



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
(acting through its Attorney General)

Claimant

-and-

- (1) CREDIT SUISSE INTERNATIONAL
- (2) CREDIT SUISSE AG
- (3) MR SURJAN SINGH
- (4) MR ANDREW JAMES PEARSE
- (5) MS 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

AMENDED PARTICULARS OF CLAIM

A. INTRODUCTION

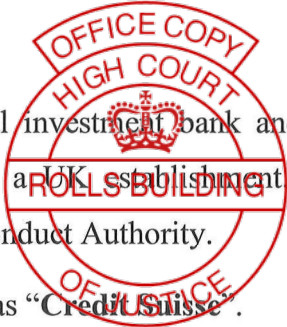
I. The Parties and other relevant people and entities

The Claimant

1. The Claimant, The Republic of Mozambique (the “**Republic**”), is a sovereign state.

Credit Suisse

2. The First Defendant (“**CSI**”) is a private company incorporated in England which operates as an investment management company and provides private and investment banking, asset management, and advisory services. CSI is authorised and regulated in the UK by the Financial Conduct Authority.

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3. The Second Defendant (“**CSAG**”) is an international investment bank and financial services company, incorporated in Switzerland with a UK establishment. CSAG is authorised and regulated in the UK by the Financial Conduct Authority.
 4. CSI and CSAG are referred to collectively hereinafter as “**Credit Suisse**”.

The Credit Suisse Deal Team Defendants

5. The Third Defendant, Mr Surjan Singh (“**Mr Singh**”), was an employee alternatively agent of CSI and/or CSAG. Mr Singh was approved to perform controlled function CF30 on behalf of each of CSI and CSAG in the period 1 November 2007 to 6 March 2016 and was a Managing Director of CSAG and Head of Central & Eastern European, Middle East and Africa (“**CEEMA**”) Financing.
6. The Fourth Defendant, Mr Andrew Pearse (“**Mr Pearse**”), was an employee alternatively agent of CSI and/or CSAG. Mr Pearse was approved to perform controlled function CF30 on behalf of each of CSI and CSAG in the period 1 November 2007 to 13 September 2013 and was a Managing Director of CSAG and Head of its Global Financing Group until approximately 13 September 2013.
7. The Fifth Defendant, Ms Detelina Subeva (“**Ms Subeva**”), was an employee alternatively agent of CSI and/or CSAG. Ms Subeva was approved to perform controlled function CF30 on behalf of each of CSI and CSAG in the period 19 May 2011 to 21 August 2013, and was a Vice President in CSAG’s Global Financing Group until approximately 21 August 2013.
8. Mr Singh, Mr Pearse and Ms Subeva are referred to collectively hereinafter as the “**CS Deal Team Defendants**”.
9. The CS Deal Team Defendants were senior employees alternatively agents entrusted with carrying out one or more of the transactions described at paragraph 26 below on behalf of Credit Suisse. Their knowledge and actions in the course of employment alternatively agency are accordingly to be attributed to Credit Suisse. Further and in any event, Credit Suisse is vicariously liable for the wrongs the CS Deal Team Defendants committed during the course of their employment alternatively agency, as particularised herein.

The Privinvest Defendants

10. The Sixth to Tenth Defendants (the “**Prinvest Defendants**”) are companies in a group of companies (the “**Prinvest Group**”) which describes itself on its website as one of

the leading privately-owned shipbuilding groups in Europe and the Middle East with major naval and civilian clients around the world. The Sixth Defendant is understood to be a United Arab Emirates branch of a Lebanese company. The Seventh and Eighth Defendants are companies incorporated in the United Arab Emirates. The Sixth to Eighth Defendants are referred to collectively hereinafter as the “**Suppliers**”. The Ninth Defendant (“**Logistics Offshore**”) is a Lebanese company. The Tenth Defendant (“**Logistics International**”) is a company incorporated in the United Arab Emirates.

Relevant Privinvest Group Individuals

11. Mr Iskandar Safa (“**Mr Safa**”) is the primary beneficial owner, and controller, of the Privinvest Group, and at all materials times has acted as the Chief Executive Officer.
12. Mr Najib Allam (“**Mr Allam**”) was at all material times the Chief Financial Officer of the Privinvest Group.
13. Mr Jean Boustani, also known as “Jean Boustany” (“**Mr Boustani**”), was at all material times the lead salesman and negotiator for the Privinvest Defendants in relation to their dealings with the Republic and Credit Suisse.
14. Having regard to their seniority, and their respective roles in the events described herein, the knowledge and actions of Mr Safa, Mr Allam, and Mr Boustani are to be attributed to the Privinvest Defendants, which are in any event vicariously liable for their wrongdoing.

Relevant Companies in or related to the Privinvest Group

15. Palomar Capital Advisors AG (“**Palomar Capital**”) was at all material times a company incorporated in Switzerland within or related to the Privinvest Group. Its directors included Mr Pearse and Mr Allam. Palomar Capital entered administration in Zurich on 18 October 2016. Palomar Capital employed, alternatively retained as agents, (i) Ms Subeva, as a managing director; and (ii) Credit Suisse’s former head of loan syndication for CEEMA, Mr Dominic Schultens (“**Mr Schultens**”). Before leaving Credit Suisse to work for Palomar Capital in or about May 2014, Mr Schultens reported to Mr Singh.

Relevant Individuals in the Republic

16. Mr António Carlos do Rosário (“**Mr do Rosário**”) was at all material times a senior official in the Republic’s state intelligence and security service, known as the *Serviço de Informação e Segurança do Estado* (“**SISE**”). From 8 June 2006 to 19 June 2015 Mr do

Rosário was the National Director for International Affairs in the Analysis Division of SISE and from 22 June 2016 until 13 June 2018 he was the National Director of Economic Intelligence. At the time of his arrest in Maputo in February 2019, Mr do Rosário was the Chairman of the three special purpose vehicles relevant to the Republic's claim: ProIndicus S.A. ("**Proindicus**"), EMATUM S.A. ("**EMATUM**") and Mozambique Asset Management S.A. ("**MAM**").

17. Proindicus, EMATUM and MAM are referred to collectively hereinafter as the "**SPVs**".
18. Mr Manuel Chang ("**Mr Chang**") was the Republic's Minister of Economy and Finance from 2005 to 2015.
19. Mr Armando Emilio Guebuza was President of Mozambique from 20 February 2005 to 15 January 2015 ("**former President Guebuza**").
20. Mr Manuel Renato Matusse ("**Mr Matusse**") was at all material times a political adviser to former President Guebuza and subject to the Rules of Procedure of the Office of the President of the Republic approved by Presidential Order, No. 09/INT/2005, of 11 May.
21. Ms Maria Inês Moiane Dove ("**Ms Dove**") was the personal secretary of former President Guebuza from approximately 2005 to 2014 and subject to the Rules of Procedure of the Office of the President of the Republic approved by Presidential Order, No. 09/INT/2005, of 11 May.
22. Mr do Rosário, Mr Chang, Mr Matusse and Ms Dove are referred to collectively hereinafter as the "**Mozambican Officials**".
23. Mr Armando Ndambi Guebuza ("**Mr Ndambi Guebuza**") is the son of former President Guebuza.
24. Mr Teófilo Nhangumele ("**Mr Nhangumele**") was at all material times an associate of Mr Ndambi Guebuza.
25. Mr Bruno Evans Tandane Langa ("**Mr Langa**") was at all material times a friend and business associate of Mr Ndambi Guebuza.

