



**THE COMMISSION OF INQUIRY**

**ON**

**MRS A. GURIB-FAKIM**

**FORMER PRESIDENT OF THE REPUBLIC**

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## **LIST OF ACRONYMS**

<b>AAU</b>	Association of African Universities
<b>BMGF</b>	The Bill and Melinda Gates Foundation
<b>BOI</b>	Board of Investment
<b>CEO</b>	Chief Executive Officer
<b>CISD</b>	Central Information System Division
<b>Doc</b>	Document
<b>FSC</b>	The Financial Services Commission
<b>ICAC</b>	Independent Commission against Corruption
<b>NGO</b>	Non-Governmental Organisation
<b>PASET</b>	Partnership for Skills in Applied Sciences and Engineering and Technology
<b>PEI</b>	Planet Earth Institute
<b>PM</b>	Prime Minister
<b>PMO</b>	Prime Minister's Office
<b>POCA</b>	Prevention of Corruption Act
<b>VPM</b>	Vice Prime Minister



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# **CHAPTER 1 – PREAMBLE**

## **1.1 The appointment of the Commission**

On Thursday 17 May 2018, the Acting President of the Republic appointed the present Commission of Inquiry pursuant to section 2(2) of the Commissions of Inquiry Act.

## **1.2 Terms of the Commission**

The terms of the Commission were published by General Notice No. 803 of 2018 in an Extraordinary issue of the Government Gazette of Mauritius. The Commission is required to inquire into and report on: -

1. “all the circumstances related to –
  - (a) the purported appointment of a Commission of Inquiry by Mrs Ameenah Gurib-Fakim, former President of the Republic, on or about the 16 March 2018;
  - (b) the non-compliance with the constitutional and legal provisions and the established administrative procedures applicable to the appointment of the above Commission of Inquiry;
  - (c) any act, including any attempt by any person acting de concert or alone, in relation to the setting up of the aforesaid Commission of Inquiry, to usurp the powers of the Executive or the public functions of any other person or authority in breach of the Constitution or any other law;
  - (d) the involvement, direct or indirect, of any person including any law practitioner, in the drafting, advising or participation in relation to the appointment of the said Commission of Inquiry which may be in breach of the Constitution or any other legal provisions;

- (e) the resignation of Mrs Ameenah Gurib-Fakim as President of the Republic, in particular, but not limited to the unlawful, improper or indecorous use of the Office of the President and other matters directly related thereto.
2. To make recommendations, as appropriate, in respect of the provisions under Chapter IV of the Constitution relating to the removal and suspension of a President or Vice-President including the appropriateness of the mechanism of a Tribunal for such removal in order to ensure the proper and uninterrupted functioning of the institutions of democracy and the rule of law in conformity with the Constitution.
  3. To make recommendations, as appropriate, with regard to the immunity from legal proceedings against the President or the Vice-President with a view to reinforcing the rule of law, the concept of separation of powers and consolidating the democratic principles enshrined in the Constitution.
  4. To make any other recommendations for legislative measures and/or review of the Constitutional provisions which may be warranted in the light of the findings of this Commission of Inquiry.”

### **1.3 Composition**

The Commission of Inquiry is chaired by Mr Asraf Ally Caunhye, G.O.S.K, former Chief Justice of Mauritius and its members are Hon. Mrs Nirmala Devat, Senior Puisne Judge and Hon. Mrs Gaitree Jugessur-Manna, Puisne Judge. Mrs Premila Sinnathambi-Gopynauth, Principal Court Officer, was appointed as Secretary to the Commission.

## **1.4 The proceedings of the Commission**

Notices were published in newspapers and announcements were made on television and radio to inform the public that a Commission of Inquiry had been set up to inquire into the above Terms of Reference. The Commission invited members of the public at large, who wished to submit information which could shed light on the subject matter of the inquiry, to give evidence before the Commission.

The sittings held by the Commission to hear and gather evidence spanned over a period of about 18 months, with the first sitting being held on 6 August 2018 and the last one on 30 January 2020. The proceedings of the Commission were held in public. Mrs Gurib-Fakim was present throughout the proceedings of the inquiry and was legally assisted by Counsel. 28 persons, including Mrs Gurib-Fakim, gave evidence before the Commission. Some 132 set of documents/documents were produced before the Commission in the course of the inquiry. The Commission also carried out searches from records kept at the Registry of Le Réduit State House and the Office of the President and summoned the relevant persons to depose before it. A detailed list of the sittings and of the witnesses is at **Annex A**.

## **1.5 Working Sessions**

The Commission held numerous working sessions in order to:

- (i) look for and retrieve any documentary evidence which might have been relevant and material for the purpose of the enquiry. This also necessitated several visits and meticulous searches of the records and files from the various registries of the Office of the President at Le Reduit State House;
- (ii) examine, analyse and classify the available evidence in a structured manner for the purpose of examining, confronting and carrying out



an in-depth examination of the witnesses in the course of the public hearing;

- (iii) carry out the identification and assessment of the whole of the evidence in respect of each item of the Terms of Reference of the Commission;
- (iv) undertake discussions for the purpose of determining the factual issues arising mainly in connection with item 1;
- (v) analyse, sort out and categorise all the research material, mainly in connection with items 2 and 3 of the Terms of Reference of the Commission;
- (vi) identify and analyse the legal and constitutional issues arising in respect of the setting up of the Commission of Inquiry by Mrs Gurib-Fakim;
- (vii) examine and analyse the constitutional provisions relating to presidential immunity and the mechanism for the removal of the President; and
- (viii) draft and finalise the report in particular with regard to its findings, recommendations and conclusions.

Unfortunately, however, due to the restrictions in the wake of the Covid-19 pandemic and their resulting impact on the Commissioners' respective professional obligations, there has been an inevitable delay in the conduct of proceedings and in the drawing up of the final report and recommendations.

## **1.6 Acknowledgements**

The Commission is deeply grateful to the Honourable Chief Justice, for having put at its disposal a courtroom and other facilities at the old Supreme Court Building to enable it to hold its sittings and working sessions.

The Commission needs to express its gratitude to Mr Lutchmeeparsad Aujayeb, former Assistant Solicitor-General, and Mrs Carol Green-Jokhoo, former Assistant Solicitor-General, from the Office of the Solicitor-General (now both Puisne Judges) for their assistance in obtaining the relevant evidence and their support throughout the conduct of the proceedings.

The Commission would also like to thank all the counsel who appeared before the Commission including in particular Mr Hervé Duval, Senior Counsel and Miss Y. Moonshiram, barrister at law who represented Mrs Gurib-Fakim.

The Commission is also grateful to the Commissioner of Police for having delegated police officers to assist in the orderly conduct of its proceedings.

This acknowledgement would not be complete without expressing our gratitude and deep appreciation for the excellent work done by the Secretary Mrs Premila Sinnathambi-Gopynauth and all the other officers who assisted her in ensuring the smooth running of the work of the Commission.

Last but not least we need to place on record the commitment with which Mrs Waheeda Dinaully carried out the word processing and typing of the various drafts until the production of the final report.

## **CHAPTER 2 – INTRODUCTION**

Mrs Bibi Ameenah Firdaus Gurib-Fakim G.C.S.K, C.S.K, (hereafter referred to as Mrs Gurib-Fakim) became the President of the Republic of Mauritius on 5 June 2015. Following her appointment as President, she also accepted, following a meeting with Dr Alvaro Sobrinho in London in July 2015, to be the Vice-Chairperson of the Board of the Planet Earth Institute (PEI) and was appointed as a Trustee of the Planet Earth Institute Foundation in November 2015.

In February 2018, the newspaper *l'express* published an article which reported that Mrs Gurib-Fakim had been issued with a personal credit card by PEI. The card had a credit limit of 1 million rupees and was meant to cater for the expenses which Mrs Gurib-Fakim would incur in respect of the educational and philanthropic activities of PEI in Africa. The article also published bank statements which showed that Mrs Gurib-Fakim had spent more than 2 million rupees by using the PEI Card to effect payment for her personal shopping expenses from September 2016 to February 2017. Mrs Gurib-Fakim had been using the card to embark into an international shopping spree of jewellery and other luxury items from branded shops. The article also reported that the payments which she effected with the PEI Card had nothing to do with the philanthropic educational programme of the PEI.

On 16 March 2018, Mrs Gurib-Fakim purported to appoint, on her own, a Commission of Inquiry to be chaired by Sir Hamid Moollan Q.C. to inquire into the conduct of the President (herself) in relation to the credit card issued by the PEI, the leaking of her bank records, and the authorisations granted to the business entities of Dr Alvaro Sobrinho, Chairman of PEI, to operate in Mauritius.

There was no follow up to the setting up of the said Commission of Inquiry following a communiqué by the Prime Minister's Office which announced that the

setting up of the Commission of Inquiry was in breach of section 64 of the Constitution and was legally invalid and of no effect.

On 17 March 2018, Mrs Gurib-Fakim tendered her resignation which took effect as from 23 March 2018.

## **2.1 Abstract**

The first item in the terms of reference requires the Commission to inquire and report:

- (i) on the circumstances relating to the purported appointment of a Commission of Inquiry by the President on 16 March 2018. **[Item 1(a)]**
- (ii) on any breach of the constitutional and legal provisions or of the administrative procedures, in the setting up of the said Commission of Inquiry. **[Item 1(b)]**
- (iii) on any act, in the setting up of the Commission of Inquiry, to usurp the powers of the Executive or of any other authority in breach of the Constitution or any other law. **[Item 1(c)]**
- (iv) on the involvement by any person, including any law practitioner, in the appointment of the Commission of Inquiry in breach of the Constitution or any other law. **[Item 1(d)]**

The first item of the terms of reference also requires the Commission to inquire and report on all the circumstances leading to the resignation of Mrs Gurib-Fakim including in particular 'the unlawful, improper or indecorous use' of the Office of the President by Mrs Gurib-Fakim. **[Item 1(e)]**

The starting point for a proper understanding of the events and circumstances, which led to the purported setting up of that Commission of Inquiry

by Mrs Gurib-Fakim on 16 March 2018, and eventually to her resignation on 17 March 2018, would be the former President's involvement with the PEI and Dr Sobrinho.

Chapter 3 deals with the facts and circumstances relating to the issue of the Platinum Credit Card by PEI to Mrs Gurib-Fakim and the use which Mrs Gurib-Fakim made of the Platinum Credit Card. There is a detailed breakdown of all the payments made by Mrs Gurib-Fakim and the funding by PEI of both the Platinum Card Account and the PEI Deposit Account, which is a second and separate bank account for funding the expenses of Mrs Gurib-Fakim.

Chapter 3 also examines the different reactions and explanations of Mrs Gurib-Fakim when she was confronted with the facts and evidence of her association with the PEI of Dr Sobrinho. There is an analysis of how Mrs Gurib-Fakim did, by the use of the card funded by PEI, make an unlawful, improper or indecorous use of the Office of President and violated the Constitution.

Chapter 4 further examines the evidence relating to the involvement of Mrs Gurib-Fakim with the PEI and Dr Sobrinho and the part played by her in exercising her influence as President to assist in the granting of banking and investment licences to the Sobrinho companies and in promoting their business and financial activities.

Chapter 5 examines another aspect of Mrs Gurib-Fakim's abusive and unlawful use of the Office of the President in ensuring that Dr Sobrinho and his entourage enjoy uninterrupted VIP treatment at the airport in Mauritius from October 2015 to February 2017.

Chapter 6 deals with the circumstances surrounding the setting up of the Commission of Inquiry on 16 March 2018 and examines the version of Mrs Gurib-Fakim in that respect. There is also a detailed analysis of the version of all the

legal advisers and persons whom she consulted and who tendered their advice to her prior to the setting up of the Commission of Inquiry by her.

Chapter 7 provides a holistic overview of the constitutional provisions which deal with the powers and functions of the President. These are considered essentially in the context of any violation of the Constitution or of any other law by Mrs Gurib-Fakim. Chapter 7 also considers the constitutional provisions which deal with presidential immunity and the mechanism for the removal of the President by the National Assembly.

Chapter 8 examines how Mrs Gurib-Fakim did, by the setting up of the Commission of Inquiry on 16 March 2018 and by her “unlawful, improper and indecorous use” of the Office of the President, violate the Constitution and other provisions of the law.

Chapter 9 sets out the conclusions as regards Item 1 of the Terms of Reference of the Commission. It summarises the various instances of the violation of the Constitution and of the law by Mrs Gurib-Fakim arising from the acts which constitute the subject of the inquiry under Items 1(a) to 1(e) of the Terms of Reference. There are, at the end of Chapter 9, the recommendations of the Commission aimed at reinforcing the administrative structure and organisation of the Office of the President. They are meant to provide an appropriate set up which is vital in order to assist the President in the exercise of his constitutional functions and to potentially avoid any recurrence in the future of any breach of the Constitution or of the law as did occur whilst Mrs Gurib-Fakim was in office.

Chapter 10 deals with Item 2 of the Terms of Reference. It examines the existing constitutional provisions relating to the removal of a President or Vice-President. There are recommendations in particular with regard to the Tribunal with a view to ensure the proper and uninterrupted functioning of democratic

institutions and the enforcement of the Rule of law as contemplated by the Constitution.

Chapter 11 deals with Item 3 of the Terms of Reference. It examines the application of the constitutional provisions granting the President immunity from legal proceedings. It highlights the importance as well as the weaknesses of the existing provisions. The Commission, after analysing the pros and cons of the existing presidential immunity régime, makes recommendations with a view to reinforcing the Rule of law and the proper functioning of a democratic State in conformity with the fundamental structure of our Constitution.

## **CHAPTER 3 – THE PLATINUM CARD SAGA**

### **3.1 Background**

On 27 February 2018, at 2.57 p.m. a journalist from l'express newspaper sent an email to Mrs Gurib-Fakim informing her that she was working on an article<sup>1</sup> which was due to be published on the following day.

The email informed her of the following: *“We are in possession of copies of statement of accounts which bear your name. The account we are told was opened by the Planet Earth Institute. The card, as evidenced by the bank details, was used in several outlets in Italy, the United Kingdom or Washington DC. We would like to ask you a few questions:*

- 1. Who has supplied the funds?*
- 2. You said that you were never paid by the PEI, doesn't this count as remuneration?*
- 3. Is there anything you would like to add?”*

She did not reply to the email. On 28 February 2018 l'express published an article entitled *“Les folles dépenses de Madame la présidente”*<sup>2</sup> **[Annex B]**. It said that Mrs Gurib-Fakim was issued with a platinum credit card from Barclays Bank valid for up to 1 million rupees. The card was to be funded by the PEI following a written resolution of its Board signed by its Chairman Dr Sobrinho and one of its members Mauricio Fernandes. The article pointed out that the card was meant to cover expenses “to promote Her Excellency Ameenah Gurib-Fakim, PEI – Bill and Gates Foundation PhD programme” which was in itself a laudable initiative. But the article also contained extracts of the bank statements of the credit card account

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<sup>1</sup> Document CO 6

<sup>2</sup> Article by l'express dated 28.02.2018 – Document CO 52



which provided explicit details of purchases made by Mrs Gurib-Fakim with the card funded by PEI.

