraph 13 is not admitted. When Mr Singh uses the defined term, or admits an allegation relating to, the “Privinvest Defendants” or “Privinvest Group”, he is not making any statement or admission as to which Privinvest entity was involved in or responsible for that matter.
11. Paragraph 14 is not admitted.
12. Paragraph 15 is not admitted, save that:



- 12.1 Mr Singh understood that (a) Mr Pearse, Ms Subeva and Mr Schultens had taken up roles in Palomar Capital following their departure from Credit Suisse, although he did not know the precise details; and (b) Palomar Capital was connected to the Prinvest Group.
- 12.2 Mr Singh was not invited to join Palomar Capital.
- 12.3 Mr Schultens had reported to Mr Singh prior to his resignation from Credit Suisse.
13. Paragraph 16 is not admitted, save that:
- 13.1 Mr Singh understood that Proindicus and EMATUM were SPVs which were owned and controlled by the Republic, having been established for the purpose of carrying out the projects which were the subject of the Proindicus and EMATUM transactions.
- 13.2 Mr Singh was aware that Mr do Rosário was a senior government official within the SISE, and had been appointed as a Director of Proindicus and CEO of EMATUM.
14. Paragraphs 18 and 19 are admitted, save that Mr Singh is unable to admit or deny the precise dates.
15. Paragraphs 20 and 21 are not admitted.
16. Paragraph 23 is admitted.
17. Paragraphs 24 and 25 are not admitted.

#### SUMMARY OF THE REPUBLIC'S CLAIM

18. Paragraph 26 is noted as a broad summary of the three transactions.
19. As to paragraph 28 and as more fully set out below:



- 19.1 Mr Singh was a member of the deal teams for the initial loans relating to the Proindicus transaction and the EMATUM transaction. He was not part of the deal team for the EMATUM exchange and (as appears to be common ground) had no involvement in the MAM transaction.
- 19.2 Mr Singh was unaware that any of the three transactions involved payment of bribes to officials of the Republic. Mr Singh does not admit (because he does not know) if any such bribes were in fact paid.
- 19.3 Mr Singh received secret commissions (or “**kickbacks**”) in a total sum of US\$5,699,960 million directly or indirectly from the Prinvest Group for his support in securing Credit Suisse’s agreement to (a) the “upsizes” to the Proindicus loan provided by Credit Suisse and (b) the provision of the EMATUM facility.
- 19.4 Mr Singh was also aware that Mr Pearse had been promised kickbacks by the Prinvest Group, although he did not know the precise details or whether Mr Pearse in fact received any such sums . In or about early March 2013, Mr Pearse told Mr Singh that Mr Boustani had agreed that Mr Pearse would be paid a portion (expected to be US\$2 million) of the amount by which Credit Suisse agreed to reduce the subvention fee payable by the Prinvest Group.
- 19.5 Mr Singh did not know (if it be the case) that Ms Subeva had been promised or had received any kickbacks.
- 19.6 Mr Singh was not aware of, and did not participate in, any conspiracy to injure the Republic or any fraudulent scheme to obtain and render the Republic liable for c. US\$2 billion. No admissions are made as to whether there was, in fact, any such conspiracy or fraudulent scheme involving any other persons. So far as Mr Singh was concerned, he believed that the Proindicus and EMATUM



loans constituted genuine borrowing which had been authorised by the Republic and was being sought for legitimate purposes.

- 19.7 Mr Singh was aware that the Privinvest Group was to pay “contractor fees” to Credit Suisse in respect of the Proindicus and EMATUM loans. These were in the nature of subvention fees, that is, fees paid by a private contractor from its own earnings on the underlying transaction in order to fund part of the cost of the loan so as to reduce the effective interest rate payable on the loan by its client (*i.e.* the borrower). Mr Singh did not consider that there was anything unusual or improper about such arrangement in circumstances where (a) the Republic had wanted funding at a lower interest rate, but (b) Credit Suisse was only willing to lend on market terms, and (c) the contractor (*i.e.* the Privinvest Group) was willing to making payments in the nature of subvention fees so as to reduce the effective cost of the loan to its customer for the apparent purpose of building a relationship with the Republic and enabling the transactions to proceed.
- 19.8 Mr Singh was not aware (if it be the case, which is not admitted) that Mr Chang did not have authority to sign the sovereign guarantees, or that those guarantees were unconstitutional or illegal under Mozambican law. To the contrary:
- (a) it appeared to Mr Singh that Mr Chang, as Minister of Finance, was an appropriate person to sign the sovereign guarantees; and
  - (b) given that Credit Suisse obtained advice and/or approval from in-house and external lawyers, Mr Singh believed that the guarantees were properly authorised, valid, binding and lawful.
- 19.9 Mr Singh was not part of the deal team for the EMATUM exchange and, in any event, did not deceive the Republic into entering into that transaction.