II. Summary of the Claim

26. This claim arises out of three transactions between the SPVs and the Privinvest Group financed using sovereign guarantees signed by Mr Chang purporting to act on behalf of the Republic:

- 26.1. in February-June 2013 Proindicus purported to enter into a transaction financed using a sovereign guarantee for the purpose of acquiring vessels and equipment to monitor and protect the Republic's Exclusive Economic Zone (the "**Proindicus transaction**"). As described further below, the relevant sovereign guarantee nominally secured syndicated lending arranged by CSI;
- 26.2. in August 2013 EMATUM purported to enter into a transaction financed using a sovereign guarantee for the purpose of developing a tuna fishing fleet and a land operations coordination centre (the "**EMATUM transaction**"). As described further below, the relevant sovereign guarantee nominally secured loan participation notes due September 2020 (the "**2020 Notes**"). The 2020 Notes were exchanged in 2016 (the "**EMATUM exchange**") for fixed rate notes issued by the Republic and due 2023 (the "**2023 Eurobonds**"); and
- 26.3. in May 2014 MAM purported to enter into a transaction financed using a sovereign guarantee for the purpose of creating maintenance and repair facilities to repair the vessels being sold to Proindicus and EMATUM, and other vessels used in connection with the offshore gas and oil industry (the "**MAM transaction**"). As described further below, the relevant sovereign guarantee nominally secured a loan arranged by Palomar Capital and VTB Capital Plc ("**VTB**").
27. The Proindicus transaction, EMATUM transaction, and MAM transaction are referred to collectively hereinafter as the "**three transactions**".
28. In summary, the Republic's case is that:
- 28.1. the three transactions involved the payment of large bribes to government officials of the Republic, including to Mr Chang;
- 28.2. the three transactions involved a conspiracy on the part of the Defendants to injure the Republic and thereby enrich themselves at the expense of one of the poorest countries in the world;
- 28.3. the Privinvest Defendants paid bribes or secret commissions to the CS Deal Team. Mr Pearce, the Head of Credit Suisse's Global Financing Group, accepted more than US\$45 million in illicit payments from the Privinvest Defendants;
- 28.4. the Privinvest Defendants paid to Credit Suisse so-called "contractor fees";

28.5. Mr Chang did not have authority to sign the sovereign guarantees, which were unconstitutional and illegal under Mozambican law;

28.6. the bribes and the three transactions including in particular the sovereign guarantees were together the key elements of a fraudulent scheme designed to obtain, and to render the Republic liable for, c.US\$2 billion; and

28.7. Credit Suisse and Mr Singh deceived the Republic into entering into the EMATUM exchange.

29. The Republic seeks (i) declarations that it is not liable to Credit Suisse in respect of the sovereign guarantee Mr Chang signed for the Proindicus transaction, and (ii) further relief for the Defendants' wrongdoing, including compensation and indemnity in respect of its loss and damage.

III. The limited nature of the Republic's present knowledge of the wrongdoing

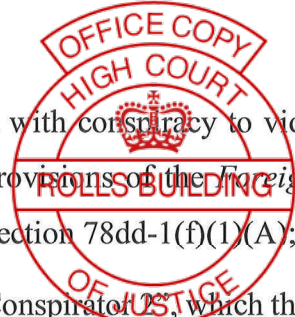
30. The Republic's knowledge of the wrongdoing alleged herein, and in particular the dealings between the Defendants, is limited. Except for Ms Subeva, who has pleaded guilty to one count of conspiracy to commit money laundering, the Defendants have not yet publicly confessed or explained their participation in any wrongdoing.

31. On 23 June 2017, an international consulting firm, Kroll Associates UK Limited ("Kroll"), produced the final version of a report entitled "Independent audit related to loans contracted by ProIndicus S.A., EMATUM S.A. and Mozambique Asset Management S.A." (the "**Kroll Report**"). The Kroll Report was prepared for the Republic's Attorney General with the Embassy of Sweden paying Kroll's fees.

32. In an indictment filed by the US Department of Justice (the "**DOJ**") on 19 December 2018 and unsealed on 4 March 2019, Eastern District of New York Docket No. 18-CR-681 (the "**DOJ Indictment**"):

32.1. the CS Deal Team Defendants together with Mr Boustani, Mr Allam, Mr Chang, Mr do Rosário and Mr Nhangumele were charged with conspiracy to commit wire fraud and conspiracy to commit money laundering;

32.2. the CS Deal Team Defendants together with Mr Boustani, Mr Allam, Mr Chang and Mr do Rosário were charged with conspiracy to commit securities fraud;

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- 32.3. the CS Deal Team Defendants were charged with conspiracy to violate (*inter alia*) the anti-bribery and internal controls provisions of the *Foreign Corrupt Practices Act*, Title 15, United States Code, Section 78dd-1(f)(1)(A); and
- 32.4. the DOJ Indictment refers to “Prinvest Co-Conspirator 2”, which the Republic understands to denote Mr Safa.

33. The DOJ Indictment contains detailed allegations against those indicted, from which it is apparent that the DOJ has obtained extensive documentation including emails, some of which are quoted, relevant to the claims in these proceedings. Pending the obtaining of further information and pending disclosure, the Republic relies on the DOJ Indictment for those reasons.

B. THE REPUBLIC AND ITS RELEVANT LAWS

I. The Republic

34. In the period 1964 to 1974, the Republic fought a war of independence against the Portuguese colonial regime and gained independence on 25 June 1975. In the period 1977 to 1992 the Republic suffered from a civil war during which more than a million people died.
35. The Republic’s first post-war elections were held in 1994 and occur every five years. In every election, the presidential candidate of the Mozambique Liberation Front, or *Frente de Libertação de Moçambique* (“**FRELIMO**”), has won and FRELIMO has secured a parliamentary majority.
36. In the following sections II (The Republic’s Constitution), III (The SISTAFE Law), IV (Bribery and anti-corruption laws), and (VIII) (Duties owed by the Mozambican Officials) of this Part B, certain provisions of the Mozambican law are set out and cross-referenced to more detail in Schedule 1 hereto. The basis of the application of these laws is that they are relevant to: (i) Mr Chang’s authority to enter into the sovereign guarantees; (ii) the unconstitutionality and illegality of the sovereign guarantees under Mozambican law; (iii) the Defendants’ understanding of the nature of the transactions; and (iv) the duties of a fiduciary nature owed by the Mozambican Officials to the Republic, which are the basis for the claims for dishonest assistance and knowing receipt pleaded herein.



II. The Republic's Constitution

37. Relevant provisions of the Republic's Constitution (the "~~Constitution~~") at the material times are summarised in Schedule 1 hereto. Of particular relevance:

- 37.1. the Republic is founded on legality and subordinate to the Constitution (Article 2);
- 37.2. all citizens have a duty to respect the Constitution and acts contrary to the Constitution are punishable by law (Article 3); and
- 37.3. the Assembly of the Republic or *Parlamento* ("**Parliament**") has the exclusive power to approve the State Budget (Article 179(2)(m)) and has the exclusive power to establish the upper limit of guarantees given by the Republic (Article 179(2)(p)).

III. The SISTAFE Law

38. Law 9/2002, entitled the *Sistema de Administração Financeira do Estado* (the "**SISTAFE Law**"), comprehensively regulates the budget process in the Republic. It sets the rules and procedures for the preparation, approval, and execution of the State Budget and defines the mechanisms that ensure that control is exercised over the Republic's public finances. Relevant provisions of the SISTAFE Law are summarised in Schedule 1 hereto. Of particular relevance:

- 38.1. no public expenditure can be assumed, ordered or incurred unless duly entered in the approved State Budget Law (Article 15); and
- 38.2. the Minister of Finance's approval is a precondition to the validity of international contracts and agreements which entail the assumption of financial liabilities by the Republic, even if such expenditure is already included in the State Budget (Article 16).

IV. Bribery and anti-corruption laws

39. Bribery is a criminal offence under Mozambican law. Relevant criminal offences under Mozambican law are set out in Schedule 1 hereto.



V. The Republic's financial history

40. Since the end of the civil war, the Republic has heavily relied on the support of the international community, including support from or through the Heavily Indebted Poor Countries Initiative, the Multilateral Debt Relief Initiative, the World Bank, the International Monetary Fund ("IMF"), foreign grants, and donor support.
41. As at 2011, the Republic was one of the world's poorest and most underdeveloped countries. The UN's 2010 Human Development Index ranked the Republic 165 out of 169 countries.