These extracts refer to payments for the purchases of jewellery, designer dresses and other personal items for more than 2 million rupees by Mrs Gurib-Fakim at various places throughout the world, including Rome, Dubai, London, Budapest, Lucknow, Switzerland, Washington and Port Louis. According to the article, these expenses by the President were “*plutôt incongrues pour la promotion d’une fondation qui va allouer des bourses pour des programmes de PhD*” and that “*Alors que cet argent devait servir dans un cadre professionnel, la présidente l’aurait utilisé à d’autres fins*”.

### **3.2 Funding by PEI**

The evidence has revealed that there were two funds which were set up and funded by the PEI in order to cater for the former President Mrs Gurib-Fakim, namely:

- (1) The Platinum Card’s account;
- (2) The PEI Deposit Account (Special Fund).

It is not disputed by Mrs Gurib-Fakim that the total amount spent by her on the Platinum Card which was funded by the PEI for the period September 2016 to March 2017 was Rs 2,253,184 and that the PEI also credited an additional amount of Rs 3,748,751 into the PEI Deposit Account which was created at the Accountant-General’s Office and which served for payment of her expenses and allowances.

### 3.3 The PEI Platinum Card

We shall deal first with the PEI Platinum Card to which reference was made in the newspaper article, before turning to the other expenses of Mrs Gurib-Fakim which were funded from the PEI Deposit Account and as to which there is no reference in the article.

The PEI Platinum Card Account was opened by PEI at Barclays Bank Mauritius Ltd and on 19 May 2016, a Platinum Card number 43215113006235946 with a credit limit of Rs 1,000,000 was issued to Mrs Gurib-Fakim.

Witness Nundoosingh from Barclays Bank Mauritius Ltd gave a list of all the transactions and payments effected by Mrs Gurib-Fakim by using the PEI Platinum Card. The witness produced all the transaction records of the card holder which include the transaction dates, the transaction amounts as well as the identity and location of the entities to which payments were effected by her<sup>3</sup>.

The witness gave a detailed explanation of each and every payment which Mrs Gurib-Fakim effected with the Platinum Card as listed in **tab 8** of **Document CO 48 [Annex C]**.

An analysis of the PEI platinum card transactions reveals the extent to which the card had been used for the payment of her personal shopping expenses by Mrs Gurib-Fakim during the period September 2016 to March 2017.

**Table A** shows the payments effected by Mrs Gurib-Fakim with the PEI Card for the purchase of personal items whilst **Table B** shows the payments effected with the same card for hotels and restaurant expenses incurred by Mrs Gurib-Fakim.

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<sup>3</sup> Documents CO 13, CO 14, CO 15, CO 16, CO 22, CO 48 and CO 49

**TABLE A****PERSONAL SHOPPING EXPENSES MADE BY MRS GURIB-FAKIM USING THE PEI PLATINUM CARD**

	DATE	SHOPPING PARTICULARS	AMOUNT (RS)
<b>1</b>	16.09.16	Department Stores, Macy's East 0095 Arlington VA	<b>49,938.45</b>
<b>2</b>	16.09.16	Apple Store R287, Washington DC, United States	<b>43,811.11</b>
<b>3</b>	11.10.16	Department Stores, NOUL LLC, Dubai	<b>39,856.29</b>
<b>4</b>	12.10.16	Department Stores, Apparel 52999, Dubai	<b>5,895.56</b>
<b>5</b>	12.10.16	Department Stores, Coach BR of Al Tayer I Dubai	<b>10,514.94</b>
<b>6</b>	12.10.16	Department Stores, Shoe Plaza LLC, Abu Dhabi	<b>8,001.17</b>
<b>7</b>	15.10.16	Duty Free Stores, Dubai Duty Free, Dubai	<b>79,719.95</b>
<b>8</b>	15.10.16	Duty Free Stores, Dubai Duty Free, Dubai	<b>125,731.19</b>
<b>9</b>	15.10.16	Duty Free Stores, Dubai Duty Free, Dubai	<b>304,605.66</b>
<b>10</b>	19.10.16	Airlines Duty Free, Air Mauritius Duty Free	<b>4,249.75</b>
<b>11</b>	28.10.16	Jewellery Shop, Shiv Jewels Impex Port-Louis	<b>280,000.00</b>
<b>12</b>	03.11.16	Jewellery Shop, Shiv Jewels Impex Port-Louis	<b>100,000.00</b>
<b>13</b>	03.11.16	Jewellery Shop, Shiv Jewels Impex Port-Louis	<b>100,000.00</b>
<b>14</b>	22.11.16	Department Stores, Shoppers Stop Ltd India	<b>4,444.41</b>
<b>15</b>	22.11.16	General Merchandise, M/S Lucknow Chikan IND Lucknow, India	<b>18,224.25</b>

<b>16</b>	23.11.16	General Merchandise, M/S Lucknow Chikan IND Lucknow, India	<b>7,679.39</b>
<b>17</b>	30.11.16	Gift Stores, Tulipa'n Folklo'r, Budapest, Hungary	<b>11,023.19</b>
<b>18</b>	30.11.16	Fabric Stores, Poszata Folklor, Budapest, Hungary	<b>25,202.29</b>
<b>19</b>	30.11.16	Fabric Stores, Poszata Folklor, Budapest, Hungary	<b>11,581.47</b>
<b>20</b>	02.12.16	Duty Free Stores, Dubai Duty Free, Dubai	<b>207,951.87</b>
<b>21</b>	13.12.16	Drugs Stores, Superdrug Stores PLC, London, Great Britain	<b>1,876.79</b>
<b>22</b>	13.12.16	Department Stores, GEOX retail SRL London, Great Britain	<b>4,451.74</b>
<b>23</b>	14.12.16	Department Stores, ALDO Roma, Italy	<b>8,345.30</b>
<b>24</b>	14.12.16	Department Stores, La Rinascente Roma GAL Roma, Italy	<b>2,570.83</b>
<b>25</b>	14.12.16	Department Stores, La Rinascente Roma GAL Roma, Italy	<b>17,956.22</b>
<b>26</b>	14.12.16	Department Stores, MANGO Romavia DEL CORS Roma, Italy	<b>6,564.69</b>
<b>27</b>	15.12.16	Department Stores, GEOX Roma, Italy	<b>4,294.33</b>
<b>28</b>	15.12.16	Department Stores, BATA Roma, Italy	<b>8,947.76</b>
<b>29</b>	16.12.16	Department Stores, Vans Castel Romano Roma, Italy	<b>818.50</b>
<b>30</b>	16.12.16	Department Stores, CORSO Roma, Italy	<b>4,248.40</b>
<b>31</b>	18.12.16	Department Stores, La Rinascente Roma FI Roma, Italy	<b>10,133.79</b>

<b>32</b>	18.12.16	Department Stores, Altariva Roma, Italy	<b>19,635.24</b>
<b>33</b>	26.12.16	Travel Agengies, BS Travel MGT Ltd, Ebène, Mauritius	<b>71,080.00</b>
<b>34</b>	26.12.16	Travel Agengies, BS Travel MGT Ltd, Ebène, Mauritius	<b>21,974.00</b>
<b>35</b>	19.01.17	Department Stores, Swiss Alp Fantasy AG Davos Platz, Switzerland	<b>27,041.14</b>
<b>36</b>	19.01.17	Bakeries Stores, Schneider's Davos AG Davos Platz, Switzerland	<b>2,029.84</b>
<b>37</b>	19.01.17	Grocery Stores, Migros M Ratia Davos Platz CH	<b>2,714.45</b>
<b>38</b>	20.01.17	Department Stores, 302 Grieder Les Boutiq Zurich, Switzerland	<b>17,636.18</b>
<b>39</b>	20.01.17	Department Stores, Fabric Frontline ZURI Zurich, Switzerland	<b>5,903.32</b>
<b>40</b>	28.01.17	Airlines, Emirates 0900343933628 Dubai AE	<b>10,097.93</b>
<b>41</b>	14.02.17	Department Stores, Shop in Shop SRL, Roma, Italy	<b>1,941.79</b>
<b>42</b>	14.02.17	Cosmetic Stores Mac, Roma, Italy	<b>5,559.05</b>
<b>43</b>	13.02.17	Department Stores, Altariva Roma, Italy	<b>9,951.88</b>
<b>44</b>	13.02.17	Department Stores, SORE' Roma, Italy	<b>4,276.20</b>
<b>45</b>	14.02.17	Department Stores, Caesar Roma, Italy	<b>5,184.18</b>
<b>46</b>	23.02.17	Jewellery Shop, Shiv Jewels Impex Co. L, Port Louis	<b>135,000.00</b>
	Total		<b>1,848,664.49</b>

**TABLE B****OTHER EXPENSES INCURRED BY MRS GURIB-FAKIM USING PEI PLATINUM CARD**

	DATE	PARTICULARS	DETAILS	AMOUNT (RS)
<b>1</b>	09.09.16	Hotel	Hotel Villa Anna Uppsala, Sweden	<b>28,562.90</b>
<b>2</b>	08.09.16	Restaurant	Salluhallrestaurangern Uppsala, Sweden	<b>3,410.18</b>
<b>3</b>	12.09.16	Hotel	Ebury Hotel Canterbury, Great Britain	<b>77,309.17</b>
<b>4</b>	12.09.16	Hotel	Abobe Canterbury, Canterbury Great Britain	<b>5,858.97</b>
<b>5</b>	18.09.16	Hotel	Autograph Mayflower F& Washington DC	<b>88,904.84</b>
<b>6</b>	20.09.16	Restaurant	Olive Grove Kingston, Great Britain	<b>8,135.82</b>
<b>7</b>	22.09.16	Restaurant	Café Des Amis Canterbury, Great Britain	<b>11,033.31</b>
<b>8</b>	23.09.16	Hotel	Ebury Hotel Canterbury, Great Britain	<b>1,887.31</b>
<b>9</b>	06.11.16	Bank Charges	Over Limit Fees	<b>585.75</b>
<b>10</b>	01.12.16	Restaurant	Leroy Bistro Budapest	<b>3,561.30</b>
<b>11</b>	13.11.16	Bank Charges	Over Limit Fees	<b>591.60</b>
<b>12</b>	14.12.16	Restaurant	Da Sabatino Roma, Italy	<b>12,972.87</b>
<b>13</b>	15.12.16	Restaurant	Ristorante Pierluigi Roma, Italy	<b>11,692.84</b>

<b>14</b>	18.12.16	Hotels	Roberto Naldi Collect Roma, Italy	<b>90,210.21</b>
<b>15</b>	17.12.16	Restaurant	Ristorante Da Ottavio Roma, Italy	<b>22,216.38</b>
<b>16</b>	29.12.16	Hotel	Sugar Beach Hotel, Wolmar, Mauritius	<b>20,442.00</b>
<b>17</b>	19.01.17	Hotel	Sunstar Alpine Hotels Davos Platz, Switzerland	<b>15,201.05</b>
<b>18</b>	13.02.17	Restaurant	Pizza CIRO, Roma, Italy	<b>1,943.72</b>
	Total			<b>404,520.22</b>

Total Personal Expenses made by Mrs Gurib-Fakim with the PEI Platinum Card from September 2016 to March 2017 amounted to Rs 2,253,184.71.

### **3.4 Payments by PEI to replenish the Platinum Card from October 2016 to March 2017**

Witness Nundoosingh from Barclays Bank Mauritius also produced another document<sup>4</sup> which is set out in **Table C** and which shows in the 1<sup>st</sup> column the amount owed on the card as at the specified dates as a result of the purchases made with the PEI Platinum Card by Mrs Gurib-Fakim. The table shows that on each occasion from October 2016 to March 2017, the total amount owed on the PEI Platinum Card was paid towards the end of each month from an account of the Planet Earth Institute Foundation, which is account number 07/2020499.

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<sup>4</sup> Repayment Activities Oct 2016 to March 2017 – Tab 8 of CO 48

**TABLE C**

**REPAYMENT ACTIVITIES FROM OCTOBER 2016 TO MARCH 2017**

Card Statement Date	Card Repayment Date	Amount Paid	Source Repayment a/c	Account Name
<b>10/10/2016</b>	24/10/2016	318,852.06	07/2020499	PLANET EARTH INSTITUTE FOUNDATION
<b>10/11/2016</b>	23/11/2016	1,059,160.26	07/2020499	PLANET EARTH INSTITUTE FOUNDATION
<b>09/12/2016</b>	23/12/2016	290,259.77	07/2020499	PLANET EARTH INSTITUTE FOUNDATION
<b>10/01/2017</b>	23/01/2017	340,431.89	07/2020499	PLANET EARTH INSTITUTE FOUNDATION
<b>10/02/2017</b>	23/02/2017	80,623.91	07/2020499	PLANET EARTH INSTITUTE FOUNDATION
<b>10/03/2017</b>	23/03/2017	163,856.82	07/2020499	PLANET EARTH INSTITUTE FOUNDATION

Total amount paid into the Platinum Card Account by PEI for funding the expenses of Mrs Gurib-Fakim from September 2016 to March 2017: Rs 2,253,184.



### **3.5 Reimbursement on 24 March 2017**

Witness Nundoosingh added that following a request by e-mail made by Mrs Gurib-Fakim on 23 March 2017 the amount of Rs 2,253,184.71 was debited on 24 March 2017 from the personal account of Mrs Gurib-Fakim and credited into the PEI Platinum Card account. It was meant to cover all the payments made by Mrs Gurib-Fakim with the Platinum Credit Card from September 2016 to February 2017.

### **3.6 Monthly communication of bank statements**

Witness Nundoosingh also pointed out that all the details of the transactions and payments<sup>5</sup> made with the Platinum Card were communicated regularly on a monthly basis to Mrs Gurib-Fakim from September 2016 to March 2017.

### **3.7 Personal Credit Card**

Mrs Gurib-Fakim was at the time of the issue of the PEI Platinum Card, already the holder of 3 personal credit cards from Barclays Bank, two of these cards had a credit limit of Rs 500,000/- each. Witness Nundoosingh also produced in **tab 5 to 7 of document CO 48** a detailed transaction analysis of each of these personal credit cards of Mrs Gurib-Fakim [**Annexes D, E and F**].

### **3.8 The PEI Deposit Account**

Quite apart from the PEI Platinum Card, Mrs Gurib-Fakim also benefited from funds paid by the PEI which were credited in a special fund at the Accountant General's Office referred to as the PEI Deposit Account.

Mr Sunilduth Ramdeen, the Accountant General, explained how on 19 September 2016, a new deposit account was created in the accounting system

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<sup>5</sup> Document CO 13

of the Government in favour of the President to accommodate funds received from Planet Earth Institute Foundation.