20. Paragraph 29 is not admitted, save that it is denied that the Republic is entitled to any relief as against Mr Singh.
21. As to paragraph 30:
- 21.1 The first sentence is not admitted.
- 21.2 On 6 September 2019, Mr Singh was arraigned before the US District Court for the Eastern District of New York. At that hearing, he pleaded guilty to one count of money laundering contrary to Title 18, United States Code, Sections 1956(h) and 3551 *et seq* on the basis that he had agreed to accept and keep illegal and improper kickbacks for his assistance in securing the loans made by Credit Suisse, knowing that it was illegal to do so and that, by doing so, he was helping to conceal the source of the proceeds and promote that unlawful activity. The remaining counts of the indictment are not being pursued.
- 21.3 Mr Singh has also explained his conduct and knowledge of the relevant events at length in oral testimony given in the criminal trial of Mr Boustani before the US District Court for the Eastern District of New York between 5 and 8 November 2019.
- 21.4 Mr Singh is also aware that Mr Pearse has pleaded guilty to one count of conspiracy to commit wire fraud and has also given evidence in the criminal trial of Mr Boustani.
22. Save that the Kroll Report is admitted as a document, paragraph 31 is not admitted. It is denied (if it is alleged) that the Kroll Report is admissible as evidence of the facts stated in it.
23. As to paragraphs 32 and 33, the DOJ Indictment is admitted as a document. To the extent relevant, Mr Singh will refer to the DOJ Indictment for its full terms and effect. It is denied (if it is alleged) that the DOJ Indictment is admissible as evidence of the facts alleged in it.



**B. The Republic and its Laws**

24. Paragraphs 34 to 39 are not admitted.
25. Paragraph 40 is not admitted, save that Mr Singh was aware that the Republic received financial support from the international community, including (in particular) the IMF.
26. Paragraphs 41 and 42 are not admitted.
27. Paragraph 43 is not admitted, save that Mr Singh was aware that there was a heightened risk of corruption in emerging markets, including the Republic, as compared with more developed countries. Due diligence was in fact carried out by Credit Suisse, including with the assistance of external advisors, in accordance with Credit Suisse's requirements for a country such as the Republic and given the involvement of Mr Safa.
28. Paragraphs 44 and 45 are not admitted.

**C. The Facts**

THE PROINDICUS TRANSACTION

29. Paragraphs 46 to 49 are not admitted because they are not within Mr Singh's knowledge.
30. Paragraph 50 is admitted. The approach to Credit Suisse was made by Mr Boustani on behalf of the Privinvest Group.
31. As to paragraph 51, Credit Suisse International issued a letter on 27 February 2012 to the Office of the President of the Republic expressing an interest in assisting the Republic with raising debt finance of up to US\$350 million for the purposes of financing construction by its Ministry of Defence of the EEZ monitoring and protection system submitted by Abu Dhabi MAR Group.
32. As to paragraph 52, Credit Suisse was informed by Mr Boustani on 9 March 2012 that Abu Dhabi MAR had persuaded the Mozambican authorities to protect the Republic's





EEZ “*through our high level connections*” and that a private tendering process had been followed to select the supplier of hardware for that purpose.