VI. The discovery of natural gas reserves in 2010-2011

42. In 2010-2011, international gas exploration companies made discoveries and increased their understanding of world class natural gas reserves off the northern coast of the Republic.

VII. Corruption in the Republic

43. As was widely known in the international financial community and every relevant international financial institution including Credit Suisse knew at all material times, commercial dealings with the Republic required heightened due diligence and governance given reports of widespread corruption.

VIII. The duties owed by the Mozambican Officials under Mozambican law

Mr Chang's duties to the Republic

44. The Republic reposed trust and confidence in Mr Chang as a Minister of State, and he owed duties to the Republic that are particularised in Schedule 1 hereto, which are to be characterised under English law as fiduciary in nature.

Mr do Rosário, Mr Matusse and Ms Dove's duties to the Republic

45. By reason of their respective positions within government, the Republic reposed trust and confidence in Mr do Rosário, Mr Matusse, and Ms Dove. They each owed duties to the Republic as particularised in Schedule 1 hereto, which are to be characterised under English law as fiduciary in nature.



C. THE FACTS

I. The Proindicus transaction

Events in 2011

46. On an unknown date in 2011, Mr Boustani and Mr Nhangumele commenced discussions about the Privinvest Group's ability to supply the Republic with a coastal monitoring system.
47. Emails were exchanged in November 2011 between Mr Nhangumele and Mr Boustani:
- 47.1. on or about 11 November 2011 Mr Nhangumele wrote to Mr Boustani and stated: *"To secure that the project is granted a go-ahead by the HoS [Head of State], a payment has to be agreed before we get there, so that we know and agree, well in advance, what ought to be paid and when. Whatever advance payments to be paid before the project, they can be built in the project, and recovered."*;
- 47.2. on or about the same day, Mr Boustani replied: *"A very important issue which needs to be clear: we had various negative experiences in Africa. Especially related to the 'success fees' payments. Therefore we have a strict policy in the Group consisting of not disbursing any 'success fee' before the signature of the Project Contract"*; and
- 47.3. on or about 14 November 2011, Mr Nhangumele wrote: *"Fabulous, I agree with you in principle. Let us agree and look at project in two distinct moments. One moment is to massage the system and get the political will to go ahead with the project. The second moment is the project implementation/execution. I agree with you that any monies can only be paid after the project signing."*
48. In December 2011 a small group comprising Mr Nhangumele, Mr do Rosário, and Mr Ndambi Guebuza, and Mr Langa travelled to Germany and in January 2012 to Abu Dhabi and visited shipyards owned by the Privinvest Group. With the support of Mr Boustani, Logistics Offshore created fictional employment roles for Mr Nhangumele (petroleum mechanical engineer), Mr Langa (diesel mechanical engineer) and Mr Ndambi Guebuza (hydraulic mechanic) so as to enable those individuals to open bank accounts in Abu Dhabi into which bribes would be paid.

49. On or about 28 December 2011, Mr Boustani and Mr Nhangumele reached an understanding. In response to a request for a bribe and kickback figure from Mr Boustani:

49.1. on or about 28 December 2011 Mr Nhangumele sent an email to Mr Boustani which stated "*Fine brother. I have consulted and please put 50 million chickens. Whatever numbers you have on your poultry I will add 50 million of my breed*"; and

49.2. Mr Boustani forwarded that email within the Prinvest Group, and stated "*50M for them and 12M for [someone described in the DOJ Indictment as "Prinvest Co-Conspirator 1"] (5%) => total of 62M on top*".

Events in 2012 – early 2013

50. At some point in or about early 2012, the Prinvest Defendants approached Credit Suisse seeking to enlist it to provide finance for the Proindicus transaction.

51. On or about 27 February 2012, Credit Suisse sent a letter to former President Guebuza expressing a willingness to finance the Proindicus transaction.

52. By an email dated 9 March 2012 from Mr Boustani to Credit Suisse, Credit Suisse learned that no tender process had preceded the planned transaction and that the Prinvest Defendants had obtained the deal through "*high-level connections*" with the Republic.

53. On or about 12 March 2012, an internal Credit Suisse email reported that Credit Suisse had previously designated Mr Safa as an "*undesirable client*". On or about 13 March 2012, Credit Suisse collected approximately 10 news articles containing potentially negative information regarding Mr Safa, and those articles were reviewed at least by Mr Singh.

54. By letter dated 31 August 2012 from Mr Chang to Mr Safa, Mr Chang brought to the attention of Mr Safa that the formal letter of award for the project would be subject to securing finance.

55. On or about 13 September 2012, Mr Pearse travelled to the United Arab Emirates to meet with Mr Boustani, Mr Nhangumele, and Mr Ndambi Guebuza.

56. On or about 1 November 2012, Credit Suisse's Head of Compliance directed the Credit Suisse deal team to consult a senior executive for Europe, Middle East and Africa regarding the legal and reputational risks to Credit Suisse for the proposed Proindicus transaction. Mr Pearse reported that the senior executive had said no to the combination




of Mozambique and Mr Safa. Credit Suisse's internal records described Mr Safa as a "master of kickbacks".

57. On or about 3 December 2012, Mr Safa sent a letter to former President Guebuza expressing a need to conclude the deal as soon as possible to avoid the constraints of a new fiscal year.
58. On 14 December 2012, Parliament exercised its exclusive authority under Article 179(2)(m) of the Constitution by approving the 2013 State Budget bill. No appropriation was made for the Proindicus transaction.
59. On or about 22 December 2012, Mr Chang wrote a letter to Mr Safa, which was forwarded to Credit Suisse, in which Mr Chang stated that there were IMF constraints on borrowing by the Republic and therefore an alternative solution had been devised involving the use of an SPV.
60. On 7 January 2013, in conformity with Article 144 of the Constitution, the Government Gazette published the 2013 State Budget Law (Law No.1/2013) (the "**State Budget Law 2013**"). The State Budget Law 2013 provided for a limit on State guarantees in 2013 of 183,500,000 Mozambican Meticaïs, which at a contemporary rate of exchange¹ converts to approximately US\$6.2 million.
61. On or about 10 January 2013 Credit Suisse issued indicative terms, which *inter alia*:
 - 61.1. provided that Proindicus would appoint external English law legal advisers to advise them with respect to the negotiation of the Finance Documentation (as defined) and the contractual documentation related to the Project (as defined);
 - 61.2. provided that there would be a cash management account held with Credit Suisse or an appropriate bank chosen by Credit Suisse into which all revenues of Proindicus would be paid; and
 - 61.3. made no mention of any payment of contractor fees by the supplier to Credit Suisse.

¹ Using an exchange rate USD/MT of 29.47: <https://freecurrencyrates.com/en/exchange-rate-history/USD-MZN/2013/yahoo>.

The Proindicus transaction

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62. By letter dated 18 January 2013 the Sixth Defendant (“~~Prinvest Shipbuilding~~ **SAL**”) stated that in the “*spirit of cooperation and partnership*” it would commit to transferring US\$13 million to the bank account of Proindicus upon the Proindicus Supply Contract entering into force.
63. On or about 18 January 2013, Proindicus purported to enter into a contract with Privinvest Shipbuilding SAL styled as a “Contract for providing an EEZ Monitoring and Protection Solution for the Republic of Mozambique” (the “**Proindicus Supply Contract**”). On the face of the Proindicus Supply Contract, for a stated price of US\$366 million, the supplier was to supply various assets and services including radar stations, vessels and aircraft to enable the Republic to monitor and protect its Exclusive Economic Zone.
64. The Proindicus Supply Contract was an instrument of fraud, alternatively a sham. The parties to it did not intend it to be a genuine procurement contract for the supply of goods and services at market value, but a vehicle for the enrichment of the Defendants at the expense of the Republic. The Republic will rely on the following facts and matters (without limitation and pending disclosure) in support of that allegation: (i) the bribery used to procure the contract as set out in Schedule 2, and the Privinvest Defendants’ knowledge therefrom that the counterparty’s loyalty had been purchased; (ii) as pleaded in paragraphs 69, 74, 76 below, the payment of contractor fees; (iii) as pleaded at paragraph 123 below, no honest and reasonable government official could countenance a contract on such one-sided terms; (iv) the price paid to the supplier bore no resemblance to the market value of the goods and services supplied; (v) subsequent changes to the assets to be supplied which substituted in inappropriate and less valuable types of assets with no corresponding change to the contract price; and (vi) as pleaded at paragraph 62 above and paragraph 70 below, the payment of money from Privinvest Defendants to Proindicus to prop it up.
65. By email on or about 18 February 2013 Mr Boustani told Credit Suisse that an opinion from the Attorney General of the Republic in respect of the Proindicus transaction “*is not mandatory... I believe that this will not be accepted by Proindicus since its owner wanted to bypass public tender and normal bureaucratic procedures from day 1 by creating a private entity!! So they will never accept to inform the attorney general!!*”.