On 14 September, Mrs Sumeetra Sooriah, Assistant Manager Financial Operations, from the Office of the President had sent an email<sup>6</sup> requesting that needful be done for the creation of a new deposit account to accommodate funds received from the PEI which was described as “*an international NGO sponsoring several activities and missions organised by the office of the President*”. That account was operative from 19 September 2016 until it was deactivated on 17 March 2017.

Mr Ramdeen pointed out that since the Office of the President is a non-self-accounting department, it does not operate any bank account of its own as opposed to other government departments or Ministries which are empowered to have a bank account of their own in order to manage their transactions. Payments in respect of expenses incurred by the Office of the President are effected through the Central Bank Account of the Government.

The PEI Deposit Account was created as a Special Fund at the Office of the Accountant-General in order to enable funds to be paid into it and payments to be effected from it.

Mr Ramdeen explained that once the deposit account was opened in the accounting system of the Government, it was the Office of the President which was solely responsible for managing it. The Accountant-General was merely acting as an agent to the Office of the President.

In September 2016 Mrs Sumeetra Sooriah was the Assistant Manager Financial Operations in charge of, and managing, the Finance section at the Office of the President. She was also responsible for advising in financial matters. She

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<sup>6</sup> Email dated 14.09.16 – Document CO 33

was accountable to the Accounting Officer, Mr Dass Appadu, who was the secretary to the President. When Mr Dass Appadu asked for her advice as to the appropriate way to accommodate funds from the PEI Foundation for the President's expenses, she explained to him that for transparency and audit purposes and in accordance with financial manuals, the appropriate way was to create a deposit account. Hence the email dated 14 September 2016<sup>7</sup> which was sent to Miss Yakshi Appanah posted at the Accountant General's Office. She also confirmed that the Office of the President has no bank account of its own and all their bills have to go through the Accountant General's Office.

On 2 September 2016, a sum of USD 36,166, the equivalent of 1,267,167.80 rupees, was received in the government's bank account held at the State Bank of Mauritius. That money emanated from the PEI Foundation and was credited on 30 September 2016 into the PEI Deposit Account. Further sums of money were received from the PEI Foundation and credited into the deposit account on different dates. Particulars of the dates and the amounts received are as follows:

30 September 2016:	Rs 1,267,167.80;
14 October 2016:	Rs 1,929,629.68;
9 December 2016:	Rs 260,061.24 (equivalent of 7,367.32 USD);
1 March 2017:	Rs 181,698.64 (equivalent of 5,150 USD);
17 March 2017:	Rs 55,096.83.
20 March 2017:	RS 55,096.83

The total amount of funds received from PEI Foundation from 14 September 2016 to 20 March 2017 which were paid into the PEI Deposit Account amounted to Rs 3,748,751.02 as evidenced by **documents CO 34, CO 37, CO 41, CO 42, CO 44 and CO 45.**

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<sup>7</sup> Document CO 33

Mrs Sooriah also explained that the money credited into the deposit account was used solely for payment of the expenses incurred by Mrs Gurib-Fakim in connection with her overseas missions, such as air tickets, allowances and *per diem* for herself and her delegation. Credit notes were issued in respect of all the payments made. She identified the various documents produced in connection therewith [**Annexes G, H, I, J, K, L, M, N, O, P and Q**]<sup>8</sup>. Mrs Ameenah Heenaye replaced Mrs Sooriah as Assistant Manager Financial Operation as from January 2017 and she also identified the credit notes and documents which witnessed the different payments made from the Deposit Account in favour of Mrs Gurib-Fakim and to cater for her travelling expenses and allowances.

The funds received were thus used to meet several items of expenditure by Mrs Gurib-Fakim and her delegation for overseas missions and with regard to the activities of the PEI. The details and breakdown of the payments effected from the PEI Deposit Account funded by PEI Foundation to cater for the expenses of Mrs Gurib-Fakim and her delegation are set out in the following **Table D**: -

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<sup>8</sup> Documents CO 35, CO 36, CO 37, CO 38, CO39, CO 40, CO 41, CO 42, CO 44, CO 45(a) and CO 45(b)

**TABLE D**  
**PARTICULARS OF EXPENSES PAID FROM PEI DEPOSIT ACCOUNT**

Date		Particulars of missions and expenses of Mrs Gurib-Fakim, former President and her delegates paid from the PEI Deposit Account	Amount	
<b>1</b>	27 March to 6 April 2016	PEI Board Meeting in Paris, Lisbon at the invitation of Dr. A. Sobrinho to visit Sports and Youth Academy	<b>Rs 260,061.24</b>	Doc CO 41 and 42
<b>2</b>	12 to 21 September 2016	London and USA SANFORD Conference	<b>Rs 953,049.27</b>	Doc CO 35
<b>3</b>	13 to 14 October 2016	IOWA World Food Prize	<b>Rs 1,434,406.36</b>	Doc CO 36
<b>4</b>	18 to 20 October 2016	Mission Cape Town SA – RUFORUM	<b>Rs 456,049.24</b>	Docs CO 38, CO 39 and CO 40
<b>5</b>	11 to 18 December 2016	Mission London and Italy – “Step it up together with rural women to end hunger and poverty”	<b>Rs 271,862.79</b>	Doc CO 43
<b>6</b>	31.01.2017	VIP Services – presidential delegation to University of Uppsala, Sweden	<b>Rs 340,257.75</b>	Doc Co 53 – annex xi
<b>7</b>	12 to 20 March 2017	Mission Ghana and Switzerland	<b>Rs 293,125.44</b>	Docs CO 46 and CO 47

It is not in dispute that the total sum which was paid into the PEI Deposit Account by PEI Foundation to cater for the expenses of Mrs Gurib-Fakim amounts to Rs 3,748,751.02. It is also not in dispute that neither this sum, nor any part of it, which was paid into the PEI Deposit Account at the Accountant-General's Office by PEI Foundation, was ever reimbursed.

It was also admitted by Mrs Gurib-Fakim in the course of her examination that she had benefited from that amount in the form of various allowances, which included "*per diem*", subsistence and entertainment allowances and for the payment of other travelling expenses for herself and her delegation.

As a result, Mrs Gurib-Fakim benefited a total amount of more than 6 million rupees paid at the instance of the PEI, through either the Barclays Bank Platinum Card Account or the PEI Deposit Account at the Accountant General's Office, during a seven-month period from September 2016 to March 2017.

Articles referring to the suspicious transactions of Dr Alvaro Sobrinho, the Chairperson of PEI and his close association with Mrs Gurib-Fakim, the President of Mauritius started to appear in the press in November 2016, followed by other articles in February 2017 and the beginning of March 2017.

It is not in dispute that it was on 23 March 2017 that Mrs Gurib-Fakim gave instructions to reimburse a sum of Rs 2,253,184 to the PEI and that it was in March 2017 that both accounts were closed and Mrs Gurib-Fakim resigned from the Board of the PEI. The money paid into the PEI Deposit Account at the Accountant General's Office was not reimbursed.

### **3.9 The Planet Earth Institute – “The PEI”**

The circumstances leading to the appointment of Mrs Gurib-Fakim as Vice-Chairperson of the Board of the PEI and the issue of the Platinum Card to her by PEI are also beyond dispute.

In July 2015, she was invited and accepted to attend a conference of the PEI in London. It was during the conference in July 2015 that the former President was introduced to the Chairperson of PEI, Dr Alvaro Sobrinho. All the expenses for attending the conference were paid by the Government of Mauritius.

During the conference, Mrs Gurib-Fakim learnt about the declared initiatives of the PEI, *inter alia*, for the training of African students in key areas of science, technology, engineering and maths. It was the understanding of Mrs Gurib-Fakim that PEI was in discussion with the Association of African Universities (AAU) and the World Bank towards capacity building through PhD Programmes which, it was said, would produce some 10,000 PhD's in Africa.

Mrs Gurib-Fakim added that the programme that the World Bank was leading across Africa on Capacity Building in Science under the acronym PASET (Partnership for Skills in Applied Sciences and Engineering and Technology) was also discussed during those meetings. PEI's project was that a PASET fund would be created with contributions from African countries and African philanthropists. There was a proposal to open a branch of PEI in Mauritius and to enlist the participation of Mrs Gurib-Fakim in this project.

Following her return to Mauritius in July 2015 Mrs Gurib-Fakim briefed the then Prime Minister, Sir Anerood Jugnauth during their weekly Thursday morning meetings and according to her, the Prime Minister concurred with the idea of opening a branch in Mauritius for the capacity development of both Mauritian and African students.

In August 2015, the CEO of PEI, Mr Mauricio Fernandes came to Mauritius and paid the President a courtesy visit at Le Réduit State House. Mrs Gurib-Fakim added that she was informed by Mr Fernandes that he was meeting up with the then Minister Roshi Bhadain and his adviser Mr A. Deepalsing to look into the licensing aspect of the PASET fund. Mrs Gurib-Fakim's initial version is that she

did not introduce Mr Mauricio Fernandes to anyone in Mauritius and neither did she arrange any meetings for him to facilitate his financial activities in Mauritius.

In October 2015, the PEI was registered as a foundation in Mauritius and Mrs Gurib-Fakim was appointed as a Trustee.

In November 2015, a PEI branch in Mauritius was launched at Le Réduit State House in the course of a ceremony hosted by Mrs Gurib-Fakim.

In March/April 2016, there was a resolution by the PEI board meeting in London, to start a PhD programme for 10 Mauritian students and it was decided that part of the studies would be done in the UK or some prominent universities in South Africa.

In May 2016, the programme was launched under the name 'Mrs Gurib-Fakim-PhD Programmes'. There were 33 applicants and 10 were shortlisted as potential grantees.

Following a meeting with Mrs Hellman and Ms. Kedest Tesfagiorgis, senior officials of the Bill and Melinda Gates Foundation ("BMGF"), which took place in China in May 2016, Mrs Gurib-Fakim obtained a grant from BMGF to cover the costs of an advocacy programme for the promotion of science and capacity building especially for the African Continent. She arranged for the introduction of Ms. Kedest Tesfagiorgis to Mr Mauricio Fernandes of the PEI Foundation so that the grant and financing by BMGF of the advocacy programme be paid to the PEI. But since BMGF had to conduct a due diligence on PEI, which was expected to take about 6 months, PEI decided that it would advance funds to cover the costs of the advocacy programme pending the release of funds and the signing of the agreement with BMGF. An agreement was signed between PEI and BMGF in November 2016 for the payment of a grant of 400,000 USD dollars dedicated for



the “Charitable Purpose” specified in the Agreement<sup>9</sup> **[Annex R]**. The PEI had thus, following the intervention of Mrs Gurib-Fakim, obtained a grant of 400,000 USD from BMGF to be used for a “*charitable purpose*”. But as would become apparent part of this grant would be used to cater for the expenses of Mrs Gurib-Fakim through the accounts set up in Mauritius by PEI.

In lieu of holding a meeting, a written resolution by members of the PEI was signed by the Chairman, Dr Alvaro Sobrinho and Mr Mauricio Fernandes a member of the Foundation. The resolution was subsequently deposited at the Barclays Bank Mauritius at Ebène for the purpose of opening a bank account in US Dollars, namely the PEI Foundation Account.

On 11 May 2016, a PEI board resolution resolved that Mrs Gurib-Fakim be issued with a credit card in her personal name with a payment limit of Rs 1 million and the former President received the Platinum Credit Card on 19 May 2016.

On 28 February 2018, the article in l’express published documents purporting to show that Mrs Gurib-Fakim had been using the card funded by PEI for her personal expenses which were not compatible with any of the charitable or philanthropic objectives of promoting scientific education or PhD programmes as professed by the PEI.

### **3.10 Version of Mrs Gurib-Fakim**

What then were the reactions of Mrs Gurib-Fakim when confronted with what appears at first sight to be damning evidence of her substantial personal shopping expenses being paid by the PEI, as was revealed in the article of l’express on 28 February 2018?

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<sup>9</sup> Grant Agreement -Pages 4-9 of Document CO 3

On the ensuing days, she was further confronted with a number of articles which made unqualified assertions against her in that same respect as is evidenced, for instance, by the following extract from an article of the “*Weekly Magazine*” published on 1 March 2018. It was not merely a question of the President being personally gratified by an entity through the use of funds earmarked for charitable educational purposes but worse still financed by an entity which was suspected of being involved in massive fraudulent activities at an international level.

*“The revelations made by our sister publication l’express in yesterday’s edition –until proven otherwise – are not only about profiteering and disgracing her post. They are about how our president has benefited from the generosity of a suspected crook, using funds supposedly earmarked to finance the studies of 10 Mauritian students “at the best universities in the world”. We now know that the 10 students have shrunk to two – one was sent to the Kwame Nkrumah University in Ghana and the other to the Nelson Mandela Institute in Tanzania. The others were carted off to the University of Mauritius. At the same time, our humble president was waking up to star couturiers, branded shoes and fine jewellery – something that she continued to deny, while avoiding the very accountability she was asking for.”<sup>10</sup>*

As at 1 March 2018, the factual accusations made in the press against Mrs Gurib-Fakim were clear, precise and straight forward. She was the President of the Republic of Mauritius. She has been issued with a personal credit card to the tune of 1 million rupees funded by a shady organisation. It was supposed to fund her activities to promote the laudable initiative of promoting scientific education. But she had instead been consistently using the card from September 2016 to February 2017 essentially for her own personal gratification. She had embarked into a luxury shopping spree of jewellery, designer dresses, shoes and other personal items in London, Rome, Budapest, Dubai, India, Switzerland and Mauritius at the expense of the PEI of Dr Sobrinho who was known to be a suspicious character muddled in financial scandals.

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<sup>10</sup> page 30 of Document CO 5

The reactions of Mrs Gurib-Fakim would as from that date vary in time and may for the sake of convenience be classified into 4 distinct chronological stages:

Her first reaction following the publication of the article on 28 February 2018 was that she had been subjected to false allegations and unsubstantiated attacks in the press. She questioned the authenticity of the bank documents published in the article.

Secondly, she issued a communiqué dated 14 March 2018<sup>11</sup> [**Annex S**]. Whilst still maintaining that there had only been false allegations against her as regards her use of the card, she would in the same breath go on to say that she had in fact been using the card but “*inadvertently*” for having, on all these occasions during the 7 months, mistaken the PEI card to be her own personal card.

Thirdly, following the setting up of the present Commission of Inquiry, she provided a more detailed version of her admitted use of the PEI Card in the written statements<sup>12</sup> which she communicated to the Commission [**Annexes T, U and V**].

Finally, there is her ultimate version in the evidence which she gave when deposing before, and questioned by, the Commission.

### **3.10.1 First Reaction : “Totalement faux et infondé”**

But first of all, when confronted with these clear-cut accusations, her immediate reaction was that what has been stated in the article was totally false and unfounded implicitly challenging the bank documents as being fake.