33. Paragraph 53 is not admitted. Mr Singh does not recall seeing the internal email referred to in the first sentence or the new articles referred to in the second sentence. So far as Mr Singh was concerned, Credit Suisse’s risk and compliance teams conducted enhanced due diligence as to (amongst other matters) Mr Safa’s involvement and decided that Credit Suisse could provide the facility (see, further, paragraph 70 below).
34. Paragraph 54 is not admitted.
35. As to paragraph 55, it is admitted that Mr Pearse travelled to the United Arab Emirates to meet with individuals involved in the Proindicus transaction. Mr Singh did not attend that meeting but he understands, based on what he was told by Mr Pearse at the time, that Mr Boustani, Mr Nhangumele, Mr Ndambi Guebuza and Mr Safa attended that meeting.
36. As to paragraph 56:
  - 36.1 The first two sentences are not admitted, save that Mr Singh understands that the combination of the Republic and Mr Safa was discussed with a senior executive at Credit Suisse.
  - 36.2 The involvement of Mr Safa was, thereafter, the subject of enhanced due diligence commissioned from an external provider and detailed consideration by Credit Suisse’s risk and compliance teams.
  - 36.3 As to the final sentence, Mr Singh does not recall any such description of Mr Safa in Credit Suisse’s internal records.
37. Paragraph 57 is not admitted.



38. Paragraph 58 is not admitted. No admissions are made as to whether any such appropriation was required.
39. Paragraph 59 is not admitted.
40. Paragraph 60 is not admitted. No admissions are made as to whether the alleged limit applied to the Proindicus Guarantee.
41. Paragraphs 61 and 62 are not admitted.
42. Paragraph 63 is not admitted, although Mr Singh believes that he saw the supply contract relating to the Proindicus transaction during the negotiation of the Proindicus loan facility.
43. As to paragraph 64, the first and second sentences are not admitted, save that it is denied (in any event) that the Proindicus Supply Contract was a vehicle for the enrichment of Mr Singh. Mr Singh did not believe, and had no reason to believe, that the Proindicus Supply Contract was an instrument of fraud or a sham (if that be the case). As regards the particulars set out in that paragraph:
- 43.1 As to (i), if (which is not admitted) any bribes were paid to Mozambican officials or for the purpose of procuring the Proindicus Supply Contract, Mr Singh was unaware of that fact.
- 43.2 As to (ii), the payment of “contractor fees” by the Privinvest Group to Credit Suisse does not support the allegation that the Proindicus Supply Contract was fraudulent or a sham.
- 43.3 As to (iii) and (iv), if these allegations are true (which is not admitted), Mr Singh was unaware of those matters. Paragraph 81 below is repeated.
- 43.4 As to (v), if there were subsequent changes to the assets as alleged (which is not admitted), Mr Singh was unaware of that fact.



- 43.5 As to (vi), if there was a payment of money from the Prinvest Defendants to Proindicus (which is not admitted), Mr Singh was unaware of that fact.
44. Paragraph 65 is admitted. Mr Boustani also stated that “*The MoF guarantee is legally covered by a presidential decree*”.
45. As to paragraph 66, whilst it is admitted that Credit Suisse did not ultimately require an opinion from the Attorney General, no admissions are made as to whether Credit Suisse had initially imposed any such requirement or (if so) when that requirement was withdrawn. So far as Mr Singh was concerned, issues relating to conditions precedent were matters for the lawyers who were advising on the transaction and negotiating the terms of the transaction documents. It is denied (if it is alleged) that it is unusual or improper for conditions precedent relating to opinions and approvals to be the subject of negotiation.
46. Paragraph 67 is not admitted. To the best of Mr Singh’s recollection, Credit Suisse never required that the IMF be informed of the borrowing, but it negotiated a representation and/or warranty from the Republic that it was in compliance with IMF requirements.
47. As to paragraph 68, it is admitted that the Proindicus Guarantee and Proindicus Facility were executed and that Mr Singh signed the Proindicus Guarantee.
48. Save that it is admitted that there was a Contractor Fee Letter, paragraph 69 is not admitted. The payments under the Contractor Fee Letter were in the nature of subvention fees, by which the contractor made payments to the lender so as to reduce the effective cost of borrowing to its customer (*i.e.* the borrower).
49. Paragraph 70 is not admitted.
50. Paragraphs 71 to 76 are not admitted, save that:



- 50.1 Mr Singh was aware, in general terms, that the contract price between Proindicus and the Privinvest Group was being increased because the scale of the project was being increased and Proindicus wished to purchase additional equipment.
- 50.2 There were “upsizes” to the Proindicus Facility of (a) US\$132 million (in two tranches, US\$100 million in June 2013 and US\$32 million in August 2013), and (b) US\$118 million (in November 2013). The latter was arranged and provided by VTB; Credit Suisse (or, in any event, Mr Singh) was not involved in that final “upsized”.
- 50.3 Mr Singh recalls, in general terms, that there was a confirmation of the Proindicus Guarantee in connection with the “upsizes” provided by Credit Suisse.
- 50.4 Further contractor fees were paid in respect of the “upsizes” provided by Credit Suisse. These were in the same nature, and paid for the same reasons, as the earlier contractor fees.

#### THE EMATUM TRANSACTION

51. Credit Suisse co-arranged (with BNP Paribas) and underwrote the EMATUM Facility. As this facility was in part a capital markets transaction, the deal team included individuals from Credit Suisse’s Debt and Capital Markets group and from the Emerging Markets Global Finance Group (of which Mr Singh was head by this time).
52. Paragraph 77 is not admitted, although Mr Singh believes that he saw the supply contract relating to the EMATUM transaction during the negotiation of the facility.
53. Paragraph 78 is not admitted, but is consistent with Mr Singh’s recollection of the purpose of the EMATUM transaction.



54. As to paragraph 79, the first and second sentences are not admitted, save that it is denied (in any event) that the EMATUM Supply Contract was a vehicle for the enrichment of Mr Singh. Mr Singh did not believe, and had no reason to believe, that the EMATUM Supply Contract was an instrument of fraud or a sham (if that be the case). As regards the particulars:

54.1 As to (i), if (which is not admitted) any bribes were paid to Mozambican officials or for the purpose of procuring the EMATUM Supply Contract, Mr Singh was unaware of that fact.

54.2 As to (ii), the payment of “contractor fees” by the Privinvest Group to Credit Suisse does not support the allegation that the EMATUM Supply Contract was fraudulent or a sham.

54.3 As to (iii) and (iv), if these allegations are true (which is not admitted), Mr Singh was unaware of those matters. Paragraph 81 below is repeated.

54.4 As to (v), if there was a payment of money from the Privinvest Defendants to EMATUM (which is not admitted), Mr Singh was unaware of that fact.

54.5 As to (vi), if there was a subsequent increase to the contract price (which is not admitted), Mr Singh was unaware of that fact.

55. As to paragraph 80, it is admitted that the EMATUM Facility and the EMATUM Guarantee were executed, and that Mr Singh signed the EMATUM Guarantee. The transactions had been considered and approved by (amongst others) Credit Suisse’s risk and compliance teams, and its European Investment Banking Committee.

56. Save that it is admitted that there was a Contractor Fee Letter, paragraph 81 is not admitted. The payments under the Contractor Fee Letter were in the nature of subvention fees, by which the contractor made payments to the lender so as to reduce the effective cost of borrowing to its customer (*i.e.* the borrower). This subvention fee was also subject to a potential rebate dependent on the performance of the transaction.



57. Paragraph 82 is admitted.
58. Paragraphs 83 and 84 are not admitted.

THE MAM TRANSACTION

59. Mr Singh does not plead to paragraphs 85 to 90, which do not relate to the claims made by the Republic against him.

DEVELOPMENTS IN DECEMBER 2014 IN RELATION TO THE PROINDICUS TRANSACTION

60. Paragraphs 91 to 93 are not admitted, save that Mr Singh recalls that (a) there was an amendment to the Proindicus Facility to increase the Maximum Facility Amount to US\$900 million, (b) there was a confirmation of the Proindicus Guarantee in connection with that amendment, (c) Credit Suisse was to receive a “running fee”, which was a form of additional interest on the facility, (d) VTB was also to receive a “running fee” (although Mr Singh did not know the amount), and (e) he subsequently learned that Palomar Capital also received some form of “running fee” on the Proindicus transaction.

