



**IN THE SPECIAL TRIBUNAL ESTABLISHED IN TERMS OF SECTION 2 (1) OF
THE SPECIAL INVESTIGATIONS UNIT AND
SPECIAL TRIBUNALS ACT 74 OF 1999**

(REPUBLIC OF SOUTH AFRICA)

CASE NUMBER: GP17/2021

In the *ex parte* application of:

**SPECIAL INVESTIGATING UNIT
TRANSNET SOC LIMITED**

First Applicant
Second Applicant

In Re:

**SPECIAL INVESTIGATING UNIT
TRANSNET SOC LIMITED**



First Applicant
Second Applicant

and

**CRRC E-LOCO SUPPLY (PTY) LTD
STANDARD BANK OF SOUTH AFRICA LIMITED
BANK OF CHINA LIMITED
(External Company, Incorporated in China)
(Registration Number: 2000/008434/10)**

First Respondent
Second Respondent
Third Respondent

CHINA CONSTRUCTION BANK CORPORATION
(External Company, Incorporated in China)
(Registration Number: 2000/011198/10)

Fourth Respondent

SOUTH AFRICAN RESERVE BANK

Fifth Respondent

**COMMISSIONER FOR THE SOUTH AFRICAN
REVENUE SERVICE**

Sixth Respondent

ORDER

Having read the papers and heard Counsel for the applicants, I make the following order:

1. Non-compliance with the rules of this Tribunal in respect of times and manner of service is condoned, and the matter is heard as one of urgency in terms of Rule 12 of the Special Tribunal Rules.
2. Pending either the institution and final determination of the proceedings contemplated in Part B or the final determination of the Review Application (and execution steps based on such outcome) that the applicants brought in the High Court of South Africa (Gauteng Local Division, Johannesburg) under Case No. 21/11645 ("**the Main Review Application**") against the first respondent and three other respondents (which ever may occur last), and subject to the conditions set out in paragraph 3 below:

- 2.1. The first respondent is interdicted, restrained and prohibited from dealing in any manner with the property and the funds (along with any and all interest that may be accruing to such funds) held in the bank accounts reflected in the attached Schedule 1 and Schedule 2 (**"Schedules 1 and 2"**);
- 2.2. Subject to the contents of paragraph 3 below, the second, third, and fourth respondents are interdicted, restrained and prohibited from effecting any instructions from the first respondent or any other person (except the applicants, the fifth respondent and/or the sixth respondent) in respect of the amounts reflected in Schedules 1 and 2 hereto (along with any and all interest accruing on such amounts), and from releasing, transferring, dealing with and/or in any other way burdening any of the amounts (along with any and all interest accruing on such amounts) in or in respect of the accounts listed under any circumstances. In this regard, the second to fourth respondents are directed as follows:
 - 2.2.1. The second respondent is ordered to freeze the amount of R 540 000 791.21 or as much thereof that may still be in the possession of the second respondent at the date of this order held by it on behalf of the first respondent in the bank account number 331182874 as reflected in Schedule 2, along with any and all interest that may accrue on such amount.

2.2.2. The third respondent is ordered to freeze:

- (a) the amount of R 105 058 117.48 or as much thereof that may still be in the possession of the third respondent at the date of this order held by it on behalf of the first respondent, in the account number reflected in Schedule 1 hereto, along with any and all interest accruing on such amount; and
- (b) the amount of R 2 193 274 036.43 or as much thereof that may still be in the possession of the third respondent at the date of this order held by it on behalf of the first respondent in the account numbers reflected in Schedule 2 hereto, along with any and all interest accruing on such amount.

2.2.3. The fourth respondent is ordered to freeze:

- (a) the amount of R 1 150 000 000.00 or as much thereof that may still be in the possession of the fourth respondent at the date of this order held by it on behalf of the first respondent, in the account numbers reflected in Schedule 1 hereto, along with any and all interest accruing on such amount; and

- (b) the amount R 202 161 792.07 or as much thereof that may still be in the possession of the fourth respondent at the date of this order held by it on behalf of the first respondent in the account numbers reflected in Schedule 2 hereto, along with any and all interest accruing on such amount.