Mrs Gurib-Fakim first reaction was indeed to challenge the authenticity of the bank statements which set out the details of her shopping expenses, which

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<sup>11</sup> Pages 50-51 of Document CO 1

<sup>12</sup> Documents CO 129, CO 130 and CO 132

she had been paying for with the PEI Platinum Card from September 2016 to March 2017. She made the following declaration to Radio Plus in the afternoon of 1 March 2018: “*J’ai constaté que des documents ont été publiés dans l’express. Je mets ce journal au défi d’établir l’authenticité de ces documents. J’accorde 24 heures à ce journal pour le faire. Je répondrai à toutes les questions seulement si l’express le fait*”.

On 1 March 2018, she was thus publicly challenging the authenticity of these documents contained in the article and which in no uncertain terms affirmed that she had on all these occasions been using the PEI card to pay for her personal expenses which had nothing to do with the funding of the PhD programme.

Prior to that, on 28 February 2018, Mrs Gurib-Fakim had summoned the Secretary to the President, Mr Seebah, and instructed him to issue an official communiqué of the Office of the President denying in strong terms the veracity of the information and allegations made against her in the article published by l’express.

The uncontroverted testimony of Mr Seebah is to the following effect: In the morning of 28 February 2018, Mrs Gurib-Fakim called him in her office and showed him the article published in the morning edition of l’express which is entitled “*Les folles dépenses de Madame la présidente*”.<sup>13</sup> Mrs Gurib-Fakim stated to him that the contents of the article were totally false and unfounded and instructed him to draft a *mise-au-point* which he immediately did. After making a few corrections to the draft Mrs Gurib-Fakim instructed him to issue the following communiqué<sup>14</sup> immediately to the press [**Annex W**]. The communiqué was to be issued officially by the office of the President, State House, Le Réduit.

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<sup>13</sup> Annex B

<sup>14</sup> Document CO 52

## **“COMMUNIQUÉ”**

*Suite à l'article paru dans l'édition de l'express en date du 28 février 2018 ayant trait aux dépenses encourues par la Présidente de la République dans le contexte de sa participation aux activités de Planet Earth Institute, le Bureau de la Présidence tient à apporter un démenti catégorique aux informations et autres allégations rapportées par cet article de presse.*

*Le Bureau de la Présidente considère que cet article est totalement faux et infondé et vise à ternir la réputation de la Présidente de la République.*

*Face aux allégations malveillantes contenues dans cet article, le Bureau de la Présidence a demandé aux autorités concernées d'initier une enquête sur l'origine de ces fausses informations et de prendre toutes actions nécessaires.*

**28 février 2018**

**STATE HOUSE  
Le Réduit'**

Mrs Gurib-Fakim also wanted him to personally give a statement to the police as Secretary to the President to report that the contents of the article were false and unfounded.

Mr Seebah indicated to Mrs Gurib-Fakim that before publishing the Communiqué or making a complaint to the Police, it would be wiser to seek legal advice from the Office of the Solicitor-General.

On the same day, Mr Seebah immediately drafted a letter<sup>15</sup> seeking legal advice from the Solicitor-General [Annex X]. He sent the letter by fax to the Solicitor-General to which were attached the press article and the draft of the Communiqué [Annex W *supra*] which Mrs Gurib-Fakim wanted to communicate to the press. Indeed, the letter states that “*Her Excellency the President of the Republic considers that the press article is false and unfounded and it is a deliberate attempt on the part of the author of the press article to tarnish her image*” and that “*Her Excellency the President of the Republic proposes to request the*

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<sup>15</sup> Document CO 52

*Commissioner of Police to initiate a police enquiry into the matter and to issue a Press Communiqué*". In view of the urgency of the situation, Mr Seebah spoke to the Solicitor-General and explained to him that the President wanted the communiqué to be published in the press immediately.

In the morning of 1 March 2018, the Solicitor-General faxed his written advice<sup>16</sup> dated 28 February 2018 to the Office of the President [Annex Y]. Being satisfied that the Solicitor-General had addressed all the issues on which he had requested his advice, Mr Seebah personally handed over a copy of same to Mrs Gurib-Fakim on the same day. They both went over the written advice of the Solicitor-General in the light of which he told Mrs Gurib-Fakim that it would not be wise for him as Secretary to the President to give a declaration to the Central CID and to have the communiqué issued. The Communiqué was not issued, and no complaint was lodged with the police.

### **3.10.2 Communiqué of 14 March 2018**

At that juncture and until 14 March 2018, Mrs Gurib-Fakim did not stop claiming publicly that she had been subjected to false allegations and unsubstantiated attacks and that she had done nothing wrong. Mrs Gurib-Fakim contacted the Attorney General and subsequently her own legal advisers with a view to taking legal action against the Bank.

Mr Seebah explained that he was not privy to the subsequent communiqué which Mrs Gurib-Fakim caused to be issued on 14 March 2018.

Mrs Gurib-Fakim prepared the communiqué, with the help of a friend who is an expert in communication in Ghana, which she caused to be posted on her website on 14 March 2018.

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<sup>16</sup> Document CO 52

The Communiqué of 14 March 2018<sup>17</sup> (**Annex S supra**) is entitled “Comments on recent allegations” and Mrs Gurib-Fakim starts by reiterating again that: “After several weeks of unsubstantiated attacks and false allegations against her, Her Excellency Mrs. Ameenah Gurib-Fakim wishes to speak to restore the facts and protect her honour and reputation”.

The Communiqué goes on to state the following:

In November 2015 “Ameenah Gurib-Fakim joins the Planet Earth institute (PEI) as Vice Chairman. Her mission is clearly defined and pro bono; it consists in conducting an awareness campaign for the promotion of science in Africa and to promote the development of scientific talent in Mauritius” and that “In May 2016 she received a payment card to cover her travels and other logistical expenses related to her mission.”

She then, however, 14 days after the publication of the article by l’express, contended in the Communiqué that she “*inadvertently used the PEI Card for out-of pocket expenses for a total amount of around \$ 27,000*”. She added that she had “*immediately reimbursed these expenses*”, “*but also all other expenses incurred by the PEI for her mission*”. All these 3 statements would subsequently be proved by her own evidence to be incorrect. The PEI Card was not used for only ‘around \$ 27,000’ and still less for ‘out-of pocket’ expenses; these expenses were not reimbursed ‘*immediately*’ but only on 23 March 2017; all other expenses incurred for her missions paid from the PEI Deposit Account were never reimbursed.

She also in the Communiqué averred that her mission ended on March 2017 and that “*Given these facts, Her Excellency Mrs. Ameenah Gurib-Fakim was surprised to be subject to such violent and fierce attacks, a year later, especially*

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<sup>17</sup> Pages 50-51 of Document CO 1

as unsavoury methods – such as the illegal dissemination of bank statements – were used with a malicious intent”.

After contending that she had “*inadvertently*” used the PEI credit card she maintained in the same communiqué that:

*“The bank statements of the card used by Her Excellency Mrs. Ameenah Gurib-Fakim are transmitted to a Mauritian daily, which makes them public and presumes, without proof, that she has made significant personal purchases using funds made available by the PEI” (Underlining ours)*

She was therefore, on 14 March 2018, still strongly claiming that there is no proof that she made significant personal purchases by using funds made available by the PEI. This was to change drastically as soon as she started to face the Commission of Inquiry in August 2018.

### **3.10.3. Written Statements to the Commission**

Mrs Gurib-Fakim first produced before the Commission 2 statements, which she had *a priori* reduced in writing [**Annexes T and U (supra)**]<sup>18</sup>. She repeated her version as set out in these statements in the course of her deposition before the Commission. She communicated a further written statement [**Annex V (supra)**]<sup>19</sup> to the Commission following her *viva voce* deposition.

The following facts were now admitted by her in those written statements:

1. Following discussions between PEI and BMGF, PEI decided that it would advance funds to cover her expenses for the advocacy

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<sup>18</sup> Document CO 129 and CO 130

<sup>19</sup> Document CO 132



programme pending the signing of the grant agreement with BMGF and the release of funds by BMGF.

2. On 11 May 2016 there was a PEI Board resolution that she be issued with a personal credit card which permitted her to effect payment of up to 1 million rupees.
3. Between 9 and 26 September 2016 she used the card on 11 occasions in Uppsala, Arlington, Washington and Kingston, including payment for her family members consisting of her husband and her two children.
4. Whilst in Washington on 15-16 September 2016, her personal card had a malfunctioning issue and she requested authorisation from PEI (Mr Mauricio Fernandes) to use the PEI Platinum Card for her personal expenses for the remainder of the trip. She was granted permission to do so over the phone by Mr Mauricio Fernandes. When she returned to Mauritius she called Mr Mauricio Fernandes for a reconciliation of the accounts and expenses but she was told there was no urgency to do so.
5. In October 2016, she used the PEI credit card 8 times whilst on mission abroad in Dubai and once in Mauritius at Shiv Jewels.
6. In November 2016, she used the card 8 times including 5 times for personal expenses whilst abroad in Lucknow, India and Budapest, Hungary.
7. In November 2016, the grant agreement was signed between a director of BMGF and the Chairman of PEI, Dr Sobrinho. It is

specified in the grant agreement<sup>20</sup> that BMGF is providing a grant of 400,000 dollars to PEI Foundation for a “Charitable Purpose” **[Annex R *supra*]**.

8. In December 2016, she used the card 9 times including 3 times for personal expenses in Rome.

By now, she was contending that she had used the card on 25 occasions for personal expenses amounting to Rs 1,291,238. This was to change again later as the whole truth would emerge when she was confronted with documentary evidence in the course of her oral examination before the Commission. It was also her contention that she was to account for every dollar at the end of the first-year cycle of the grant as the BMGF was the donor fund.

She added, that it was whilst going through the bank statements of her personal credit card in early January 2017, that she realised that her personal expenses did not appear in these statements. She contacted Mr Mauricio Fernandes and requested him to send a consolidated amount for repayment to PEI as soon as possible. Although Mr Mauricio Fernandes promised to send the documents, she never heard from him. By then the allegations against Dr Sobrinho had been published in the press and she did not want to waste time sorting out personal expenses from the conference expenses which were meant to be eventually reimbursed by BMGF. In March 2017, she gave instructions to her bank to reimburse to PEI all card repayments. She added that at no point in time did anybody, including the Prime Minister, express any reservation about the arrangements concerning the PEI platinum card.

Mrs Gurib-Fakim communicated a further written statement **[Annex V (*supra*)]**<sup>21</sup> to the Commission following her deposition and oral examination. She

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<sup>20</sup> Annex R – page 1 of Document CO 3

<sup>21</sup> Document CO 132

produced documents purporting to prove that she had also written to the Prime Minister to intervene on behalf of potential investors other than Dr Sobrinho. She pointed out that she never tried to influence the decision-making process of any relevant authorities or licensing bodies in favour of Dr Sobrinho or any of its companies.

#### **3.10.4. Examination before the Commission**

Later, in the course of her oral deposition and examination before the Commission, Mrs Gurib-Fakim would ultimately admit the following facts:

1. In November 2015, she was appointed vice-chairperson of the Board of the PEI, of which Dr Sobrinho was the Chairperson.
2. In May 2016, she was, following a resolution initiated and signed by Dr Sobrinho, provided with a Platinum Credit Card to the tune of 1 million rupees by the PEI. The Card was meant to cover only her PEI travel and mission expenses. There was an agreement between PEI and the BMGF for funding those expenses. The Platinum Credit Card was linked to a USD PEI bank account which the bank held as a *lien* and guarantee for repayment on the amount due on the Card.
3. She was aware throughout, and from the outset, that she could not act otherwise than strictly on a *pro bono* basis and that she was not entitled to any form of benefit, financial or otherwise, from PEI.
4. For the months of October and November 2016, she used the Card exclusively for her personal shopping expenses. She used the card on 17 occasions during these 2 months to purchase

jewellery, shoes, gifts and other personal items in Dubai, Budapest, Lucknow and Mauritius.

5. In December 2016, she used the card on 13 occasions for her personal shopping in Dubai, Italy and UK. She also used the card in Mauritius to purchase 2 air tickets for her 2 children to travel to England. She used the card for restaurant and hotel expenses whilst in Rome in connection with PEI activities.
6. In January 2017, she used the card on 6 occasions for personal shopping in Switzerland.
7. In February 2017, she used the card on 6 occasions for personal shopping in Rome, Italy.
8. The total amount spent on the card on 62 occasions for the period September 2016 to March 2017 amount to Rs 2,253,184.
9. Mrs Gurib-Fakim admitted that out of this amount, about 2,000,000 rupees were spent by her exclusively in connection with her personal shopping and only about 250,000 rupees were spent in connection with PEI – related activities.
10. The card account was replenished regularly on a monthly-basis by PEI from October 2016 to February 2017.
11. There was never on any occasion any reimbursement during all the time the card was being used and payments were being effected by PEI from September 2016 to March 2017 for a total amount of Rs 2,253,184. The reimbursement only came on 24 March 2017.

Mrs Gurib-Fakim was lengthily examined as to the truth of the statements made against her in the Article entitled *“Les folles dépenses de Madame la présidente”*<sup>22</sup> and which she had repeatedly been denying as being false and unfounded.

In answer to the questions which were put to her, she admitted that the PEI Platinum Card was issued to her only to cover her ‘logistic and travel expenses as part of her mission’ within the PEI. She also admitted that the card was not meant to finance her personal shopping expenses.

She refused, however, at the outset of her examination, to admit that she indeed made use of the PEI Platinum Card essentially for her personal shopping expenses and not in connection with the logistic and travel expenses of the PEI mission to promote science and education and the PhD programme in Africa.

#### **Proceedings of 24 July 2019:**

*“Q: Was the card used substantially in order for you to effect personal purchases which do not fall within the ambit of the travel and logistic expenses of your mission within PEI?”*

*A: No, it was not used essentially. ...*

*Q. Would you agree that more than 70-75% of the money was used in connection with your personal expenses?”*

*A: No, it’s not that.”*

Mrs Gurib-Fakim was indeed constantly evasive and elusive when confronted at the start of her examination with the evidence of having used the card essentially for her personal shopping expenses. It was only following the intervention of her counsel that she came up with an answer to the question.

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<sup>22</sup> Annex B

### **Proceedings of 24 July 2019:**

*“Mr Duval, S.C: If I may? Madam you have to answer the question.*

*A: Yes.*

*Mr Duval, S.C: The question was do you agree that 75% of your transactions carried out on the card related to personal expenses? ...*

*A: Yes, okay. Yes, in that case.*

*Q: ... .... In fact, all the bigger amount was for the purchase of jewelry? The larger amount?*

*A: Okay.”*

It was only then that she went on to admit that the statement in the article that *“Alors que cet argent devait servir dans un cadre professionnel la présidente l’aurait utilisée à d’autres fins”* was not false.