66. After receiving this email, Credit Suisse withdrew the requirement that there be an opinion from the Attorney General as a condition of the lending.
67. On or about 25 February 2013 Credit Suisse withdrew a requirement that the IMF be informed of the existence of the borrowing as a condition of the lending.
68. On or about 28 February 2013:
- 68.1. Mr Chang signed a guarantee purportedly on behalf of the Republic acting by and through its Ministry of Finance (the “**Proindicus Guarantee**”). Mr Singh was one of two signatories for Credit Suisse. He signed in his capacity as a Managing Director in Fixed Income; and
- 68.2. a 6-year US\$372 million term facility agreement was entered into by CSI as mandated lead arranger and original lender, CSAG as facility agent, and ProIndicus as borrower (the “**Proindicus Facility**”). Mr do Rosário was one of two signatories of the Proindicus Facility for Proindicus. Mr Singh was one of two signatories for Credit Suisse, again signing in his capacity as Managing Director in Fixed Income.
69. By an agreement styled as a Contractor Fee Letter dated 21 March 2013, Credit Suisse agreed to accept a fee of US\$38 million from Privinvest Shipbuilding SAL in consideration for arranging the Proindicus Facility three weeks earlier (clause 3). Mr Pearse was one of two signatories on behalf of Credit Suisse, signing in his capacity as a Managing Director, Emerging Markets, Fixed Income. Mr Boustani was one of two signatories for Privinvest Shipbuilding SAL.
70. On or about 25 March 2013 the Privinvest Defendants transferred approximately US\$13 million to Proindicus purportedly pursuant to the letter dated 18 January 2013 pleaded above.
71. Thereafter there was a series of “Change Orders” signed by *inter alios* Mr do Rosário for Proindicus and by Mr Boustani for Privinvest Shipbuilding SAL:
- 71.1. on 29 April 2013 “Change Order No 1” purported to increase the price of the Proindicus Supply Contract from US\$366 million to US\$616 million. Notwithstanding the increase in price (i) the 2 maritime patrol aircraft (F406 light turboprop aircraft manufactured by Reims Aviation Industries) were replaced by 6 Remos GX aircraft. The Remos GX is a light sport aircraft not

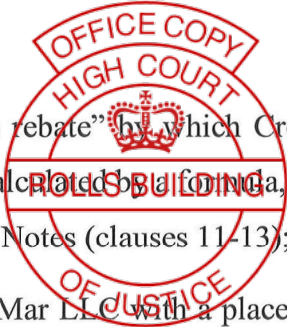
ordinarily used for maritime patrol missions; and (ii) the two contracted for long duration deep sea patrol vessels (Vigilante 400 RO) were replaced by smaller vessels (HSI32 and WP18 Interceptor vessels);

- 71.2. on 15 May 2013 “Change Order No 2” purported to reduce the price of the contract from US\$616 million to US\$466 million, which it stated was the result of certain structural changes suggested by Credit Suisse; and
- 71.3. on 17 May 2013 “Change Order No 3” purported to increase the price of the contract back up to US\$616 million.
72. On or about 14 June 2013 purportedly on behalf of the Republic acting by and through its Ministry of Finance Mr Chang signed a letter styled as the “Government Guarantee Confirmation” referred to in the amended facility agreement on or about the same date, by which Mr Chang purported to commit the Republic to guarantee another US\$250 million of Proindicus debt.
73. On or about 14 June 2013 the parties to the Proindicus Facility signed an amendment agreement that scheduled an “Amended and Restated Proindicus Facility” wherein the Maximum Facility Amount (as defined) was stated to be US\$622 million.
74. By an agreement styled as a Supplemental Contractor Fee Letter dated 25 June 2013, Credit Suisse agreed to accept from Privinvest Shipbuilding SAL an additional fee of 8.2% of any increase under the increased facility commitments.
75. On or about 28 June 2013 the parties executed “Change Order No 4”, which recorded that Credit Suisse had confirmed that it might take longer than originally envisaged to raise the additional funds.
76. By an agreement styled as a Supplemental Contractor Fee Letter dated 12 August 2013, Credit Suisse agreed to accept from Privinvest Shipbuilding SAL an additional fee of 8.2% of any increase under the increased facility commitments.

II. The EMATUM transaction

77. On or about 2 August 2013 EMATUM purported to enter into a supply contract with Abu Dhabi Mar LLC (the “**EMATUM Supply Contract**”) for a stated price of US\$785.4 million. The EMATUM Supply Contract was signed by Mr Allam for Abu Dhabi Mar LLC, and by Mr do Rosário as one of two signatories for EMATUM.

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78. On the face of the EMATUM Supply Contract, Abu Dhabi Mar LLC was to supply vessels to develop a tuna fishing fleet and a land operations coordination centre.
79. The EMATUM Supply Contract was an instrument of fraud, alternatively a sham. The parties to it did not intend it to be a genuine procurement contract for the supply of goods and services at market value, but a vehicle for the enrichment of the Defendants at the expense of the Republic. The Republic will rely on the following facts and matters (without limitation and pending disclosure) in support of that allegation: (i) the bribery used to procure the contract as set out in Schedule 2, and the Privinvest Defendants' knowledge therefrom that the counterparty's loyalty had been purchased; (ii) as pleaded in paragraph 81 below, the payment of contractor fees by the Privinvest Defendants; (iii) as pleaded at paragraph 123 below, no honest and reasonable government official could countenance a contract on such one-sided terms; (iv) the price paid to the supplier bore no resemblance to the market value of the goods and services supplied; (v) as pleaded at paragraph 83 below, the payment of money from Privinvest Defendants to EMATUM to prop it up; and (vi) as pleaded at paragraph 84 below, the increase in the price of US\$51 million on or about 26 September 2013 without an accompanying explanation.
80. On or about 30 August 2013:
- 80.1. Mr Chang signed a guarantee purportedly on behalf of the Republic acting by and through its Ministry of Finance (the "**EMATUM Guarantee**"). Mr Singh and Mr Patki each signed on behalf of each of CSI and CSAG. Mr Singh signed in his capacity as Managing Director in Fixed Income and Mr Patki signed in his capacity as Director in Emerging Markets Fixed Income; and
- 80.2. a 7-year US\$850 million term facility agreement was entered into by CSI as mandated lead arranger and original lender, CSAG as facility agent, and EMATUM as borrower (the "**EMATUM Facility**"). Mr do Rosário was one of the two signatories for EMATUM.
81. By an undated agreement styled as a Contractor Fee Letter and signed only by Mr Allam for Abu Dhabi Mar LLC in the version the Republic has seen, Credit Suisse agreed:
- 81.1. to accept in consideration of arranging the EMATUM Facility a fee of 9% of the principal amount advanced, subject to revision in accordance with specified formula (clause 5);

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- 81.2. that this fee was subject to a “contractor fee rebate” by which Credit Suisse agreed to a rebate against the contractor fees calculated by a formula, depending on the price it achieved when selling the 2020 Notes (clauses 11-13); and
- 81.3. that Credit Suisse would provide Abu Dhabi Mar LLC with a placement book on a no-names basis prior to any allocations and pricing (clause 16) and Abu Dhabi Mar LLC would be entitled to bring investors to Credit Suisse as part of the placement efforts (clause 17).
82. In or about September 2013, Credit Suisse organised the issuance of the 2020 Notes by Mozambique EMATUM Finance 2020 B.V., a Dutch SPV.
83. On or about 19 September 2013 Logistics International and/or Logistics Investments transferred the sum of US\$3 million to EMATUM.
84. On or about 26 September 2013 Abu Dhabi Mar LLC and EMATUM purported to agree to increase the price of the EMATUM Supply Contract by US\$51 million by a 1-page letter agreement.

