

Minutes of Meeting
Lesotho Highlands Water Project

Held on
Wednesday, November 17, 1999 at 10:30 am
Venue: Sheraton Hotel, Pretoria, Republic of South Africa

Present: *World Bank Group*
World Bank Group Legal Advisors
Lesotho Government
Lesotho Government's Legal Advisor
South African Government, Dept of Water Affairs and Forestry
ABN-AMRO
Banque Nationale de Paris
British High Commission, Lesotho
Credit Lyonnais
Development Bank of South Africa
European Investment Bank
European Union
Lesotho Highlands Water Authority
Lesotho Highlands Water Consortium
Trans Caledon Tunnel Authority

The purpose of the meeting was two-fold:

- (a) to be briefed by officials of the Government of Lesotho (GoL), who are taking the leading role, on investigating the alleged corruption in the Lesotho Highlands Water Project (LHWP) and the steps being taken; and
- (b) to hear the agencies represented at the meeting, as the chief financiers of the project, deal with corruption on contracts they finance.

The GoL representative gave a short history of events leading to bribery charges against the former Chief executive of the LHDA, and eighteen consultants, contractors and agents.

In 1986 the GoL entered into a Bilateral Treaty with the **Government of the Republic of South Africa (GoSA)** to implement the **LHWP**. GoL was responsible for the implementation and maintenance of the project and the two autonomous bodies were established in the two countries. GoSA established the **Trans Caledon Tunnel Authority (TCTA)** and GoL established the Lesotho Highlands Development Authority (LHDA). The first Chief Executive of the LHDA held that office from October 21, 1986 until 1994 when he was asked to take three months paid leave pending a management audit. The audit revealed possible breaches by him and an auditing company was brought in by the LHDA to carry out a detailed audit. Their report received on February 28, 1995 confirmed major irregularities and the chief Executive was suspended. The LHDA commenced internal disciplinary proceedings, which eventually led to his dismissal. Civil proceedings launched by LHDA (Case No. 598/95) were concluded in June 1999 and on October 20 1999, judgement against the former Chief Executive was announced with damages awarded in excess of R7.7m.

Base on records obtained on bank accounts in both South Africa and Switzerland, the GoL **Director of Public Prosecution** subsequently summoned nineteen defendants (the former Chief Executive, companies and their agents) to appear in court on November 29, 1999 to face criminal charges.

The GoL's representative reiterated the Government's commitment to fight corruption. The GoL had enacted the Prevention of Corruption and Economic offences Act of 1999, which came into being on August 12 1999. However, their resources were limited and, as it was estimated that costs of prosecuting this case could run into about R10 million, he appealed for assistance and for sharing any information that might assist the GoL.

The **GoL Auditor-General** and the Advocate who had been briefed by the state to prosecute the matter, provided further details of the case.

The GoSA representative advised that he strongly supported the initiative and pledged to cooperate fully with the GoL. The LHWP was a joint project between South Africa and Lesotho, which was working well and constructively. Priorities outlined were:

1. Exposing the parties and the network;
2. Putting punitive measures in place against those involved;
3. Encouraging the parties to "come clean";
4. Recovering monies and mitigate the losses occurred;
5. Putting measures in place to prevent a recurrence; and
6. Completing the project effectively and on time.

The meeting was informed that the GoSA had contacted all the South African companies involved in the project and asked for information. They have sworn affidavits from former employees.

All financiers expressed support for the GoL and willingness to cooperate and assist with any specific request. In particular, the **European Union (EU)** representative indicated that the recently established European Anti-Fraud Office (ORLAF) could assist the authorities, that there was a willingness to share any other information and to contribute to the cost of process through their regular assistance program if they received a request. **The British High Commissioner for Lesotho** said that DFID could possibly offer direct assistance, even though a part of the EU. The **World Bank (WB)** advised that they had specific guidelines for dealing with fraud and corruption under Bank-financed contracts. Accordingly, the matter had been reported to the WB Oversight Committee; a decision was taken to hire external lawyers; and to review WB-financed activities on the LHWP. The WB also indicated willingness to explore other ways to assist the GoL. The EU and WB have provisions for disbarment of companies guilty of fraud or corruption, or could limit their eligibility to bid on contracts. Other financiers were also reviewing their files.

The **Attorney-General**, the WB and the EU would follow-up on specific assistance needs of the GoL and offers of assistance.

Participants thanked the WB for organising the meeting. The WB advised that Ministers would be prepared and circulated and that a Press Release would be prepared. It was agreed that a future meeting should be held, possibly in March/April, 2000, depending on the status of the case, for the prosecuting team to give an update on the case.