She however would often reiterate at various stages that there were baseless allegations which had been published in the press but she had to admit the unassailable facts which these articles contain when she was confronted with same in the course of her examination before the Commission. To illustrate this, we shall refer in that connection to some of the answers which she gave whilst she was being questioned as to her use of the PEI card.

### **Proceedings of 6 August 2019:**

*“A: Again Sir, we are basing ourselves on very baseless allegations which have been reported in the press. And I insist on that. They were baseless allegations completely false and in fact I explained everything to Minister Mentor and he went up to the press ...*

*Q: But since you are raising it, concerning your use of the card,*

*A: Yes.*

- Q: *As President of the Republic, as Vice-Chairperson of PEI,*
- A: *Yes.*
- Q: *For shopping purposes.*
- A: *Yes.*
- Q: *Were true?*
- A: *Yes of course they were true.*
- Q: *They were true?*
- A: *Yes.*
- Q: *So they were not false allegations?*
- A: *No, no they are true ...*
- Q: *But what the press has published, we have gone into details, were that during the period of June which you have admitted.*
- A: *Yes.*
- Q: *September to March 2017, you have been using, and today we have seen.*
- A: *Yes.*
- Q: *Over 2 million rupees.*
- A: *Yes.*
- Q: *Out of the 2,200,060 and we also have it, let us for the sake of completion, so that we have all the facts clear. Now the Platinum Card was at the end of each month being replenished by payment from the PEI account?*
- A: *Yes.*
- Q: *On a regular monthly basis.*
- A: *Yes, so it is my account.*
- Q: *What is striking is the amount.*
- A: *Yes.*
- Q: *They (PEI) repaid I only quote for the five months, Rs 318,852 on the 24<sup>th</sup> of October 2016, Rs 1 059 160 on the 23<sup>rd</sup> of November 2016, Rs. 290 259 on the 23 December 2016,*

*Rs 340 431, 23<sup>rd</sup> of January 2017 Rs 80 623, on the 23<sup>rd</sup> of February 2017, Rs. 163 856 on the 23<sup>rd</sup> of March 2017.*

A: *I said Sir it was. There are automatic replenishments of my card and it looks that there has been automatic replenishment on the other card. At the end of the day I have used, I have been made aware, looked at my statement and I had refunded in due course.”*

As it has been seen earlier, the first reaction of Mrs Gurib-Fakim was to question the authenticity of the bank statements and documents which had been published on 28 February 2018 and to strongly contend that all these allegations as to the use of the card for her personal expenses were false and baseless allegations.

In her communiqué of 14 March 2018<sup>23</sup>, however, she implicitly admitted having used the PEI card to pay for her personal expenses as she contended that she did use the card, *albeit* inadvertently, on all these occasions. She mentioned for the first time that she “*immediately*” refunded in *toto* the amount which she had spent with the card.

The evidence has shown that it was only on 23 March 2017 that Mrs Gurib-Fakim gave instructions to her bank to reimburse the Rs 2,253,184 for personal expenses which she had incurred by using the PEI card from September 2016 to February 2017.

On being questioned as to the timing of her so-called ‘*immediate*’ reimbursement she gave the following answers.

#### **Proceedings of 06 August 2019:**

“Q: *One picture is that you have, ... .., been conveniently using the Platinum Card over a substantial period of time.*

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<sup>23</sup> Annex S



A: Yes.

Q: *For personal shopping over 2 million rupees of it. Everything was quiet and everything would have gone quiet unless and until it came out in the press as a result of which you had no choice than to reimburse.*

A: No.

Q: *This is one picture.*

A: Yes.

Q: *Now you have to convince us otherwise. Yes. Why is it that you should not place such an interpretation, because we have referred inadvertence is difficult to accept when you receive bank statements at the end of each month.*

A: Yes.

Q: *When you were aware that there was a malfunctioning of the card which cannot be reconciled with inadvertence.*

A: Yes.

Q: *Malfunctioning is one thing. Inadvertence is another. You had been using it on 48 occasions over 7 months. ...when it all started to come out in public then of course the only thing you could do to save the situation was to reimburse.*

A: No.”

Mrs Gurib-Fakim indeed made an attempt to show that she had committed a *bona fide* mistake by “*inadvertently*” using the Platinum Card for her personal shopping expenses on all these occasions; and that she had reimbursed the whole amount as soon as she became aware that she had been using the card for her personal expenses. But the prevaricating nature of her evidence inevitably and seriously taints her credibility with regard to both her contentions as to a *bonafide* inadvertent use of the card for 7 months and her timely reimbursement.

### 3.11 Analysis – Credibility

An assessment of her evidence plainly indicates that from the outset Mrs Gurib-Fakim blatantly fails to come out with the truth. When on 28 February 2018 l'express published her bank accounts to show that she had been using the PEI Platinum Card for her personal shopping expenses, she knew that this was true, yet *en toute connaissance de cause* she denied the authenticity of the documents and challenged l'express to prove within 24 hours that the published bank statements were genuine. Upon her own admission, she was aware of all the payments as reflected in the bank statements at least as from early January 2017 which led her to reimburse in March 2017.

As at 28 February 2018, therefore, she knew perfectly well that the bank had published authentic documents and that they reflected the truth as to the shopping expenses incurred by her. On the next day however, she went on to make a public declaration on a radio challenging again the authenticity of the documents imparting that they were fake documents, which she knew for sure that they were not.

Worse still, she displayed that same propensity to lie when as President of the Republic, she unhesitatingly gave instructions to Mr Seebah, the Secretary to the President not only to issue an official communiqué of the State House, but to also report to the police, that these allegations were false and unfounded, although she knew at that time that they were true. She instructed the Secretary to the President to seek legal advice from the Solicitor-General for legal action 'in respect of publication of false information' by the newspaper.

The allegations in the article were that she had used the credit card for her personal shopping expenses from September 2016 to March 2017 as evidenced by the published bank statements. She had instead of promoting the laudable initiative of promoting scientific education and the PhD programme, used the money provided by PEI 'à d'autre fins'. All these facts contained in these

allegations were at the hearing before the Commission admitted to be true by Mrs Gurib-Fakim and these were all facts which were unquestionably to her personal knowledge when she kept denying them in February and March 2018.

Mrs Gurib-Fakim admitted in no uncertain terms that she was fully aware from the outset that she could not use the PEI Platinum Card for her personal shopping expenses. In view of how events unfolded after 28 February 2018 she could not go on to challenge the authenticity and truth of the incriminating bank documents.

**Proceedings of 06 August 2019:**

*“Q: So have you known that it was the PEI Platinum Card you would not have used it for shopping?”*

*A: No, for my shopping no.*

*Q: That is the only explanation which you gave and for mistakenly using the card?”*

*A: Yes.*

*Q: You would not have used the card because it would not have been in order for you to use the card for your personal shopping purposes?”*

*A: Of course, it is a grant money.”*

She was facing a situation whereby she could no more question the fact that she had been using the PEI card to effect personal purchases on all these occasions during those 7 months which, upon her own admission, she was not entitled to do. She was, as a result, quite understandably cornered and what she did was to come up with the only plausible explanation which she could offer in order to save her skin in such a situation which was to say that she used the card inadvertently or by mistake and then reimbursed the whole amount.

On 14 March 2018, she claimed for the first time publicly in her communiqué<sup>24</sup> that she had made a mistaken and *'inadvertent'* use of the card on all these occasions and reimbursed PEI. If this was the truth, there is no reason why she did not come out with the truth when confronted with these facts on 28 February 2018. There was nothing which prevented her from coming up from the outset with this excuse of *'inadvertent'* use following the publication of the article by saying at that point in time: *"yes I did use the card on all these occasions but I did it inadvertently and I have reimbursed the whole amount as soon as I found out about my mistake"*. It would have been simple and straightforward for her to say so, had it, of course been the truth!

But she aggressively continued to challenge the truth of these admitted facts until she came out for the first time with her excuse of inadvertent use and reimbursement 14 days later in her communiqué of 14 March 2018. But again, in that communiqué she bizarrely continued to deny what is known to her to be the truth, by reasserting that the newspaper article *"presumes without proof that she has made significant purchases using funds made available by the PEI"*.

### **3.12 Inadvertent Use**

Mrs Gurib-Fakim maintained in the course of her examination before the Commission that she *'inadvertently'* used the card on all these occasions. According to her, she used the card 'by mistake' as she had a personal credit card of the same colour and there was no need to use a pin number. Her explanation however that she used the PEI Platinum Card inadvertently on all these 62 occasions is to say the least laughable.

It is perfectly understandable that any person, even endowed with the meticulous rigour, intelligence, and discernment of an accomplished and outstanding research scientist like Mrs Gurib-Fakim, may on one or few occasions

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<sup>24</sup> Annex S

make such a mistake. But not continuously on 62 occasions, over a period of 7 months, at 14 different locations, in the course of different trips in 10 countries and to make payments which amount to more than 2 million rupees!

What is obviously a lame excuse cannot also stand in view of the irrefutable fact that the bank had been sending statements informing her on a regular monthly basis of all the payment details in respect of both her personal and the PEI Credit Cards. The monthly statements were sent to her home address in Quatre Bornes together with the statements for all her other cards. An examination of these statements [**Annexes C, D, E and F *supra***]<sup>25</sup> indicate that it would have been plainly apparent to Mrs Gurib-Fakim during the whole of the period from September 2016 to March 2017 that all these payments were being effected with the use of the PEI Card funded from the PEI account and not with her personal card. This should have been strikingly apparent, even upon a cursory glance, in view of the fact that there were only few transactions which appear on these bank statements. There were indeed relatively few monthly payments and transactions recorded on her personal card statements which was each on a separate sheet distinctly bearing the card account number. Furthermore, it was also strikingly apparent that the payments were being replenished, throughout those 7 months, from the PEI Account and not from her personal account.

Mrs Gurib-Fakim however contended for the first time before the Commission that she was too busy to look at her bank statements when they were sent to her and it was only in early January 2017 that she looked at her bank statements for the first time. According to her, it was only then that she realised that she had been using the PEI Card. She asked Mr Mauricio Fernandes for a breakdown so that she could repay her personal expenditures. But since she received no detailed information from PEI she refunded the whole amount in March 2017.

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<sup>25</sup> Tab 5 to 8 of Document CO 48

This was a very ingenious and imaginative effort on her part to justify that her reimbursement could only take place in March 2017 and not earlier. But it cannot be the truth that she found out about her alleged mistaken use of the PEI Card in early January 2017. Firstly, had this been the truth, it does not stand to reason that she went on to use the PEI Platinum Card to pay for substantial personal shopping expenses in January and February 2017, even after she had allegedly discovered the mistake in early January 2017. **Table A** in fact shows that Mrs Gurib-Fakim effected no less than 14 payments with the PEI card for personal shopping in Davos, Zurich, Rome from 19 January 2017 to 23 February 2017, on which date she again used the PEI card to buy jewellery from Shiv Jewels in Port Louis. All these payments were no more being made by her by an 'inadvertent' use of the PEI Card since she had already found out that she had been mistakenly using the Card since early January 2017. All these personal expenses paid with the PEI Card in January and February 2017 however continued to be replenished from the PEI Foundation Account. There can of course be no justification that she should continue to use the PEI Card for personal shopping on all these occasions in January and February 2017 despite the fact that she had already discovered it was not her personal card since early January 2017.

There is further evidence which rebuts Mrs Gurib-Fakim's contention of an inadvertent use of the PEI Card. Mrs Gurib-Fakim had a personal credit card with a limit of 500,000 rupees and she had an arrangement with her bank to top up her credit automatically without any instruction. An analysis of her expenses [**Annex F (supra)**]<sup>26</sup> indicate that although she had also been using her personal card regularly during the same period, it was rarely being used for luxury shopping, and still less to buy so many expensive luxury items as she was doing during the same period with the PEI Platinum Card. Another fact which discards the idea of mistaken use of the PEI card is that she used both her personal card and the PEI Card on at least 2 occasions on the same day to purchase jewellery from Shiv Jewels in a manner which strongly rebuts any contention of her alleged

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<sup>26</sup> Tab 7 of Document CO 48

'inadvertent' or mistaken use of the PEI card. In fact, on 3 November 2016, she used both cards on the same occasion to purchase jewellery from Shiv Jewels Impex Co. Ltd in Port Louis. She used her personal card to effect a payment of Rs 158,000 whilst using the PEI card to effect 2 payments of Rs 100,000 each to pay Shiv Jewels for the purchase of jewellery on that same day. Likewise, on 23 February 2017, she again used her personal card to effect a payment of Rs 119,000 whilst using the PEI Card to effect a payment of Rs 135,000 on the same day to Shiv Jewels Impex Co. Ltd for the purchase of jewellery.

Furthermore, the statements of account clearly indicated that the amount owed on the PEI Platinum Card was paid off towards the end of each month by an account replenished continuously by the PEI Foundation for the whole of the period spanning from September 2016 to March 2017. The testimony of witness Nundoosingh from Barclays Bank indeed confirmed that the statements which were sent to the home address of Mrs Gurib-Fakim at the end of each month, unequivocally indicated to her that the PEI paid an amount of Rs 318,852 on 24 October 2016, Rs 1,059,160 on 23 November 2016, Rs 290,259 on 23 December 2016, Rs 340,431 on 23 January 2017, Rs 80,623 on 23 February 2017 and Rs 163,856 on 23 March 2017.

All these payments were regularly effected on a monthly basis to replenish the PEI Platinum Card, without which Mrs Gurib-Fakim would not have been able to continue using the PEI Card over a period of 7 months to pay for over 2.2 million rupees of purchases. Her contention that she was blissfully unaware that she had been using the PEI Card to effect purchases on 62 occasions during all that time for such a substantial amount over 6 months cannot obviously be the truth.

As early as in September 2016, her personal card allegedly had a malfunctioning issue. She could not make use of it whilst shopping in Washington. What she did was to seek the authorisation from Mr Mauricio Fernandes to use the PEI Platinum Card for her personal expenses for the remainder of the trip. Her

personal card had to be changed by her bank when she came back to Mauritius. Yet even after that event, she continued to use the PEI Card, still as she claims by mistake, on no less than 40 occasions over a period of 5 months.

The explanation which was given by Mrs Gurib-Fakim that she inadvertently made use of the PEI Platinum Card is clearly not worthy of any credit and cannot stand as being correct and true.

It is to say the least unacceptable that it was purely by '*mistake*' that she had in these circumstances been using the Platinum Card on no less than 62 occasions, in various countries, stretching over a period of 7 months from September 2016 to March 2017, to make payments which amounted to more than 2.2 million rupees.

### **3.13 Reimbursement**

It is not in dispute that she gave instructions to the Bank to effect the reimbursement of the amount funded by PEI to cover her personal expenses with the PEI Card on 23 March 2017 and that there has been no reimbursement of the sum of Rs 3,748,751 which has been funded by the PEI Deposit Account to pay for her expenses as set out in **Table D**.