III. The MAM transaction

85. On or about 1 May 2014 MAM purported to enter into a supply contract with Privinvest Shipbuilding Investments LLC (the “**MAM Supply Contract**”). The MAM Supply Contract was signed by Mr Boustani for Privinvest Shipbuilding Investments LLC, and Mr do Rosário was one of two signatories for MAM.
86. On the face of the MAM Supply Contract, the supplier was to deliver a shipyard and maintenance facility, intellectual property, and the associated parts and training of Mozambican individuals to enable MAM to undertake (*inter alia*) the maintenance of vessels supplied under the Proindicus and EMATUM transactions and associated with the offshore oil and gas industry.
87. The MAM Supply Contract was an instrument of fraud, alternatively a sham. The parties to it did not intend it to be a genuine procurement contract for the supply of goods and services at market value, but a vehicle for the enrichment of the Defendants at the expense of the Republic. The Republic will rely on the following facts and matters (without limitation and pending disclosure) in support of that allegation: (i) the bribery used to procure the contract as set out in Schedule 2, and the Privinvest Defendants’ knowledge therefrom that the counterparty’s loyalty had been purchased; (ii) as pleaded at paragraph

88 below, no honest and reasonable government official could countenance a contract on such one-sided terms; (iii) the price paid to the supplier bore no relation to the market value of the goods and services supplied; and (iv) as pleaded at paragraph 90 below, the payment of money from Privinvest Defendants to MAM to prop it up

88. No honest and reasonable government official could countenance the terms of the MAM Supply Contract. Without prejudice to the generality of that allegation, the following matters will be relied on in support of it:

- 88.1. the entire purchase price was to be paid to the supplier up front (Articles V, VIII(E));
- 88.2. the supplier was entitled to subcontract all or any parts of the works and any of its rights or obligations related to the Project to parties of its sole choice and discretion (Article IV);
- 88.3. the price stated could be increased by the supplier to include “*any other increased costs or expenses as a result of the operation of the provisions of this Contract*” (Article VIII(A)); and
- 88.4. the timetable for the performance of services and the delivery of Assets (as defined) was “*indicative only*” (Articles VI, VIII(C)).

89. On or about 20 May 2014:

- 89.1. Mr Chang signed a guarantee purportedly on behalf of the Republic acting by and through its Ministry of Finance (the “**MAM Guarantee**”). The other parties to the MAM Guarantee were (i) Palomar Capital and VTB in the capacity of “Dollar Arrangers”; and (ii) VTB in the additional capacity of “Dollar Facility Agent”; and
- 89.2. a US\$540 million 5-year term facility agreement was entered into between (i) MAM as borrower; (ii) Palomar Capital and VTB as arrangers; and (iii) VTB in the additional capacity of facility agent (the “**MAM Facility**”). Mr do Rosário was one of two signatories of the MAM Facility for MAM.

90. On or about 2 July 2014 Logistics Offshore transferred approximately US\$1 million to MAM.

IV. Developments in December 2014 in relation to the Proindicus transaction

91. On or about 4 December 2014 the parties to the Proindicus Facility signed an amendment agreement that purported to increase the Maximum Facility Amount (as defined) to up to US\$900 million. The amendment agreement was signed on behalf of Proindicus by Mr do Rosário.
92. On or about 17 December 2014 purportedly on behalf of the Republic acting by and through its Ministry of Finance, Mr Chang signed a letter which described itself as the “Second Government Guarantee Confirmation” referred to in the amended facility agreement on or about the same date. The Second Government Guarantee purported to acknowledge the increase in the Maximum Facility Amount (as defined) to US\$900 million. However, Proindicus did not draw down the increased Maximum Facility Amount.
93. As part of this transaction, Credit Suisse, VTB and Palomar Capital agreed to accept new “running fees” totalling at least US\$57 million.

V. The EMATUM exchange

94. In or about March to May 2015, Credit Suisse, Mr Boustani, Mr Pearce, and Ms Subeva organized meetings with government officials of the Republic to convince them to restructure the EMATUM transaction.
95. By this stage, Mr Pearce, Ms Subeva and Mr Schultens had left Credit Suisse and were employed by, alternatively agents of, Palomar Capital. Their involvement in the proposed transaction was a red flag to Credit Suisse that (i) there was a risk that they could be receiving rewards from the Privinvest Defendants via remuneration or bonuses for their earlier involvement in the Proindicus and EMATUM transactions when still employed by Credit Suisse; and (ii) Palomar Capital, as a company within or linked to the Privinvest Group and staffed with ex-employees of Credit Suisse, had a conflict of interest in giving dispassionate advice to the Republic.
96. On or about 6 August 2015, a Credit Suisse related entity, Credit Suisse Securities (Europe) Limited (“CSSE”) sent a formal letter to the Republic referencing recent discussions and outlining a refinancing involving the exchange of the 2020 Notes for new notes to be issued by the Republic. From at least as early as this letter, the central feature of the proposed refinancing was the exchange of the 2020 Notes (and recourse to the



EMATUM Guarantee) for notes to be issued by the Republic (~~with~~ recourse directly to the Republic).

97. Credit Suisse had contacted Latham & Watkins (London) LLP (“**Latham & Watkins**”) and asked them to quote for a role as issuer’s English and US counsel for an African sovereign issue as part of an exchange offer. After Latham & Watkins provided the requested fee estimate to Credit Suisse, by engagement letter dated 20 August 2015 the Republic and EMATUM retained Latham & Watkins to act.
98. Credit Suisse benefitted from the proposed exchange in the following main ways:
 - 98.1. the distressed private debt originated by Credit Suisse and owed to holders of the 2020 Notes would become public debt owed directly by the Republic to holders of the 2023 Eurobonds;
 - 98.2. the exchange could impair an effective challenge to the validity of the EMATUM Guarantee; and
 - 98.3. Credit Suisse would receive another large instalment of fees, which in the result was at least US\$4 million.
99. However, and for similar reasons, the exchange was not in the Republic’s best interests:
 - (i) private debts incurred by an SPV accompanied by a purported state guarantee would be replaced by public debts on the capital markets, and would thereby immediately imperil the Republic’s reputation on the capital markets; (ii) it could impair an effective challenge to the validity of the EMATUM Guarantee; and (iii) the Republic would incur enormous fees not only to Credit Suisse but to others involved in the transaction. As Credit Suisse knew at all material times from its expertise in sovereign debt in the capital markets, a default by the Republic on Eurobonds in the capital markets was likely to affect the Republic’s reputation and ability to finance itself for decades to come.
100. On 9 March 2016 a Dealer Management Agreement was executed by the Republic, with CSSE and VTB acting as joint dealers.
101. In or about late March/early April 2016 the holders of the 2020 Notes approved the exchange of their notes for the 2023 Eurobonds, and in early April 2016 the Republic issued the 2023 Eurobonds.