2.3. The first respondent is interdicted, restrained and prohibited from issuing any instructions to the second, third and fourth respondents for the transfer, release, deal with and/or burdening of the amounts set out in Schedules 1 and 2 hereto (along with any and all interest accruing on such amounts), and from taking any steps for the transfer, release, deal with and/or burdening of such amounts (along with any and all interest accruing on such amounts) from, or in respect of the relevant accounts listed.

3. The order made in paragraph 2 above shall operate with immediate effect until the final determination of Part B or the final determination of the Main Review Application (which ever may occur last), subject to the following:

3.1. The order made in paragraph 2 shall not operate to prevent:

3.1.1. the applicants (jointly or severally) from executing its/their mandate(s) (including the right to implement execution steps or

seek forfeiture) in respect of the funds/amounts set out in Schedules 1 and 2 hereto (along with any and all interest accruing on such funds/amounts);

3.1.2. the fifth respondent from executing its mandate in respect of the funds/amounts set out in Schedules 1 and 2 hereto (along with any and all interest accruing on such funds/amounts), arising from the Blocking Directives issued by the fifth respondent ("**the SARB Blocking Orders**"); and/or

3.1.3. the sixth respondent from executing his/its mandate in respect of the funds/amounts set out in Schedules 1 and 2 hereto (along with any and all interest that may be accruing to such funds/amounts), arising from the Preservation Order obtained by the sixth respondent in the Gauteng Division of High Court (Pretoria) on 8 December 2020 under case number 60604/2020A ("**the SARS Order**").

3.2. The second to fourth respondents are ordered to release such funds/amounts that are declared forfeit and/or due to the applicants and/or the fifth respondent as may be determined by this Tribunal and/or the mandate of the fifth respondent.

3.3. The second to fourth respondents are ordered to release such funds/amounts that fall due to the sixth respondent as may be determined by the sixth respondent, pursuant to such assessments and reviews thereof conducted between the first and sixth respondents.

3.4. The interdict in paragraph 2 above, shall continue to operate in respect of any funds/amounts remaining in the accounts set out in Schedules 1 and 2 hereto (along with any and all interest accruing on such funds/amounts), after the SARB Blocking Orders and/or SARS Order has been discharged, and/or the fifth and/or sixth respondent(s) has/have deducted what is due to it/them pursuant to its/their assessment or forfeiture proceedings, and any subsequent review(s) and/appeal(s) thereof by the first respondent or any other person.

3.5. If the first respondent or any other person is successful in reviewing, setting aside and/or declaring invalid any:

3.5.1. forfeiture or other enforcement / execution proceedings that may be brought by the fifth respondent; and/or

3.5.2. assessments conducted between the first and sixth respondents,

and any resulting draw down, transfer and/or release of any of the funds/amounts set out in Schedules 1 and 2 hereto (along with any and all interest accruing on such funds/amounts), then (subject to the outcome of any review or appeal proceedings that may be brought in respect of such setting aside or invalidity orders), the fifth and/or sixth respondent(s) (as the case may be) is/are hereby ordered to refund/return any such challenged funds/amounts back into the accounts set out in Schedules 1 and 2 hereto, where after the interdict in paragraph 2 above, shall continue to operate in respect of all funds/amounts (including refunded/returned funds/amounts) in the accounts set out in Schedules 1 and 2 hereto (along with any and all interest that may be accruing to such funds/amounts).

3.6. The fifth respondent is directed to give the applicants 48 hours' written notice of its intention to lift the SARB Blocking Orders in respect of the whole or part of the funds/amounts reflected in Schedule 2 hereto (along with any and all interest accruing to such funds/amounts).

4. Service of this Order upon the second to fourth respondent may take place by email directed to the designated money laundering reporting officer or other relevant officer of each institution at the following addresses registered with the Financial Intelligence Centre.