It is the contention of Mrs Gurib-Fakim that she did nothing wrong because she reimbursed the whole amount which had been funded by PEI for her personal shopping expenses as soon as she found out that her payments had been funded by PEI.

Mrs Gurib-Fakim cannot legitimately claim that she did nothing wrong and should be exonerated from all blame following the reimbursement by her. She could have been exonerated only if it had been shown that she had in the first place genuinely and in truth made an inadvertent use of the PEI Card on all these



occasions that she had been using it for personal shopping and during all the time that it was being continuously funded on a monthly basis by the PEI Foundation. It has been seen that such is not the case. Her contention of '*inadvertent use*' is simply untenable and unworthy of any belief in the light of the evidence and the reasons already alluded to. Any subsequent reimbursement on 23 March 2017 can therefore be of no avail to exonerate her. Her decision to reimburse the whole amount indeed confirms the full awareness on her part that it was not in order to make an abusive use of the card for personal purposes when the card was meant to be used solely for a philanthropic purpose.

In any event, her claim that she effected the reimbursement as soon as she found out about her mistaken use of the card is also untenable and devoid of any truth:

- (1) First, as it has been seen earlier, her contention that she first became aware of her mistaken use of the PEI Card in early January 2017 cannot be true as it cannot be reconciled with her continued use of the PEI Card on no less than 14 occasions solely for personal shopping subsequently in January and February 2017, and this after she became aware that it was a PEI Card and not her personal card.
- (2) The evidence with which she was confronted unequivocally indicates that it was only after the press had published serious allegations concerning the suspicious activities of Dr Sobrinho and his scandalous association with Mrs Gurib-Fakim in her capacity as President of the Republic, that she proceeded with the reimbursement of the expenses incurred with the PEI Card. Her resignation from the PEI board also took place at the same time in March 2017.

The version of Mrs Gurib-Fakim was that the papers had started to raise issues concerning her connection with PEI in March 2017 until she was confronted

in the course of her examination with an article which came out earlier in November 2016 followed by other articles which were published in February 2017 and on 1 March 2017.

**Proceedings of 06 August 2019:**

*“Q: Now Mrs Fakim, when was it that the papers had started raising issues about PEI and linking you with PEI in what you would consider a disparate manner.*

*A: March 2017.*

It was then that she was confronted with an article which dates as far back as 30 November 2016.

*Q: Were you aware of an article dated 30 November 2016 with the heading, it was in L’express, “Ameenah Gurib-Fakim PhD Scholarship, promesses non-tenues”*

Mrs Gurib-Fakim, being obviously taken by surprise, was unable to provide a coherent answer:

*A: Sorry, the last statement when you said the article started coming it was in March that I don’t know exactly the dates but it was in March. And yes, “Phd non tenu” yes this was not.*

*Q: No, we are only raising that these issues because the series of articles that were continuously published soon thereafter, raised a number of issues concerning not only Mr Sobrinho but also your possible connection with Mr Sobrinho and it also raised issues concerning PEI.*

*A: Yes.*

*Q: We are speaking of essentially the end of February 2017 and the beginning of March 2017.*

*A: Yes.*

*Q: We have a series of articles which I will only mention a few.*

A: Yes.

It was followed by another question in the course of which she was confronted with serious allegations contained in newspaper articles which raised issues targeting the PEI so-called scholarships and her involvement as President of the Republic. All these allegations were made public well before her decision to effect the reimbursement on 23 March 2017.

**Proceedings of 06 August 2019:**

Q: *First that how it started “the alleged promesse de bourse non tenue. Les boursiers soutiennent”, that is in November 2016*

*“Que le PEI leur a vendu du rêve. Alors qu’on les avait promis des études dans des Universités telles qu’Oxford, et Edimbourg ou encore des Universités Sud-Africaine, l’institut change d’avis du jour au lendemain leur propose de poursuivre leurs études dans des Universités beaucoup moins prestigieuses. Le PEI avait alors évoqué les émeutes en Afrique du Sud”.*

*That is the beginning in November 2016. But then it became more specific. By the end of February, the 28<sup>th</sup> February and the 1st March, there are a series of articles starting with Alvaro Sobrihno.*

*“L’homme fait d’objet de plusieurs enquêtes, il est soupçonné d’avoir détourné 600 million de la Banco Espirito Santo Angola donc il était le Chief Executive Officer. A Maurice malgré ses multiples frasques etc, la Financial Services Commission lui octroie six licences alors que la Banque Centrale lui refuse une banking licence. And then, le multimilliardaire est proche de la Présidence car il copréside le PEI avec Ameenah Gurib-Fakim. Des questions se posent”.*

The question then continued by reference to the allegations in the press concerning an outcry against the suspicious activities of PEI and Dr Sobrinho with whom she was linked and which prompted her to effect the reimbursement in March 2017.

## Proceedings of 06 August 2019:

Q: *This is on the 1<sup>st</sup> of March. Then we have a series of articles. L'express pose la question.*

*“Le PEI donc les projets à Maurice et à l'étranger sont nombreux serait-il un leurre? L'institut affirme vouloir construire un incubateur d'entreprises avec \$ 6 million fourni par la Bill and Melinda Gates Foundation mais le projet n'a jamais abouti”.*

*It was in March 2017 there is indisputably an outcry on part of the press targeting in particular PEI, Alvaro Sobrinho and linking you as President.*

A: Yes.

Q: *So, it is a mere coincidence therefore that everything started to come to light to you, your inadvertence started to dissipate. You were interested in retracing your bank statements in March 2017 and effected reimbursement in March 2017.*

A: *Can I just go back on some of the issues you have raised in terms of the PhDs”*

In fact, according to her own version, she decided to resign from the PEI because of the press campaign against Dr Sobrinho in February 2017. This is what she stated in her written statement submitted to the Commission [**Doc. T** at para. 115].

*“115 By February 2017, there was a press campaign against Mr Sobrinho. In spite of the good work that was being accomplished for building a science culture locally I decided to resign from the PEI because I was being personally targeted with gratuitous insinuations about my alleged closeness with Mr Sobrinho. These unsubstantiated allegations about a purported relationship with Mr Sobrinho were causing a lot of distress to my family and I was also getting a barrage of questions from my husband on my supposed ‘relationship’ with Mr Sobrinho.”*

### 3.14 Alerted by Bank Officers

Apart from the press raising the issues concerning her involvement with Dr Sobrinho well before the date of her reimbursement on 23 March 2017, there is also the evidence of Mr Dass Appadu both in his affidavit<sup>27</sup> [Annex Z] and under oath before the Commission that he specifically drew the attention of Mrs Gurib-Fakim as early as December 2015 to adverse information concerning the suspicious activities of Dr Sobrinho. In fact, in December 2015 or January 2016, two bank officers from Maubank had called upon Mr Dass Appadu to inform him that some people from ASA (Sobrinho) Group of Companies had used the name of the President for the purpose of opening a bank account at their bank. They had personally carried out a KYC (Know Your Customer) check on Dr Sobrinho and they had retrieved information of a suspicious nature which they believed should be brought to the attention of the President. The bank officers handed over to Mr Dass Appadu documents which referred to the suspicious fraudulent activities of Dr Sobrinho. Whilst the bank officers were kept waiting at Le Réduit State House, Mr Dass Appadu immediately handed over the documents and imparted to Mrs Gurib-Fakim the information which he had received from the bank officers concerning Dr Sobrinho and his companies. Mrs Gurib-Fakim opened her drawer and took out a document which he showed to Mr Dass Appadu saying that *“this is the judgment from the Court of Portugal. There is nothing against them, they had been cleared, so what is the worry?”* So as far back as December 2015 or January 2016, the attention of Mrs Gurib-Fakim had been specifically drawn to adverse information highlighting the suspicious fraudulent activities of Dr Sobrinho.

The evidence potently rebuts the contention of Mrs Gurib-Fakim that she had effected the reimbursement on her own accord in March 2017 after having allegedly found out that she had made a mistaken use of the PEI Card in early January 2017 and not as a result of the articles published in the press concerning her association as President of Republic with Dr Sobrinho who was at that time

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<sup>27</sup> Document CO 126

suspected of massive embezzlement to the prejudice of a Bank of which he was the Chief Executive.

### **3.15 Unlawful, improper or indecorous use of the Office of the President**

That Mrs Gurib-Fakim should, whilst being President of the Republic, gratify herself with funds from any third party for her personal shopping is in itself a reprehensible act.

It is all the more reprehensible that the funds should emanate from a source which, it had been expressly brought to her attention, could well be the proceeds of criminal and fraudulent activities.

The President is entitled to the free use of his official residence and also “to such emoluments, *allowances and privileges, exempt from any tax*” as Parliament may determine by law. Such allowances, emoluments and privileges cannot be altered or reduced during the President’s term of office [**Section 30A (3) and (4) of the Constitution**].

But **Section 28(4) of the Constitution** also provides that he is not entitled to hold any other office of emolument or engage in any profession, calling or businesses during his term of office: -

*“28 (4) Where a person is elected to the office of President, he shall not, whilst in office:*

- (a) hold any other office of emolument, whether under the Constitution or otherwise;*
- (b) exercise any profession or calling or engage in any trade or business.”*

**Section 28(4)(a)** effectively prohibits the President from holding any other office and from engaging into any gainful or lucrative activity which procures any pecuniary benefits. The President is thus limited to drawing emoluments only from the Office of President. He is prohibited from drawing any earnings other than the emoluments of his office. The President is also prohibited by **section 28(4)(b)** from exercising any profession or calling and from engaging in any business independently of whether it brings or does not bring any income or profit.

The evidence has clearly established that:

- (1) Mrs Gurib-Fakim was holding office as Vice-Chairperson of the Board of the PEI and as a Trustee of the Planet Earth Institute Foundation in Mauritius.
- (2) Mrs Gurib-Fakim was provided in that capacity with a Platinum Credit Card purportedly to cater for logistic and travel expenses related to PEI missions.
- (3) But instead Mrs Gurib-Fakim used more than 2 million rupees of PEI money for her personal gratification from September 2016 to February 2017.
- (4) There was no claim whatsoever by PEI for the reimbursement by Mrs Gurib-Fakim of any payment effected by her during the whole of that period.
- (5) There was instead a second deposit account created and funded wholly by PEI (The PEI Deposit Account), to pay for all the logistic and travel expenses of Mrs Gurib-Fakim and her delegations in relation to all PEI missions.
- (6) Quite apart from covering her travel expenses, she was also paid hefty amounts from that second account in terms of *per diem* allowances, entertainment allowances etc. (**ANNEX AA**)<sup>28</sup>

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<sup>28</sup> Page 5 of Brief on PEI Deposit Account

- (7) There was no “*raison d’être*” for that second account to cater again for her PEI mission related expenses, if as it was alleged the PEI Platinum Card had in fact and in truth already been issued by PEI to Mrs Gurib-Fakim to cater precisely for her ‘*logistic and travel expenses*’ related to PEI-missions.
- (8) Her reimbursement of the credit card payments on 23 March 2017 cannot exonerate her inasmuch as:
- (i) the reimbursement was effected in circumstances which only show a desperate attempt on her part to save the situation after the media had started raising questions as to the nature of her association as President of the Republic with Dr Sobrinho and his companies;
  - (ii) the evidence had overwhelmingly established that there was never any mistaken or ‘*inadvertent*’ use of PEI money by her; and
  - (iii) any such reimbursement after “*the cat was out of the bag*” cannot come to her rescue just as a thief who has stolen money cannot evade criminal liability by claiming, *albeit* as vociferously as possible, that she has reimbursed the stolen money.
- (9) Mrs Gurib-Fakim was, during the same period that she was being lavishly funded by PEI, making an improper and abusive use of her position as President in order to assist Dr Sobrinho and his companies in carrying out their purported financial and banking activities in Mauritius and in procuring official VIP treatment to them in an uninterrupted manner from November 2015 to February 2017. This is explicitly set out in **Chapters 4** and **5** of this Report.

All the above indisputable facts potently destroy any pathetic attempt by Mrs Gurib-Fakim to sidetrack issues by raising such contentions that the Barclays Bank ought to have been taken to task for breach of confidentiality or that there are other persons who ought to have been questioned or made accountable or that she was accountable to the ultimate donor which was the BMGF. Any such



contentions on her part cannot of course be of any avail to disculpate her from her personal liability in view of the irrefutable evidence establishing her wilful cashing of more than 2 million rupees of PEI money for her personal gratification during the period September 2016 to February 2017. Her reimbursement which was effected on 23 March 2017 and which came only after her association with Dr Sobrinho had been splashed in the press, does not absolve her from any culpable liability in respect of her use of the card prior to the reimbursement.

There is absolutely no difficulty, in the light of the unquestionable evidence and in particular by the manner in which whilst holding office as President of the Republic Mrs Gurib-Fakim cashed funds from PEI for her personal gratification, in concluding that Mrs Gurib-Fakim violated section 28(4) of the Constitution. This indeed constitutes by any measure an 'unlawful, improper and indecorous' use of the Office of the President by Mrs Gurib-Fakim.

We need to observe that although section 28(4) of the Constitution expressly prohibits the accruing of any financial benefits to the President as a result of the holding of an office or in the exercise of a calling or profession, section 28(4) would apply "*a fortiori*" with equal, if not greater force, to a situation like the present one where Mrs Gurib-Fakim, whilst holding office as President of the Republic, illegitimately gratifies herself as she did with funds from PEI from September 2016 to February 2017.

But the worse is still to come as the evidence brings to light the nature of the services which the President pampered by PEI money would provide, during the concomitant period, to Dr Sobrinho and his entities by making an unlawful and improper use of the office of the President. **[See Chapters 4 and 5]**

## **CHAPTER 4**

### **MRS GURIB-FAKIM AND PEI ACTIVITIES**

#### **4.1 Banking and Investment Licences**

Mrs Gurib-Fakim was, upon her own admission, fully aware of the fact that she could not use her position as President of the Republic in order to influence the granting of banking and investment licences by the relevant authorities to the Sobrinho companies. She made every effort to convince the Commission that she limited herself only to the philanthropic activities of PEI.

Mrs Gurib-Fakim thus at first denied in her written statements to the Commission [**Annexes T, U and V (*supra*)**]<sup>29</sup> that she had been intervening with the Mauritian authorities for the Sobrinho companies to obtain Investment and Banking licences in Mauritius. At the outset of her deposition before the Commission she stated: “*I did not introduce Mr Mauricio Fernandes, to any one in Mauritius or arranged any meetings for him*”. She added that the only licensing issue which was of concern to her related to the PASET Program.