THE EMATUM EXCHANGE

61. Paragraph 94 is not admitted.
62. Mr Singh was not part of the deal team responsible for the EMATUM exchange. His involvement was limited to providing information (which he possessed by virtue of his involvement in the earlier transactions) which was required by those within Credit Suisse who were responsible for undertaking the EMATUM exchange.
63. As to paragraph 95:
- 63.1 As to the first sentence, paragraph 12.1 above is repeated.
- 63.2 The remainder of the paragraph does not contain any allegations against Mr Singh. In any event, it is denied that the fact that certain employees had, after



leaving Credit Suisse, taken up roles with a company which was related to a client of Credit Suisse should have constituted a "red flag"

64. Paragraphs 96 to 101 are not admitted. Mr Singh was not part of the deal team in this transaction.

**D. The Republic's Claims**

THE PROINDICUS GUARANTEE AND THE EMATUM GUARANTEE

65. Paragraphs 102 to 104 are not admitted. Further:
- 65.1 If the Republic committed any breach of Mozambique law by entering into the guarantees, Mr Singh was not aware of that fact. So far as he was concerned, the lawyers instructed by Credit Suisse (including Clifford Chance in London, as well as Mozambican and Portuguese lawyers) were responsible for ensuring, and did ensure, that there was compliance with all applicable laws.
- 65.2 It is denied (if it be alleged) that ruling of the Constitutional Council of the Republic is entitled to recognition or is otherwise admissible evidence in these proceedings. In any event, no admissions are made as to the relevance of Mozambican law to the validity of guarantees governed by English law.
66. Paragraph 105 is unsatisfactory in that it fails to identify which individuals are said to have had the knowledge attributed to Credit Suisse. So far as the knowledge of Mr Singh is concerned:
- 66.1 Paragraph 105.1 is denied insofar as it concerns Mozambican government employees. As to Credit Suisse employees:
- (a) When the Proindicus Guarantee was entered into, Mr Singh was not aware that any bribes had been or would be paid to Credit Suisse employees;



(b) When the EMATUM Guarantee was entered into, Mr Singh was aware that kickbacks had been or would be paid to him, and had been promised to Mr Pearse. .

66.2 Paragraphs 105.2 and 105.3 are denied. Paragraph 65.1 above is repeated.

66.3 Paragraph 105.4 is denied. Paragraphs 43 and 54 above are repeated.

67. Paragraph 106 is unsatisfactory in that it fails to identify which individuals are said to have had the knowledge attributed to the CS Deal Team or the primary facts which will be relied upon to support the allegation that Mr Singh in particular was aware of those matters. Without prejudice to that:

67.1 So far as Mr Singh's knowledge is concerned, paragraph 66 above is repeated.

67.2 Mr Singh admits that he received the kickbacks referred to in paragraph 19.3 above. It is denied that it can be inferred from Mr Singh's receipt or expectation of kickbacks that he knew any of the matters alleged in paragraph 105, other than the fact that kickbacks had been promised and/or paid to him, and promised to Mr Pearse.

67.3 In the paragraphs which follow, Mr Singh addresses his knowledge of the facts alleged in paragraph 108 to 124.

67.4 It is denied that knowledge of the matters alleged in paragraph 108 to 124 would, in any event, support the allegation that Mr Singh knew the facts alleged in paragraph 105.

68. Paragraph 107 is not admitted. If and in the event that the Republic subsequently alleges that Mr Singh was wilfully blind to the matters alleged in paragraph 105, that allegation will be denied.