- 4.1. Standard Bank: Haylet.Rufus-Lottering@standardbank.co.za or Tshepo.Masipa@standardbank.co.za;
 - 4.2. Bank of China Limited: Scotty.SA@mail.notes.bank-of-china.com; GoAml.SA@mail.note.bank-of-china.com; scotty@boc.co.za; and
 - 4.3. China Construction Bank Corporation: poendreeg@ccbjhb.co.za.
5. This application and the Order of this Tribunal may be served upon the remaining respondents by email as follows:
- 5.1. CRRC E-LoCo Supply (Pty) Ltd: sheyongjun@crrczelc.cc;
 - 5.2. South African Reserve Bank: Alexander.Ellis@resbank.co.za or Andre.Malherbe@resbank.co.za; and
 - 5.3. The Commissioner for the South African Revenue Services: pengelbrecht@sars.gov.za.
6. The applicants may approach this Tribunal on supplemented papers for a variation or extension of the order in paragraphs 2 to 5 above.
7. Should any of the respondents wish to oppose the *ex parte* order, they shall deliver a notice of intention to oppose within ten days of this order to:

7.1. The Registrar of the Special Tribunal: Mr Sipiwo Mniki:
SMniki@justice.gov.za;

7.2. The Clerk of the Honourable Presiding Judge LT Modiba: Ms Mpho Mashitisho: MMashitisho@justice.gov.za;

7.3. The applicants' attorney: gvanniekerk@ensafrica.com.

in terms of Rule 24(7) and thereafter the Registrar of this Tribunal and/or the Registrar/Clerk of the Presiding Member of this Tribunal shall arrange date(s) for a judicial case management meeting with the parties.

8. The respondents may apply for the reconsideration of this order or any part thereof in terms of Rule 12(9) of the Special Tribunal Rules. In such an event, the parties shall avail themselves to attend a judicial case management meeting as arranged by the Registrar of this Tribunal and/or the Registrar/Clerk of the Presiding Member of this Tribunal, where dates for the filing of further papers and the hearing of the reconsideration application shall be determined in terms of Rule 19 of the Special Tribunal Rules.
9. The applicants are directed to file this application in accordance with Rule 7(3) of the Special Tribunal Rules. In addition, the applicants shall, in terms of Rule 7(1)(e) of the Special Tribunal Rules, designate a cloud service (e.g. Caselines) for the filing of the application and further papers in this application.

10. The applicants are directed to issue, serve, and file the forfeiture application (as envisaged in Part B) within 30 (thirty) days of this Order. The applicants are granted leave to each file a supplementary founding affidavit in respect of the relief sought in Part B.
11. The costs in respect of the interim relief in Part A are reserved for determination at the hearing of (i) the reconsideration application (if any), *alternatively* (ii) the return date of the *rule nisi* (if applicable), *alternatively* (iii) Part B, or *alternatively* (iv) the Main Review Application.
12. The applicants, their legal representatives, their personnel and the personnel of this Tribunal may only disclose the order to the media after it has been served upon the respondents.

BY ORDER OF THE SPECIAL TRIBUNAL




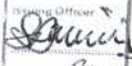
JUDGE L MODIBA

THE REGISTRAR OF THE SPECIAL TRIBUNAL



DATE:

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	
SPECIAL TRIBUNAL	
CNR AMANDA AVENUE & RIFLE RANGE ROAD, OAKDEN	
	2021-08-31
	C/A No: One
REGISTRAR	


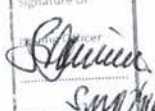
Signature of	
Issuing Officer	
Name	Smith

SCHEDULE "1"

Schedule A: List of banks, relevant account numbers and blocked amounts

Bank Name	SARB order No.	Date	Account No	Blocked Amount
Bank of China	OURS-2017-3206	12-Dec-17	100200300012817	R 105,088,117.48
Sub-total Amount Blocked in Bank of China:				R 105,088,117.48
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160066	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160067	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160068	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160069	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160070	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160071	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160072	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160073	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160074	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160075	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160076	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160077	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160078	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160079	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160080	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160081	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160082	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160083	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160084	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160085	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160086	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160087	R 50,000,000.00
China Construction Bank	OURS-2017-3207	12-Dec-17	678031160088	R 50,000,000.00
Sub-total Amount Blocked in China Construction Bank				R 1,150,000,000.00
Total Amount Blocked in Schedule A				R 1,255,088,117.48