In answer to the first question which was put to her when she was being examined by the Commission in connection with her interventions for Dr Sobrinho and his entities to obtain an investment licence and the authorisation to purchase real property in Mauritius, she denied any involvement:

#### **Proceedings of 24 July 2019:**

“Q: *What part if any did you play whilst being President of Republic to facilitate or to influence either the granting of an investment banking licence to Mr. Sobrinho or for him to*

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<sup>29</sup> Documents CO 129, 130 and CO 132

*obtain dispensation for the purchase of real properties in Mauritius? ...*

A: *I would say I was never involved with any of the investment issues at all. I was only concerned with the philanthropy work with the capacity building.*

Q: *So, you were only involved in the philanthropic work?*

A: *Philanthropic work as a foundation. I was never ever involved with any banking licence, with any investment, with nothing like this. I've never seen any document to that effect until I learnt it with the press. (Underlining ours)*

But unfortunately for Mrs Gurib-Fakim, she would be given the lie by the irrefutable documentary evidence which highlighted her intensive and active personal commitment in supporting the financial and investment activities of Dr Sobrinho and his companies in Mauritius; the more so, essentially during the period that she was being pampered by the use of her PEI Platinum Card for her international shopping spree which, as it has been seen, was being lavishly and regularly replenished by the PEI Foundation.

The context is set by Mr Dass Appadu, the then Secretary to the President, who states at paragraphs 30 and 31 in his affidavit [**Annex Z supra**]<sup>30</sup> that the PEI was launched in Mauritius by the President organising a grandiose ceremony in November 2015 at the State House to which she invited Ministers, senior officials, diplomats and influential members of the private sector. Mr Dass Appadu goes on to state that *“From then onwards, the State House literally became the platform for PEI. The work burden increased considerably at the State House, and activities relating to PEI became the President’s utmost priority.”*

Evidence of subsequent events and activities indeed indicate that Mrs Gurib-Fakim involvement was not limited to the so-called philanthropic or educational activities of the PEI. This is amply illustrated by the nature of the PEI

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<sup>30</sup> Document CO 126

activities in which the President would be involved, which were a far cry from, the professed philanthropic objectives of promoting scientific education or any PhD programme.

A good illustration is provided by instructions contained in the email<sup>31</sup> (**Annex AB**) which on 16 March 2016 at 8.36 a.m. Mr Mauricio Fernandes, the CEO of PEI in Mauritius, sent to President Mrs Gurib-Fakim and which, as it says, is an ‘*overview briefing*’ for ‘*Madame President*’ for the obtaining of financial and banking licences from the Financial Services Commission. (“FSC”)

Prior to confronting Mrs Gurib-Fakim with the email we asked her the following question:

**Proceedings of 24 July 2019:**

“Q: *Had Mr Mauricio Fernandes, who was by then a regular visitor which you were hosting at the State House, had he been discussing with you the issue of Investment Banking licence and Global business licence?*

A: *No.*”

The tenor of the email dated 16 March 2016 sent by Mr Mauricio Fernandes to Mrs Gurib-Fakim speaks for itself:

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<sup>31</sup> Page 125 of Document CO 4

## Briefing

From: **Mauricio Fernandes** (Mauricio@planetearthinstitute.org.uk)  
 Sent: Wed 3/16/16 8:36 AM  
 To: Ameenah GuribFakim (aguribfakim@gmail.com)  
 Cc: Dass Appadu (appadudass@hotmail.com); James Knight (james@planetearthinstitute.org.uk)

Dear Madame President,

As discussed, Your Excellency, an overview briefing regarding the Financial Services Commission is below. I shall bring copies and can discuss further.

Best wishes

Mauricio

Objectives for meeting Mr Kuriachen

*Place in file  
PASET.*

### 1. ASA Investment Advisory License

A key part of our mid stage business strategy (and based on our international financial advisory track record) is to advise international high net worth investors of STI related projects in Mauritius. These investors can also invest in the two funds already licensed with the FSC - ASA Fund and PASET fund. To perform these activities we need a Financial Advisory License.

*Objective: To have the license before 5th April for next visit of Dr Alvaro.*

### 2. Amending of ASA Fund and PASET Fund Constitution

We need to amend both ASA Fund and PASET Fund Constitution previously submitted to the FSC from 'Open End' to 'Close End' investment funds. The only difference is that investors can not redeem their investment at any time. Due to both funds investing in Science Technology and start up companies, the investment needs to be on a longer term instead of a short term basis, as STI and start ups will require long term investment. This is a standard change. A leading lawyer in these matters has been hired to align all documents/prospectus in line with the legality of the FSC.

*Objective: To have approval from the FSC before E 5TH April in order to start capturing investors ASAP*

### 3. Application for a Private Investment Bank

Yesterday we were informed by the BoM that a 'Private Investment Bank' would be more appropriated to our our business model, as we will not be capturing domestic deposits or working in the local market. We were also informed that the responsibility for such licenses will be transferred to the FSC in the next two months with a new law.

*Objective: to assure a smooth process acquiring the license in a relatively short period of time.*

Although the email clearly conveys to Mrs Gurib-Fakim that one of the objectives of arranging a meeting with the CEO of the FSC is to obtain the approval of the FSC for a private Investment Bank Licence, impressing upon her that this should be done before 5 April 2016, yet Mrs Gurib-Fakim, true to herself, persistently denied that the tenor of the discussions between Mr Mauricio Fernandes and herself had as objective the acquiring of a banking licence.

The email explicitly imparts, prior to the meeting which Mrs Gurib-Fakim would arrange with Mr Kuriachen, the CEO of FSC, at Le Réduit State House, that the objectives of the meeting should be to obtain an Investment Licence and a Banking Licence as well as to amend the existing funds from 'Open End' to 'Close End Funds'.

The email in fact sets out that the objectives of meeting Mr Kuriachen should be the obtaining of an Investment Licence for ASA (Alvaro Sobrinho group of companies), a Private Investment Bank Licence and the amendments of both the ASA Fund and the PASET Fund to suit the financial and investment objectives of the Sobrinho companies and entities. It is self-evident from the email that the involvement of Mrs Gurib-Fakim was not limited to the PASET Fund or the promotion of scientific education. Its main objective is to execute the financial strategy conceived by Mr Mauricio Fernandes for the President, Mrs Gurib-Fakim, to influence the FSC in order to obtain a Financial Advisory Licence and a Private Investment Bank licence. It is striking how the strategy is ingeniously conceived by inserting the PASET Fund to present the honourable front of a philanthropic organisation which Mrs Gurib-Fakim would endorse.

The email addressed personally to Mrs Gurib-Fakim therefore gives the lie to the emphatic statement of Mrs Gurib-Fakim that she was "*never ever involved with any banking licence, with any investment, with nothing like this*"<sup>32</sup>.

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<sup>32</sup> Proceedings of 24 July 2019

What is also important to retain is that Mrs Gurib-Fakim is made aware through this email, as early as 16 March 2016, of Dr Sobrinho's pressing objectives to obtain within a short time a Private Investment Bank Licence and an investment licence, which had nothing to do with the implementation of any scientific education and PhD programme. The evidence would indeed indicate how Mrs Gurib-Fakim would join forces with Mr Mauricio Fernandes and Dr Sobrinho in order to meet their objectives of obtaining the licences for their financial and banking operations in Mauritius and only pay lip service to the highly convenient and craftily presented Advocacy and PhD Programme.

#### **4.2 Financial Services Commission, Minister of Finance and Governor of Bank of Mauritius**

Mr Dass Appadu, the then Secretary to the President, explained to the Commission how during the same period in 2016, the President would regularly request him to phone Mr Kuriachen, the Acting CEO of the FSC in order to inquire about the progress being made by the FSC concerning Dr Sobrinho's application for investment banking and global business licences.

Mrs Gurib-Fakim, during the same period, also hosted Mr Kuriachen the head of the FSC for lunch at the State House on several occasions. The lunch was attended by Mr Mauricio Fernandes and Mr Dass Appadu. Both Mr Fernandes and Mrs Gurib-Fakim queried Mr Kuriachen about Dr Sobrinho's applications for the licences to which Mr Kuriachen replied that matters were progressing smoothly and that he did not foresee any difficulty.

Prior to that, in or around November/December 2015, Mrs Gurib-Fakim hosted a lunch at the State House, to which she invited the Minister of Finance, Honourable Lutchmeenaraidoo as well as the Governor of the Central Bank, Mr Basant Roi. Dr Sobrinho was introduced as a banker, investor and philanthropist who wished to obtain a banking licence in Mauritius. Mr Basant Roi's

reaction was the banking sector was already saturated in Mauritius and that Dr Sobrinho could visit the website of the Bank and download the guidelines for the opening of a bank in Mauritius.

From then on, Dr Sobrinho became a regular visitor to the State House. He was invited to meetings, lunches and functions hosted by the President and would, according to Mr Dass Appadu, even go out for long walks in company of the President in the gardens of the State House<sup>33</sup>.

### **4.3 VIP Access**

During the same period in 2016, which it is useful to recall incidentally coincides with the period during which the PEI Platinum Card is being used by Mrs Gurib-Fakim for her personal shopping, Mr Dass Appadu was requested by Mrs Gurib-Fakim to make arrangements for VIP access at the airport for Dr Sobrinho, Mr Mauricio Fernandes as well as for their families, employees and guests. The interventions of Mrs Gurib-Fakim in that respect as well as the particulars of the persons who were thus granted VIP access both on their arrivals and departures at the Sir Seewoosagur International Airport require detailed consideration and are dealt with separately in **Chapter 5**.

### **4.4 Board of Investment**

Mr Dass Appadu was also requested by Mrs Gurib-Fakim to contact Mr K. Poonoosamy, Chief Executive Officer of the Board of Investment [BOI]. He was directed to enquire from him about the status of the application that ASA (Alvaro Sobrinho ASA group) had made to the BOI for the purchase of 2 plots of land in Ebène and on which ASA intended to set up its business headquarters in Mauritius. The reply of Mr Poonoosamy was that it was a matter which fell within the province of the Prime Minister's Office and not that of the BOI.

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<sup>33</sup> Paragraph 29 of Annex Z



Mrs Gurib-Fakim however denied that she intervened on behalf of PEI and Dr Sobrinho in respect of investment or banking licences. According to her, the only licensing which was of concern to her was in relation to the PASET programme. She added that it was upon the advice of Mr Dass Appadu that she hosted a lunch at which were present Mr Mauricio Fernandes and Mr Kuriachen, for Mr Fernandes to provide a detailed brief of the PASET program to Mr Kuriachen. She never instructed Mr Dass Appadu to inquire from the BOI or FSC about the status of the applications made by the Alvaro Sobrinho group of companies. She maintained that Mr Mauricio Fernandes never discussed the issue of Investment Banking Licence and Global business licence with her. The only cause she was promoting when discussing with Mr Kuriachen was for positioning Mauritius as a knowledge and research hub. What mattered to her was the PASET Fund and nothing else.

In her further written statement [**Annex V *supra***]<sup>34</sup> which she submitted after she had been confronted with the evidence on that issue, she comes up with the following “*I wish to clarify that when I said that I never intervened in favour of Mr Sobrinho’s group of companies in relation to licensing issues, I meant that I have never tried to influence the decision-making process of the relevant authorities/licensing bodies.*” She contended that she had done nothing wrong as she always acted in good faith in order to encourage investors to come to Mauritius.

#### **4.5 Lobbying the Prime Minister**

Mrs Gurib-Fakim was also confronted with, and questioned in relation to, a letter addressed to the Prime Minister, which indicates the extent to which she was prepared to use her position as President of the Republic of Mauritius to lobby in favour of the Alvaro Sobrinho (ASA) group for them to obtain their investment banking licence and for the approval of their application to the Prime Minister’s

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<sup>34</sup> Document CO 132

Office, pursuant to the Non-Citizens Property Restriction Act, to purchase immoveable property in Mauritius. We shall need to refer extensively to that letter, dated 27 October 2016, in order to understand the degree and full force of Mrs Gurib-Fakim's involvement and support to the financial and investment activities of Dr Sobrinho and his companies in Mauritius at that juncture. She is being questioned in connection with the letter<sup>35</sup> which she had written to the Prime Minister on 27 October 2016 **[Annex AC]**.

**Proceedings of 06 August 2019:**

*“Q: Next question that we are going to ask you is whether in your capacity as President of the Republic of Mauritius you went even further than the FSC by trying to influence no less a person than the Prime Minister.*

*A: I had intervened vis à vis the Prime Minister.*

*Q: ... We will carry out step by step because your letter appears to us to be very impressive in terms of lobbying.*

*A: Yes.”*

Mrs Gurib-Fakim admitted that she sent the letter following her Thursday morning meeting with the Prime Minister and admitted the contents of the letter which was signed by her as President of the Republic. The heading of the letter is **'Investment in the Financial Services Sector'**.

We shall refer to some of the relevant extracts which throw much light on the extent to which the President was lobbying in favour of Dr Sobrinho and his company (ASA) to obtain an investment banking licence and the authorisation to purchase property in Mauritius. The following extracts illustrate the pressing arguments which she put forward to the Prime Minister for the licences to be

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<sup>35</sup> Document CO 65 J

granted without any undue delay to ASA, the Alvaro Sobrinho Group of Companies.

**F(26) letter to PM from Mrs Gurib-Fakim<sup>36</sup>**

*“I mentioned to you this morning about the Alvaro Sobrinho (ASA) Group that is positioning itself in our financial services landscape in view of supporting Government’s vision and ambition to transform Mauritius into a major international financial hub for business, trade and investment”.*

*“Indeed, the owner of ASA, Dr Alvaro Sobrinho, of African origin, and well known philanthropist is the main sponsor of PEI, of which I am now the Vice Chairperson.”*

*“ASA has up to now invested an amount of US \$ 6M (approximately Rs 210M) in financial services activities and is proposing to commit some US \$ 10M (Rs 350M) as from next year for the operation of an Investment Bank to provide trade and investment services in Africa.”*

*“The company is also proposing to acquire about 4,500m<sup>2</sup> of land in the Ebene area at the cost of US \$ 1.3M (Rs 46M)”*

*“I am informed that ASA has, in August 2016, submitted an application to the Home Affairs Division of the Prime Minister’s Office through the Board of Investment (BOI) to purchase the proposed plot of land in accordance with the Non-Citizens Property Restriction Act.”*

*“It is my understanding that the Financial Intelligence Unit (FIU) is now conducting a due diligence exercise on the company which is likely to protract the whole land acquisition purchase process.”*

*“It is worth pointing out the ASA Group of companies has already been previously investigated by the Financial Services Commission (FSC), the Barclays Bank International as well as the Board of Investment. The company has also enlisted the services of an internationally reputed Accounting Firm, Deloitte and Touche, for the preparation of its application documents and to ensure that it is fully compliant with the Mauritian financial investment and banking laws.*

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<sup>36</sup> Document CO 65 J

*I must also add that ASA has submitted an application to the FSC for an investment banking licence since September which is still under consideration.*

*ASA is currently employing some 20 local people and is planning to recruit another 20 once the investment banking licence is obtained”.*

The letter ends by a request to the Prime Minister “*to look into both cases, that is the land acquisition and the investment banking licence, and ensure with the institutions concerned that they are attended to promptly*”.