69. As to paragraph 108, Mr Singh repeats paragraphs 26 and 27 above.





70. As to paragraph 109, Mr Singh repeats paragraph 36 above. Further, following enhanced due diligence by an external provider, Credit Suisse was advised that Mr Safa had adopted a more transparent and ethical approach to business following his (and his companies') increased connections with Abu Dhabi. Following consideration of the enhanced due diligence, the High Risk Advisory Team concluded that Credit Suisse could proceed with the transaction notwithstanding the involvement of Mr Safa.
71. Paragraph 110 is denied. Mr Singh understood that the structure used for these transactions was more attractive to the Republic because it meant that the Republic did not itself have any indebtedness, but had only a contingent liability under the guarantees (in circumstances where Proindicus and EMATUM were expected to be able to service the debts themselves from the revenues generated by the projects). Mr Singh also understood that it was common for a state to use SPVs where the project to be funded involving owning and operating infrastructure.
72. As to paragraph 111, paragraph 32 above is repeated. In any event, it does not follow from the absence of a tendering process that transaction was corrupt or that the guarantees were unlawful.
73. As to paragraph 112:
- 73.1 Mr Singh understood that the Proindicus and EMATUM transactions had been approved as required by Mozambican law. It is not admitted that the transactions required approval by Parliament but, if that is the case, Mr Singh was unaware that such approval was required.
- 73.2 Credit Suisse received assurances on behalf of the Republic and/or the borrowers that the borrowing was in accordance with the law of the Republic.
- 73.3 Mr Singh did not know (if it be the case) that the Proindicus or EMATUM transactions were to be kept "secret". To Mr Singh's knowledge, at least the



Office of the President of the Republic, the Ministry of Finance and the SISE were aware of the transactions. Further:

- (a) In connection with the Proindicus transaction, Mr Singh knew that the loan was syndicated to a significant number of banks and international investors, so would not be “secret”.
- (b) In connection with the EMATUM transaction, (a) Mr Singh knew that the EMATUM transaction would become widely known given that Credit Suisse was arranging to issue bonds on the capital markets; (b) the Republic obtained a credit rating from Moody’s in connection with the transaction; and (c) the EMATUM transaction was in fact discussed in the press during late 2013.

74. As to paragraph 113:

74.1 As to the allegation that the loans constituted secret and unapproved borrowing, paragraphs 73 above is repeated.

74.2 It was not for Credit Suisse to disclose the Proindicus and EMATUM transactions to the IMF; it was for the Republic, which had the relationship with the IMF, to provide it with any necessary information. It would have been inappropriate for Credit Suisse to communicate directly with the IMF about the Republic’s affairs.

74.3 Credit Suisse received assurances on behalf of the Republic and/or the borrowers that the borrowing was compatible with the Republic’s obligations towards the IMF and other lenders.

75. As to paragraph 114, no admissions are made as to what advice the Republic sought or obtained (internally or from external advisors) as to English law. It was a matter for the Republic to decide what legal advice it required, and it was not (so far as Mr Singh was concerned) for Credit Suisse to inquire into or interfere with such decisions.



76. Paragraphs 115 and 116 are not admitted. So far as Mr Singh is concerned, it was not for him to engage in personal research as to Mozambican law or its budget. Such matters were the responsibility of the lawyers involved; paragraph 65.1 above is repeated. Further, Credit Suisse received assurances on behalf of the Republic and/or the borrowers that the borrowing was in accordance with the laws of the Republic.
77. Paragraph 117 is not admitted. Paragraphs 45 and 65.1 above are repeated.
78. Paragraph 118 is not admitted. The detailed drafting of the facilities was undertaken by Clifford Chance on the instructions of, and supervised by, Credit Suisse's in-house legal team. In any event, there is nothing in the terms identified which would suggest that the Proindicus and EMATUM Facilities were in any way improper or unlawful.
79. Paragraphs 119 to 120 are not admitted. Paragraph 78 above is repeated *mutatis mutandis*.
80. Paragraph 121 is not admitted. In any event, Mr Singh did not know (and had no reason to investigate) what legal advice had been sought and obtained by the Republic, Proindicus and/or EMATUM in connection with the underlying supply contracts.
81. As to paragraphs 122 and 123:
- 81.1 Mr Singh believes that Credit Suisse received and considered the Proindicus and EMATUM Supply Contracts.
- 81.2 However, it was not for Credit Suisse (and, in any event, for Mr Singh) to undertake a detailed reviewed of the terms negotiated and agreed in the underlying supply contracts. The supply contracts had been negotiated between the Republic and/or its companies (on one hand) and the Privinvest Group (on the other). Credit Suisse was asked to provide or arrange finance; it was not involved in, or engaged to advise on, the underlying supply contracts.