2020-12-08

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	
SPECIAL TRIBUNAL	
CNR AMANDA AVENUE & RIFLE RANGE ROAD, OAKDENE	
	Signature of  Name: <u>S. Mkhize</u>
2021-08-31	C/A No: One

SCHEDULE 112

Schedule B: List of banks, relevant account numbers and blocked amounts

Bank Name	SARB order No.	Date	Account No.	Blocked Amount
Standard Bank	OURB-2019-1482	25-May-19	331182874	R 207,457,808.14
Standard Bank	OURB-2019-1573	5-Jun-19	331182874	R 16,798,495.01
Standard Bank	OURB-2019-1743	14-Jun-19	331182874	R 7,015,838.55
Standard Bank	OURB-2019-1772	24-Jun-19	331182874	R 14,837,850.25
Standard Bank	OURB-2019-1887	3-Jul-19	331182874	R 8,957,401.55
Standard Bank	OURB-2019-2233	30-Jul-19	331182874	R 3,788,304.18
Standard Bank	OURB-2019-2303	6-Aug-19	331182874	R 42,651,984.83
Standard Bank	OURB-2019-2789	5-Sep-19	331182874	R 73,296,829.28
Standard Bank	OURB-2019-3057	4-Oct-19	331182874	R 53,551,207.00
Standard Bank	OURB-2019-3059	4-Oct-19	331182874	R 33,579,885.90
Standard Bank	OURB-2019-3080	8-Oct-19	331182874	R 10,858,471.34
Standard Bank	OURB-2019-3214	16-Oct-19	331182874	R 455,216.54
Standard Bank	OURB-2019-3457	6-Nov-19	331182874	R 35,131,212.00
Standard Bank	OURB-2019-3727	26-Nov-19	331182874	R 11,503,099.16
Standard Bank	OURB-2019-3955	30-Dec-19	331182874	R 1,551,144.52
Standard Bank	OURB-2020-579	3-Mar-20	331182874	R 16,408,894.47
Sub-total Amount Blocked in Standard Bank				R 543,900,791.21
China Construction Bank	OURB-2019-1488	27-May-19	676031160001	R 202,161,792.07
Sub-total Amount Blocked in China Construction Bank				R 202,161,792.07
Bank of China	OURB-2019-1487	25-May-19	100200300012517	R 1,558,591,750.85
Bank of China	OURB-2019-1524	24-Jun-19	100200300012517	R 58,930,347.00
Bank of China	OURB-2019-2172	24-Jul-19	100200300012517	R 150,214,810.00
Bank of China	OURB-2019-2539	28-Aug-19	100200300012517	R 112,899,957.50
Bank of China	OURB-2019-3055	2-Oct-19	100200300012517	R 55,863,222.00
Bank of China	OURB-2019-3431	4-Nov-19	100200300012517	R 75,197,305.00
Bank of China	OURB-2019-3786	26-Nov-19	100200300012517	R 187,768,282.50
Bank of China	OURB-2019-1630	26-May-19	100200300012525	R 232,739,935.50
Bank of China	OURB-2019-3348	22-Aug-19	100200300012517	R 391,312,253.20
Bank of China	A MAHOMEDIA DU TOT	10-Dec-19	100200300012517	R 115,590,205.52
Sub-total Amount Blocked in Bank of China				R 2,183,274,636.43
Total amount blocked in Schedule B				R 2,935,436,619.71

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

SPECIAL TRIBUNAL

CNR AMANDA AVENUE & RIFLE RANGE ROAD, OAKDEN

2021-09-31

C/A No: One

REGISTRAR

Signature of

Shirley M. Moko

2020-12-08