D. THE REPUBLIC'S CLAIMS

I. The Proindicus Guarantee and the EMATUM Guarantee

The Proindicus and EMATUM transactions and Mr Chang's authority



102. The Proindicus and EMATUM Guarantees were incompatible with and in breach of: (i) the limits on state guarantees set out in the State Budget Law 2013; (ii) the Constitution, in that they exceeded the limits of state guarantees that the Constitution reserved exclusively to Parliament to decide; and (iii) the SISTAFE Law, because Mr Chang acted without Parliamentary authority.
103. Mr Chang had no authority to bind the Republic to: (i) the Proindicus Guarantee; (ii) the Government Guarantee Confirmation of June 2013; (iii) the Second Government Guarantee Confirmation of December 2014; or (iv) the EMATUM Guarantee.
104. By a ruling handed down on 3 June 2019 (Acórdão No. 5/CC/2019), the Constitutional Council of the Republic (which has a special jurisdiction under the Constitution to administer justice in matters of a legal-constitutional nature) affirmed the proposition that Article 179(2)(p) reserves to Parliament the exclusive authority to establish the upper limit of state guarantees. The Constitution Council held that under Mozambican law the EMATUM Guarantee, being in excess of the guarantee limit in the State Budget Law 2013, was null and void.

Credit Suisse's knowledge

105. The Proindicus Guarantee (and confirmations of it) and the EMATUM Guarantee were entered into by Credit Suisse with knowledge that:
- 105.1. bribes had been or would be paid to Mozambican government employees and to Credit Suisse employees;
- 105.2. the guarantees were (i) in excess of the state guarantee limits set out in the State Budget Law 2013; (ii) in breach of the Constitution; and (iii) in breach of the SISTAFE Law;
- 105.3. in purporting to commit the Republic to the guarantees, Mr Chang was acting (i) outside the scope of his lawful authority; (ii) corruptly and dishonestly following the promise and/or payment of bribes; and (iii) in breach of his duties to the Republic under Mozambican law, which duties English law recognises as fiduciary in nature; and

105.4. the Proindicus and EMATUM Supply Contracts were instruments of fraud, alternatively shams.



Particulars of Credit Suisse's knowledge

106. The CS Deal Team's knowledge of the matters alleged in paragraph 105 above is to be inferred from their personal receipt or expectation of the bribes particularised in Schedule 2 hereto and, by reason of their participation in the transactions, their knowledge of the matters pleaded at paragraph 108-124 below. As pleaded at paragraph 9 above, the knowledge of the CS Deal Team Defendants is to be attributed to Credit Suisse.

107. Further and in any event, Credit Suisse had the knowledge alleged in paragraph 105 above in that it was wilfully blind to it. Pending disclosure the Republic is unable to particularise the relevant individuals at Credit Suisse whose state of mind demonstrates that Credit Suisse was wilfully blind, but the Republic will rely (without limitation and pending disclosure) on the following facts and matters in support of that allegation:

(i) The parties to the transactions

108. The Republic was a very poor country with a weak emerging market economy and heavily dependent on foreign aid. It was notorious that there was a high-risk of corruption.

109. Credit Suisse had elected to deal with the Privinvest Group notwithstanding that it viewed its principal Mr Safa as a "*master of kickbacks*" and an "*undesirable client*".

110. There was no legitimate reason for this borrowing not to have been made to the Republic as opposed to being structured via the SPVs.

(ii) The genesis of the transactions

111. Credit Suisse learned at least as early as the email dated 9 March 2012 from Mr Boustani that there had been no tender process preceding the Proindicus transaction and that the Privinvest Defendants had obtained the deal through "*high-level connections*" between the Privinvest Defendants and the Republic.

(iii) The secrecy of the transactions

112. The transactions had not been approved by Parliament and were to be kept a secret from international aid organisations, foreign donors, Parliament, Mozambican civil society, and the citizens of the Republic.



(iv) The transactions were to be hidden from the IMF

113. Credit Suisse knew that the Republic depended on funding from the IMF and the World Bank. To any reasonable international financial institution, if an emerging market state, dependent on IMF/World Bank funding, proposed to enter into secret borrowing unapproved by Parliament or the IMF that would imperil that IMF/World Bank funding, that financial institution's compliance department would ensure the transaction did not proceed. However Credit Suisse did not disclose the Proindicus and EMATUM transactions to the IMF.

(v) The absence of any English law solicitors for the Republic

114. On their face:

114.1. the Proindicus transaction involved the Republic giving a sovereign guarantee in respect of borrowings of a special purpose vehicle in the amount of US\$372 million, increasing over time to up to US\$900 million; and

114.2. the EMATUM transaction involved the Republic giving a sovereign guarantee in respect of borrowings of a special purpose vehicle in the amount of US\$850 million,

and both guarantees were expressed to be governed by English law. However, there were no English law solicitors acting for the Republic.

(vi) The Constitution, the SISTAFE Law and State Budget Law 2013

115. The Constitution and the SISTAFE law set out a publicly available legal framework for borrowing by the Republic.

116. The State Budget Law 2013 did not refer to the Proindicus or EMATUM transactions and each of the Proindicus and EMATUM Guarantees exceeded the upper limit set for state guarantees in 2013.

(vii) The absence of the Attorney General from the process

117. Credit Suisse acceded to Mr Boustani's explanations for not wanting to tell the Attorney General about the Proindicus transaction. The Attorney General did not issue an opinion on the legality of either the Proindicus transaction or the EMATUM transaction.

(viii) The terms of the Proindicus and EMATUM Facilities

118. Credit Suisse drafted the Proindicus and EMATUM Facilities to include the following terms:

- 118.1. the Proindicus Facility included a provision (clause 7.2) known in the market as a death spiral clause. The effect of this clause was that if the Republic's credit rating fell to a level equal to or lower than the "Rating Threshold" (as defined) the Lender would not be obliged to fund a Utilisation (as defined) and could accelerate the outstanding loan. By reason of the respective cross-default provisions in the later EMATUM Facility and MAM Facility, this could also trigger an Event of Default (as defined) under the latter facilities;
- 118.2. both the Proindicus Facility (clause 20.10) and the EMATUM Facility (clause 20.9) provided that, if the Republic ceased to be a member in good standing or became ineligible to use the resources of or draw or make use of funds available to it under any funding programme of the IMF or the World Bank or any such programme was cancelled or suspended, that would constitute an Event of Default (as defined). The concern expressed in these clauses for the Republic's good standing with the IMF cannot be reconciled with (i) the withdrawal of IMF approval as a condition of the lending; or (ii) Credit Suisse's failure to ensure the transactions were disclosed to the IMF; and
- 118.3. it appears that notwithstanding the payment of hundreds of millions of dollars up front and directly to the Suppliers, Credit Suisse did not take any security from the SPVs, whether in the form of an assignment of the benefit of the supply contracts or any bank refund guarantees, mortgages over the assets after delivery, or assignments of any insurance.

(ix) The terms of the Proindicus and EMATUM Guarantees

119. The Proindicus Guarantee purported to require the Republic to give contractual undertakings that, *inter alia*, the Republic (i) would "ensure" that the annual budget statements of the Republic would not place any restriction upon the ability of the Republic to meet its obligations (clause 6.5.1); and (ii) would not "justify" any failure to pay an amount when due under the Finance Documents (as defined) by virtue of the corresponding allocation not having been included in its annual budget statements of the Republic (clause 6.5.2).



120. The EMATUM Guarantee contained similar undertakings in clause 6.2.

(x) The absence of any Swiss law lawyers for the Republic

121. The Proindicus and EMATUM Supply Contracts were expressed to be governed by Swiss law and concerned transactions with a collective price of more than US\$1.4 billion. No Swiss law lawyers acted for the Republic.

(xi) The terms of the Proindicus and EMATUM Supply Contracts

122. It is to be inferred that Credit Suisse reviewed, as would any lender in its position, the Proindicus and EMATUM Supply Contracts to understand the transactions that it would finance and from which it expected its borrower to make repayment, and to confirm that those contracts were adequate.