- 81.3 Paragraph 123 is not admitted. If any of the terms of the supply contracts were ones which no honest and reasonable government would agree, Mr Singh was not aware of that fact. Further, as to paragraph 123.1, Mr Singh (a) understood that there was an arrangement and/or performance guarantee to secure the return of the price to Proindicus and/or EMATUM in the event of non-performance, and (b) had seen upfront payment terms in other similar transactions .
82. As to paragraph 124:
- 82.1 The first sentence is admitted.
- 82.2 As to the second sentence, the justification for those fees, which were in the nature of subvention fees, is as set out in paragraph 19.7 above. The effect of the fees was to reduce the interest rate payable by the Republic to a rate which was substantially below the market rate, which appeared to be in the best interests of the Republic, Proindicus and EMATUM.
- 82.3 The third sentence is denied. In any event, Mr Singh did not consider that such fees were highly unusual; to the contrary, he had seen such fees in other transactions in which he had been involved. Further, the subvention fee arrangement was known to and approved by Credit Suisse's risk and compliance teams.
- 82.4 The final sentence is denied.
83. Paragraphs 125 to 128 are not admitted. It is denied (if it is alleged) that Mr Singh was aware (if it be the case) that the Proindicus or EMATUM Guarantees were illegal, unauthorised or unenforceable.

#### CLAIM FOR BRIBERY

84. Paragraph 129 is not admitted, save that:



84.1 Mr Singh received the kickbacks referred to in paragraph 19.3 above and was aware that a kickback had been promised to Mr Pearce.

84.2 It is denied, if it is alleged, that Mr Singh was aware of or participated in the payment of any bribes to Mozambican Officials.

85. Paragraph 130 is not admitted, save that the allegations are denied insofar as Mr Singh is concerned for the reasons given above.

86. For those reasons, paragraph 131 is denied insofar as it concerns Mr Singh. Further:

86.1 No kickbacks were promised and/or paid to Mr Singh prior to the conclusion of the (initial) Proindicus Facility and the Proindicus Guarantee. It is therefore denied, in any event, that there is any claim against Mr Singh in respect of the (initial) Proindicus Facility and/or the Proindicus Guarantee.

86.2 It is denied, if it is alleged, that the Republic is entitled to bring any claim for bribery in respect of kickbacks paid by the Prinvest Group to Mr Singh and/or other Credit Suisse employees. The victim of any such conduct was Credit Suisse, who was the (a) principal and/or employer of Mr Singh and those other employees, and/or (b) the person to whom they owed their duties of loyalty. Accordingly, the Republic is not entitled to any of the relief sought against Mr Singh.

86.3 Further and in any event, the purpose of the kickbacks (so far as Mr Singh was aware) was to procure the assistance of the Credit Suisse employees in causing Credit Suisse to agree (a) to make the loans requested by the Republic, Proindicus and EMATUM, and/or (b) (as far as the payment to Mr Pearce was concerned) to reduce the amounts payable to Credit Suisse under the loans; the purpose of those kickbacks was not to harm the interests of the Republic. So far as Mr Singh is aware, the terms of the facilities and guarantees were not



affected to the detriment of the Republic as a result of the promise and/or payment of kickbacks to him and/or Mr Pearse

CLAIMS FOR CONSPIRACY TO INJURE BY UNLAWFUL MEANS

87. Paragraph 132 is denied insofar as Mr Singh is concerned. Mr Singh:
- 87.1 did not enter into any such conspiracy; and
  - 87.2 never intended to defraud or injure the Republic.
88. As to paragraph 133, Mr Singh repeats his responses to the relevant paragraphs.
89. Without prejudice to the lack of relevance of the allegations in paragraph 134:
- 89.1 Paragraph 134.1 is denied insofar as Mr Singh is concerned; he was not part of the deal team for the EMATUM exchange and did not procure that transaction.
  - 89.2 Paragraph 134.2 is denied. Paragraph 21.2 above is repeated.
  - 89.3 Paragraph 134.3 is not admitted but, in any event, Mr Singh has no responsibility for the same given that he is no longer an employee of Credit Suisse.
90. Subject to the denials set out above and the denial that Mr Singh is liable to the Republic, paragraph 135 is not admitted.

THE MOZAMBIKAN OFFICIALS' ALLEGED BREACH OF THEIR DUTIES TO THE REPUBLIC

91. Paragraph 136 is not admitted.

CLAIM FOR DISHONEST ASSISTANCE

92. Paragraph 137 is denied insofar as Mr Singh is concerned. Mr Singh:
- 92.1 was not involved in and did not facilitate or assist in the alleged bribery of the Mozambican Officials (which is not admitted);



92.2 was not aware (if it be the case) that the conclusion of the guarantees and facilities involved any breach of duty by the Mozambican Officials and, in any event, he did not assist in any such breaches of duty;

92.3 was not aware (if it be the case) that the conclusion of the supply agreements involved any breach of duty by the Mozambican Officials and, in any event, did not assist in the conclusion of the supply agreements and/or any such breaches of duty.

#### CLAIM FOR KNOWING RECEIPT

93. As to paragraphs 139 and 140:

93.1 The Republic does not make any allegation that Mr Singh received any income or other payments directly or indirectly from the Republic.

93.2 In any event, it is denied that Mr Singh received any sum which he knew and/or was on notice derived from any breaches of fiduciary duty by the Mozambican Officials (which are not admitted).

#### PROPRIETARY CLAIMS

94. For the reasons given above, paragraphs 141 and 142 are denied insofar as they concern Mr Singh.

#### CLAIM FOR DECEIT

95. Paragraphs 143 and 144 are denied. There were no such implied representations. Further and in any event, it is denied that Mr Singh was part of the deal team which carried out the EMATUM exchange (and he did not carry out the due diligence process or the drafting of the prospectus).

96. If (which is denied) any such implied representations were made, paragraph 145 is denied insofar as it concerns Mr Singh.



97. Paragraph 146 is denied. The Republic did not consider that such implied representations had been made and, in any event, did not rely upon them.

98. Paragraph 147 is not admitted, save that:

98.1 the (so-called) EMATUM Guarantee Representations were not made; and

98.2 it is admitted that Mr Singh had received kickbacks as set out above and that Mr Pearse had been promised a kickback.

99. As to paragraph 148:

99.1 The allegations against Credit Suisse are not admitted.

99.2 The first sentence of paragraph 148.1 is denied: Mr Singh did not know that the EMATUM Guarantee Representations (if they were made) were false, save that Mr Singh knew that he had received kickbacks as set out above and that Mr Pearse had been promised a kickback.

99.3 Paragraph 148.1(i) is denied. Mr Singh was not involved in the MAM transaction.

99.4 Paragraph 148.1(ii) is not admitted but, in any event, its relevance is not understood.

99.5 Paragraph 148.1(iii) is denied. Mr Singh was not involved in or aware of the bribery of Mozambican Officials.

99.6 As to paragraph 148.1(iv), Mr Singh received kickbacks as set out in paragraph 19.3 above.

99.7 The first sentence of paragraph 148.4 is denied. In particular:

- (a) Mr Singh was not part of the deal team which was responsible for the EMATUM exchange;





- (b) Mr Singh did not intend to make the EMATUM Guarantee Representations, nor did he know that any such representations were being or had been made;
- (c) in the premises, Mr Singh did not intend that the Republic would rely upon or be defrauded by the alleged representations;
- (d) save that Mr Singh knew that he had received kickbacks and that Mr Pearse had been promised kickbacks as set out above, Mr Singh did not know that the EMATUM Guarantee Representations (if made) were or had become false.

100. Paragraph 149 is not admitted.

101. Paragraph 150 is denied insofar as it concerns Mr Singh and, otherwise, not admitted.

INTEREST

102. As to paragraph 151, it is denied that Mr Singh is liable to pay any interest to the Republic.

**E. Causation and Loss**

103. Save that it is denied that Mr Singh has any liability to the Republic, paragraphs 152 to 155 are not admitted.



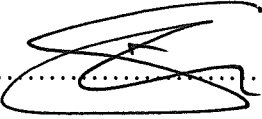
104. Further and in any event, it is denied that the losses identified in paragraph 154.4 are recoverable as damages, whether because they are too remote or otherwise.

**JAMES WILLAN**

Dated: 18/12/2019

Statement of Truth

I believe the facts stated in this defence are true.

  
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Surjan Singh (3<sup>rd</sup> defendant)