123. As a review of the contracts would have disclosed, no honest and reasonable government official could countenance the one-sided terms of the Proindicus and EMATUM Supply Contracts. Without prejudice to the generality of that allegation, the following matters will be relied on in support of it:

123.1. the entire price was to be paid to the suppliers up front (Proindicus Supply Contract (Articles V, VIII(F); EMATUM Supply Contract, Article V, VIII(E));

123.2. the suppliers were entitled to subcontract all or any part of the works to third parties of the suppliers' choice (Proindicus Supply Contract, Article IV; EMATUM Supply Contract, Article IV);

123.3. the prices stated could be increased by the suppliers to include "*any other increased costs or expenses as a result of the operation of the provisions of this Contract*" (Proindicus Supply Contract, Article VIII(A)); EMATUM Supply Contract, Article VIII(A)); and

123.4. the delivery timetable under the EMATUM Supply Contract was "*indicative only*" (Article VIII(C)).

(xii) Credit Suisse accepted "contractor fees"

124. As pleaded above, Credit Suisse received payments from the Prinvest Defendants in the form of "contractor fees" in relation to the finance granted by Credit Suisse. Pending disclosure, the full extent and justification for these fees is not presently known. The nature and extent of these fees were highly unusual. Credit Suisse stood to benefit from

higher prices being charged to the borrowers under the Supply Contracts because it would derive correspondingly higher contractor fees from greater sums being advanced under the Proindicus and EMATUM Facilities.



The legal consequences for the Proindicus and EMATUM Guarantees

125. In the premises of the facts and matters alleged above:

125.1. the Proindicus Guarantee (and confirmations of it) did not and does not give rise to valid, legal or binding obligations upon the Republic; and

125.2. the EMATUM Guarantee did not give rise to valid, legal and binding obligations upon the Republic.

126. Further or alternatively, the Proindicus and EMATUM Guarantees were so tainted by illegality under Mozambican and English law as to be unenforceable against the Republic.

127. The Republic seeks declaratory relief to that effect.


128. Further and in the further alternative, the Republic is entitled to terminate alternatively rescind the Proindicus Guarantee (including confirmations of it), alternatively, it is void *ab initio*. Insofar as the Proindicus Guarantee gave rise to any valid legal and binding obligation on the Republic, the Republic terminated alternatively rescinded such obligation by letter dated 15 March 2019 from the Republic's solicitors to Credit Suisse, alternatively hereby does so.

II. Claim for bribery

129. The bribes and secret commissions the Republic presently understands to have been received by *inter alios* the CS Deal Team Defendants and the Mozambican Officials from the Privinvest Defendants are set out in Schedule 2 hereto.

130. As against Credit Suisse, the Republic relies on Credit Suisse's participation in the transactions pleaded at paragraphs 50-101 above with the knowledge pleaded at paragraphs 105-124 above. Further and in any event, Credit Suisse is vicariously liable for the CS Deal Team Defendants' wrongdoing in the course of their employment.

131. In the premises, the Defendants were each involved in and/or facilitated and/or assisted in the bribery so as to make themselves liable as joint tortfeasors for the tort of bribery. The Republic is entitled to and claims against each Defendant for bribery (subject to any necessary election between remedies):

- 
- 131.1. damages. Particulars of causation and loss are pleaded below;
- 131.2. restitution of all bribes paid or received;
- 131.3. an account to the Republic of the profits made from their bribery and an order that they pay the same to the Republic;
- 131.4. a declaration that all bribes received have at all time been held on trust for the Republic; and
- 131.5. an order permitting the Republic to trace into and assert a proprietary claim to the traceable proceeds of the bribes.

III. Claim for conspiracy to injure by unlawful means

132. On a date or dates presently unknown, the Defendants or a combination of them wrongfully and with intent to injure the Republic by unlawful means conspired and combined together to defraud the Republic and to conceal such fraud and the proceeds of the fraud from the Republic. A key aim of the conspiracy was to render the Republic liable under the sovereign guarantees.
133. The following unlawful means by which the Republic was injured are relied on:
- 133.1. the bribery pleaded at paragraphs 129-131 above;
- 133.2. the entry by Credit Suisse into the Proindicus and EMATUM Guarantees with the knowledge particularised at paragraphs 105-124 above;
- 133.3. the entry by the Suppliers into the Supply Contracts which were, as alleged at paragraphs 64, 79, and 87 above, instrument of fraud, alternatively shams;
- 133.4. the dishonest assistance given to the breach by the Mozambican Officials of their fiduciary duties to the Republic pleaded at paragraphs 137-138 below;
- 133.5. the knowing receipt by the Defendants of the proceeds of the breach by the Mozambican Officials of their duties to the Republic pleaded at paragraphs 139-140 below; and
- 133.6. the deceit pleaded at paragraphs 143-150 below.

134. In furtherance of the conspiracy, the Defendants or a combination of them have concealed and sought to continue to conceal their unlawful means. ~~Violent Bullying~~

134.1. as pleaded at paragraphs 94-101 above, the Defendants or a combination of them procured the EMATUM exchange;

134.2. except for Ms Subeva, who has pleaded guilty to one count of conspiracy to commit money laundering, none of the Defendants has publicly admitted or explained to the Republic the wrongdoing particularised herein; and

134.3. it is to be inferred from the gravity of the matters set out in the DOJ Indictment that Credit Suisse has (i) carried out internal and/or external investigations of its own conduct and (ii) responded to subpoenas and other requests for assistance from regulatory authorities including the Financial Conduct Authority, the National Crime Agency, the US Department of Justice and or the US Security and Exchange Commission and/or the Serious Fraud Office. However, notwithstanding that it must have already investigated the matters pleaded herein, Credit Suisse has failed and continues to fail to disclose its knowledge of these matters to the Republic.

135. As a result of the conspiracy to injure the Republic, it has suffered or continues to suffer loss and damage. Particulars of causation and loss are pleaded below. The Defendants are jointly and severally liable to the Republic in damages for unlawful means conspiracy.

IV. The Mozambican Officials' breach of their duties to the Republic

136. By accepting the bribes particularised in Schedule 2 to facilitate the three transactions, which failed to comply with the Constitution and the law, each of the Mozambican Officials breached the duties of a fiduciary nature they each owed to the Republic pleaded at paragraphs 44-45 above and Schedule 1 hereto.

V. Claim for dishonest assistance

137. By reason of the matters herein and in particular at paragraphs 62-101 and 136 above, and Schedules 1 and 2, the Defendants dishonestly assisted in the Mozambican Officials' breach of fiduciary duties. Such assistance included:

137.1. each Defendant's involvement in and/or facilitation and/or assistance in the bribery as alleged at paragraphs 129-131;

137.2. Credit Suisse's entry into the sovereign guarantees and facility agreements with the knowledge particularised at paragraphs 105-124 above, and

137.3. the Suppliers' entry into the three supply agreements with the SPVs.

138. In the premises, the Defendants are each liable to account to the Republic and/or to pay equitable compensation.

VI. Claim for knowing receipt

139. By reason of the matters pleaded herein and in particular at paragraphs 62-101 and 136 above, and Schedules 1 and 2, insofar as the Defendants received any fee income or other payments directly or indirectly from the Republic in respect of the transactions described herein, they received such payments in circumstances where it would be unconscionable for the Defendants to retain them.

140. In particular but without limitation, in the premises of the matters pleaded herein and in particular at paragraphs 62-101 and 136 above and Schedule 2, the Defendants knew that such fees were derived from breaches of fiduciary duty by the Mozambican Officials, and/or they wilfully and recklessly failed to make such enquiries as an honest and reasonable person would have made which would have alerted them to such breaches, and they are liable to account for them and/or to pay equitable compensation.

VII. Proprietary claims

141. In the premises, the Republic is entitled to and claims an account of profits against each Defendant and/or equitable compensation.

142. Further, the Republic is entitled to trace into and makes a proprietary claim to the traceable proceeds of all amounts received by the Defendants as a result of the breaches of fiduciary obligation by the Mozambican Officials.

VIII. Claim for deceit

143. From at least as early as March 2015 until issuance of the 2023 Eurobonds, the following continuing representations to the Republic in relation to the EMATUM Guarantee were made (i) by Credit Suisse; and/or (ii) by CSSE and procured, authorised, encouraged and/or adopted by Credit Suisse:

143.1. its employees had not accepted bribes;



143.2. it had no reason to believe that the EMATUM Guarantee was tainted by bribery;
and

143.3. it was acting in good faith.

(collectively hereinafter, the “**EMATUM Guarantee Representations**”)

144. The EMATUM Guarantee Representations were implied from the following facts and matters: (i) the meetings pleaded at paragraph 94 above; (ii) the letter dated 6 August 2015 pleaded at paragraph 96 above; (iii) Credit Suisse’s recruitment of Latham & Watkins pleaded at paragraph 97 above, (iv) the involvement of members of Credit Suisse’s fixed income team, in particular Mr Singh, in carrying out the EMATUM exchange including the due diligence process and drafting of the prospectus; (v) a letter dated 23 March 2016 from CSAG in its capacity as Lender (as defined) under the Proindicus Facility, by which it agreed to waive any default which may have arisen as a result of the downgrade in the Republic’s credit rating so as to facilitate the issuance of the 2023 Eurobonds; and (vi) the toleration by Credit Suisse and/or CSSE of Palomar Capital acting as advisers to the Republic in circumstances where it employed Mr Pearse and Ms Subeva.
145. When the EMATUM Guarantee Representations were made, Credit Suisse knew and intended that the Republic would rely on them when considering the restructuring of the EMATUM transaction.
146. Induced by and in reliance on each of the EMATUM Guarantee Representations, the Republic carried out the EMATUM exchange and issued the 2023 Eurobonds.
147. In fact, each of the EMATUM Guarantee Representations was untrue. In the premises herein:
- 147.1. its employees had accepted bribes;
- 147.2. it did have reason to believe that the EMATUM Guarantee was tainted by bribery by reason of (a) the knowledge pleaded in paragraphs 105-124 above; (b) the failure of the Proindicus, EMATUM, and MAM’s respective businesses; and (c) the fact that Mr Pearse and Ms Subeva had taken up positions with Palomar Capital; and
- 147.3. it was not acting in good faith. The EMATUM Guarantee was vulnerable to legal challenge by reason of Credit Suisse’s wrongdoing, and Credit Suisse would

benefit from any impairment to an effective challenge to the EMATUM Guarantee following the EMATUM exchange.



148. Credit Suisse's liability for fraud arises on four bases.

- 148.1. Mr Singh knew the EMATUM Guarantee Representations were false. He (i) had been involved in all three transactions; (ii) had executed the EMATUM Guarantee on behalf of Credit Suisse; (iii) was a joint tortfeasor in relation to the bribery of Mozambican Officials; and (iv) personally received bribes as particularised in Schedule 2. In the circumstances and having regard to his seniority, Mr Singh's knowledge of the falsity of the EMATUM Guarantee Representations is to be attributed to Credit Suisse.
- 148.2. Further or alternatively, Credit Suisse knew the EMATUM Guarantee Representations were false in that it was wilfully blind to their falsity. Pending disclosure the Republic is unable to particularise the relevant individuals at Credit Suisse whose state of mind demonstrates that Credit Suisse was wilfully blind, but the Republic will rely (without limitation and pending disclosure) on the matters pleaded at paragraph 147.2 (a)-(c) above.
- 148.3. Further or alternatively, Credit Suisse was reckless in relation to the first and second EMATUM Guarantee Representations, not caring whether they were true or false, because, by reason of its knowledge of the matters pleaded at paragraph 147.2 (a)-(c) above, Credit Suisse could and should have taken steps to ascertain the true position, for example, by (i) reviewing the due diligence process carried out prior to entering the EMATUM Guarantee; (ii) investigating the implementation of the three transactions including by procuring evidence concerning the application of the proceeds of the loans to their stated purposes and/or investigating the failure of Proindicus, EMATUM and MAM's respective businesses; and (iii) investigating the circumstances of Mr Pearce and Ms Subeva's departure from Credit Suisse and their suspicious assumption of positions with Palomar Capital.
- 148.4. Further or alternatively, Mr Singh's making of and/or failure to correct the EMATUM Guarantee Representations in the circumstances described above was fraudulent. Credit Suisse is vicariously liable for Mr Singh's deceit.

149. As a result of issuing the 2023 Eurobonds, the Republic has suffered and continues to suffer loss and damage. In particular, if the Republic had not been induced by the EMATUM Guarantee Representations to issue the 2023 Eurobonds, it would have successfully challenged the validity of the EMATUM Guarantee, alternatively negotiated more favourable terms for any restructuring. Further particulars of causation and loss are pleaded below.
150. In the premises, Mr Singh and Credit Suisse are each liable to the Republic in deceit in respect of the EMATUM Guarantee Representations.

IX. Interest

151. The Republic is entitled to compound, alternatively simple, interest pursuant to the court's equitable jurisdiction and/or section 35A of the Senior Courts Act 1981 on the sums found to be due to them at such rate and for such period as the Court considers appropriate.


E. CAUSATION AND LOSS

I. Financial conditions in 2016

152. In or about April 2016 the three transactions attracted public and international scrutiny, and caused a severe financial crisis in the Republic.
153. The Republic's budget heavily relied on support from international institutions, foreign donors and international NGOs. When it emerged that all that support had been undermined by Credit Suisse's secret and illegal lending: (i) the IMF suspended the second instalment of a US\$282 million loan to the country; (ii) fourteen other donors and financial agencies who had given direct support to the Republic state budget ceased funding; and (iii) economic conditions deteriorated, for example, food price inflation reached 40 per cent by October 2016.

II. Particulars of losses

154. The Republic has suffered and continues to suffer loss as a result of the Defendants' wrongdoing. Losses will be subject to further particularisation but will include:
- 154.1. all amounts paid by the Republic in respect of the Proindicus, EMATUM and MAM transactions or which the Republic is liable to pay;
- 154.2. all payments made by the Republic under the 2023 Eurobonds;

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- 154.3. all fees and expenses incurred by the Republic in the EMU exchange; and
- 154.4. the Republic's macro-economic losses including those losses suffered as a result of the financial crisis in 2016 resulting from the withdrawal of funding by international donors and the IMF.
155. Insofar as the Republic has any contractual or other liability arising out of agreements entered into as a result of the Defendants' wrongdoing, and subject to any necessary election between remedies, the Republic claims indemnification and/or contribution, including indemnification against:
- 155.1. any liability the Republic may have to Lenders (as defined) under the Proindicus transaction or to Lenders (as defined) under the MAM transaction; and
- 155.2. any liability the Republic may have to holders of the 2023 Eurobonds.

AND THE REPUBLIC CLAIMS:

As against Credit Suisse

- (1) A declaration that the Proindicus Guarantee is not valid, legal or enforceable.
- (2) Further and alternatively, an order to the extent necessary setting aside the Proindicus Guarantee, alternatively declaring it has been validly terminated, alternatively a declaration that the Proindicus Guarantee is void.

As against each Defendant

- (3) Damages.
- (4) Indemnification and/or contribution.
- (5) An order that each Defendant holds bribes received on trust for the Republic.
- (6) An account of all sums or assets received by each Defendant which can be traced and/or followed from the bribes received.
- (7) An order that each Defendant transfer the said money and/or assets to the Republic.
- (8) An account of all profits made by each Defendant.
- (9) If necessary, inquiries as to the same.
- (10) Restitution.
- (11) Equitable compensation.
- (12) Compound, alternatively simple, interest pursuant to the Court's equitable jurisdiction and/or section 35A of the Senior Courts Act 1981 on the sums found to be due to the Republic at such rate and for such period as the Court considers appropriate.
- (13) Such further or other relief as the Court thinks fit.
- (14) Costs.

JOE SMOUHA Q.C.

SCOTT RALSTON

RYAN FERRO

JOE SMOUHA Q.C.

SCOTT RALSTON

RYAN FERRO

Statement of Truth

The Claimant believes that the facts stated in these Amended Particulars of Claim are true.

I am duly authorised by the Claimant to sign this statement.

Name: Keith Edward Oliver

Partner, Head of International, Peters & Peters Solicitors LLP

Signed: Date: 19 August 2019