After having been confronted with the contents of her letter, Mrs Gurib-Fakim could but only admit what she had been persistently denying before:

**Proceedings of 06 August 2019:**

“Q: *It’s the President of the Republic writing to the Prime Minister,*

A: *Yes.*

Q: *Making a very strong case,*

A: *Yes.*

Q: *For ASA and Mr Alvaro Sobrinho,*

A: *Yes.*

Q: *To obtain an investment banking licence.*

A: *Yes.*

Q: *And this is what you are asking. The purpose of this letter ...*

Q: *... The simple question, Mrs Fakim, were you in your capacity as President of the Republic intervening vis à vis the Prime Minister for Alvaro Sobrinho ...*

A: *Yes.*

Q: *Were you in your capacity as President of the Republic seizing, first, the opportunity of your direct access to the Prime Minister, and then, following that by a letter very skilfully written?*

A: Yes.

Q: *Making a very strong case in favour of Mr Alvaro Sobrinho and his ASA and his PEI for land acquisition authorisation and investment banking licence.*

A: *I was doing it.* **(Underlining ours)**

After admitting that she had in her capacity as President been intervening *vis-à-vis* the Prime Minister for Dr Sobrinho and his company to obtain an investment banking licence and to have the authorisation to acquire property in Mauritius, Mrs Gurib-Fakim went on to say that she had also intervened for other investors. Some of these investors are mentioned by her in **[Annex V (*supra*)]**<sup>37</sup> and they include Professor Doutremepuich for the setting up of a Forensic and Paternity Testing Laboratory and the CIDP (The Biolabex project) for the setting up of a laboratory for clinical trials. She omitted to point out however that she was the previous Managing Director of CIDP (which formerly was the CEPHYR Centre for Physiotherapy Research).

She also stated that since her appointment as vice-chairperson of PEI had been accepted by Government, it was her role to promote PEI.

#### **4.6 Dass Appadu, Secretary to President**

As in the case of her alleged interventions *vis à vis* Mr Kuriachen, the FSC or the BOI or for VIP Access to Dr Sobrinho and his entourage, Mrs Gurib-Fakim would invariably reiterate that it was Mr Dass Appadu, the then Secretary to the President, who was responsible. She would go so far as to say that Mr Dass Appadu would be lying when he said that on all these occasions he had been

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<sup>37</sup> Document CO 132

acting upon the express instructions of the President. Mr Dass Appadu would thus be lying when he said that it was at the request of Mrs Gurib-Fakim that he called Mr Kuriachen of the FSC to enquire about the investment licence of Dr Sobrinho or that he called the BOI to enquire about Dr Sobrinho's application for authorisation to purchase property in Mauritius. He would also be lying when he said it was at her request that he made arrangements for the VIP access of Dr Sobrinho and his entourage or that she hosted the lunch for Mr Kuriachen. Likewise, he would still be lying if he were to say that at the lunch Mrs Gurib-Fakim queried Mr Kuriachen concerning the delay in the issuing of the Investment Banking Licence to Sobrinho's company.

But the proof of Mr Dass Appadu's reliability, competence and integrity in the discharge of his duties as her Secretary is emphatically pronounced by Mrs Gurib-Fakim herself. Barely 4 days after addressing the letter of the 27 October 2016<sup>38</sup> to the Prime Minister, on 31 October 2016 Mrs Gurib-Fakim wrote again to the Prime Minister strongly opposing the proposed transfer of Mr Dass Appadu from the Office of the President<sup>39</sup> **[Annex AD]**.

She states the following in that letter in praise of Mr Dass Appadu:

*"I have known Mr Appadu for the last 30 years. He has always struck me by his seriousness of purpose and commitment for hard work and discipline."*

*During our conversation, I pointed out to you in no uncertain terms that I have no complaints whatsoever against Mr Appadu in as much as his professional competence, experience and work and conduct, as well as integrity is concerned.*

*Indeed, for the last 16 months that he has been assigned to my Office, I have been fully satisfied with the quality of his work, demeanour and attitude, and his advice, always giving the best of himself in the discharge of his responsibilities and duties diligently and faithfully."*

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<sup>38</sup> Document CO 65J – Annex AC

<sup>39</sup> Document CO 65K

Such a certificate of integrity and diligent conduct to Mr Dass Appadu comes from no other person than Mrs Gurib-Fakim after Mr Dass Appadu had been at her service for 16 months. It does not for sure reflect, in her considered opinion addressed to the Prime Minister, any view of a subordinate who is used to acting without, or against, her instructions. Even after Mr Dass Appadu had left the State House, Mrs Gurib-Fakim would constantly solicit his help in November and December 2016, as admitted by her, in order to assist in various activities related to her functions as President of the Republic.

Mr Dass Appadu affirmed under oath in his affidavit which he reiterated when examined before the Commission, that in March 2017 the President would phone him every day: *“The President was desperate and in tears when speaking to me about the turn of events of the Sobrinho and PEI scandals, and that she had committed a big mistake in accepting the position of vice-Chairperson of PEI and associating herself with Mr Sobrinho and his entourage. She even intimated to me that she was disgusted with herself and that she could not show her face to her family members and more so to her father ...”*<sup>40</sup>.

#### **4.7 Discarding the Secretary to the President**

Mr Seebah had been posted as Secretary to the President as from 15 May 2017. As the Administrative Head of the Office of President, he was responsible for the overall administration of the office. He was also the head of the staff working at the Office of the President.

But Mr Seebah explained that although he was the administrative head of the Office of the President he was isolated and totally discarded by Mrs Gurib-Fakim. Mrs Gurib-Fakim had constituted and was relying solely on a special team headed by her personal secretary, Mrs Seechurn. The special team consisted of Miss Seenauth, Mrs Pasooramen, Mr Khodabocus and Mrs Vencatapillay. That

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<sup>40</sup> Paragraph 59 of Annex Z

special team was working directly under the President and did not report to Mr Seebah. They had moved into a working area specially arranged to accommodate them proximate to the working Office of the President.

To quote the words of Mr Seebah:

*“during that period, the President was operating in closed doors, where no one other than those who were working in the small, in the special team, were admitted; other people were not admitted including myself.*

*I don't know why but she was operating like this, I was not, never involved nor my advice was called for nor I was asked to, I went to her because I had certain files to have it signed by the President but I was turned down. I was not getting in, I was not allowed access by the VIPSU Officer. They said the President is busy.”<sup>41</sup>*

Mrs Gurib-Fakim's attempt to justify such an attitude by describing Mr Seebah as being a wholly incompetent officer is unjustified in view of the career record of Mr Seebah who struck us in the course of his deposition as being a responsible and competent officer. This has indeed been amply demonstrated by his request to the President to seek legal advice from the Solicitor-General on 28 February 2018. It clearly emerges that following the departure of Mr Dass Appadu as Secretary to the President, Mrs Gurib-Fakim had put up a special team which would conveniently and discretely implement her own agenda by conveniently bypassing Mr Seebah, the Secretary to the President and the official administrative channel.

#### **4.8 Evidence destroyed**

We need to open a parenthesis here in order to point out that in the course of the conduct of the inquiry, the Commission effected several visits to the State House, Réduit in order to ascertain the availability of any evidence relevant for the purposes of the inquiry. The Commission secured 2 diaries from the Office of the

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<sup>41</sup> Page 42 of proceedings of 04 October 2018



President which were kept in the office of Mrs Seechurn, the Confidential Secretary of Mrs Gurib-Fakim. The diaries kept a record of all appointments, and communications (including phone calls) of the President. It was Mrs Seechurn who had custody of these diaries and of the office laptop until her transfer from Le Réduit State House on 25 March 2018, following the resignation of Mrs Gurib-Fakim as President of the Republic.

It is a matter of great concern that both diaries **[Exhibits I and II]** have been tampered with. All pages covering the period spanning from 1<sup>st</sup> to 18<sup>th</sup> March 2018 had been removed from the first diary **[Exhibit 1]** and all pages covering the period 1 January 2018 to 20 March 2018 had been removed from the second diary **[Exhibit II]**. The testimony of the two Confidential Secretaries, Mrs Kissoon and Mrs Jeeanah, who took over following the transfer of Mrs Seechurn, established quite clearly that the diaries had been tampered with prior to their posting. Their testimony also established that likewise all data from the laptop of the Confidential Secretary for the period 1 January 2018 to 19 March 2018 could no more be traced from the laptop. The evidence also showed that in view of the tight security measures in place, it is not possible for any person other than the Confidential Secretary and the personal staff of the President to have access to the office where the diaries and laptop were kept.

The Commission, however, proceeded to carry out a thorough search of the records and files kept in the various registries of the Office of the President. The Commission, acknowledges the help which it received from the officers posted in the Registries in particular Mrs Surowan and Mr Ramma, which enabled the Commission to identify and trace documents and evidence which were produced by the relevant officers. These included emails, letters and various files and documents relating *inter alia* to the setting up of the Commission of Inquiry by Mrs Gurib-Fakim, the exchanges with PEI and Mr Mauricio Fernandes, the applications for VIP access of Dr Sobrinho and his group, the accounts and

transactions relating to the PEI Deposit Account and the various letters written by Mrs Gurib-Fakim in support of Dr Sobrinho and his entities.

Such evidence and these documents were of invaluable assistance in the conduct of the inquiry and in particular for the purpose of examining and confronting Mrs Gurib-Fakim with facts which ultimately pinned her down to the truth.

We also need to observe that there would have been nothing sinister for a Head of State to offer patronage of a charitable or laudable cause, to any respectable institution, within the strict parameters dictated by the exigencies and the nature of the functions of her office as Head of State. But the activities in which Mrs Gurib-Fakim got involved were nothing of that sort.

#### **4.9 Personal intervention and support of Mrs Gurib-Fakim as President of the Republic**

The evidence has indeed brought to light that during that period Mrs Gurib-Fakim intervened personally on numerous occasions in order to promote the business and financial activities of Dr Sobrinho's companies. She was unhesitatingly making use of her position as President of the Republic of Mauritius in order to do so in an influential manner. The letters which she was writing in support of the activities of Dr Sobrinho invariably bear the official letterhead of the Office of the President and the coat of arms of Mauritius. The letters would end with the signatures of Mrs Gurib-Fakim, not only as Vice-Chairperson of the PEI but more strikingly as "President of the Republic of Mauritius".

The degree of involvement of Mrs Gurib-Fakim is further illustrated by the numerous emails exchanged between Mr Mauricio Fernandes and Mrs Gurib-Fakim in particular during the period December 2015 to May 2016. They provide a useful insight not only as to the proximate and close relationship between

Dr Sobrinho, Mr Mauricio Fernandes and Mrs Gurib-Fakim but they also highlight the reprehensible and unacceptable manner in which Mrs Gurib-Fakim caused the Office of President to be enmeshed into, and to be used to lend support to the suspicious financial activities of Dr Sobrinho and Mr Mauricio Fernandes in Mauritius. These are but a few illustrations.

In January 2016, upon the request of Mr Mauricio Fernandes, Mrs Gurib-Fakim wrote letters initially drafted by Mr Mauricio Fernandes to African Heads of State urging that their contributions be paid into the interim Funds of PEI in Mauritius of which she was a trustee and signatory. She again used the official letterhead of the Office of the President and signed all those letters as President of the Republic of Mauritius.

We came across copies of the letters addressed to the President of the Republic of Rwanda, The Prime Minister of the Federal Democratic Republic of Ethiopia and the President of the Republic of Senegal<sup>42</sup> **[Annex AE]**. The main objective of these letters is encapsulated in the following excerpts which reflects the intensive lobbying of Mrs Gurib-Fakim at the level of African heads of states, for fund to be credited into the Escrow Account of PEI opened at Barclays Bank Mauritius.

*“Excellency and Dear Brother, I am also pleased to announce that an Escrow Account has already been opened at Barclays International in Mauritius by the Planet Earth Institute and it is imperative now that the funds obligated are disbursed urgently for the launch of the pilot scheme this year.*

*I would be glad if you would personally ensure that the necessary payments are made into the Escrow Account as a matter of priority”*

Furthermore, there is an exchange of a series of emails which bring to light the pervasive influence exerted by Mr Mauricio Fernandes upon the President

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<sup>42</sup> Pages 24 and 25 of Document CO 4

which resulted in Mrs Gurib-Fakim's allowing the Office of the President to be used if not exploited in an unacceptable manner to implement the strategic financial activities and objectives of the Alvaro Sobrinho Companies and Funds.

On 4 February 2016, Mr Mauricio Fernandes sent an email<sup>43</sup> addressed to various personalities and institutions which indicates in no uncertain terms the agenda of the PEI which is to ensure that all funding is channelled to its (PEI) escrow account in Mauritius instead of being credited to the African Association of Universities (AAU), which is viewed as an alien and rival organisation **[Annex AF]**.

The following extract from the email by Mr Mauricio Fernandes illustrates the forceful attempt by PEI to capture all these funds and the manner in which Mrs Gurib-Fakim is being used for that purpose at international level. This even led Mrs Gurib-Fakim in her capacity as President of the Republic of Mauritius to have personal bilateral meetings with Heads of States in the course of the Heads of States meeting in Addis, Ethiopia. It is to be noted that her mission to the Head of States (HoS) meeting in Addis was funded wholly by the Government of Mauritius<sup>44</sup> **[Annex AG]**.

This is what Mr Mauricio Fernandes writes in his email **[Annex AF (supra)]**<sup>45</sup> which is addressed to various influential stakeholders:

*“Let me start with the funding of the pilot PhD programme and the hosting of the \$7m currently raised. Firstly, we have always agreed, since inception of the project, that the funds raised from Governments and the Business Champions must be held in the same account at the same organisation. If this is truly a joint programme between public and private sector, as we have all tried to make it (and claimed as much on various stages around the world) that is the only logical conclusion. Secondly, I have just seen Her Excellency Madame President following her personal bi-laterals with the Heads of States in Addis. Her Excellency's brief was clear – that*

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<sup>43</sup> Email dated 04.02.16 at pages 29 and 30 of Document CO 4

<sup>44</sup> Document CO 65 H

<sup>45</sup> Email dated 04.02.16 at pages 29 and 30 of Document CO 4

*there was much favourable discussion with HOS regarding hosting the funds in the PEI Escrow Account in Mauritius (at Barclays). At no point during these discussions, as I understand, was AAU mentioned in any regard. Someone has the wrong information here; either you or me. We can't continue to muddle on without knowing what on earth is going on.* (Underlining ours)

Independently of the fact that the PEI could be laudably involved in a pilot PhD programme and was entitled to raise funds for that purpose, it is to the say the least manifestly reprehensible that Mrs Gurib-Fakim should lend herself as President of Mauritius to such an extent and in such a manner to the manoeuvres of Mr Mauricio Fernandes and Dr Sobrinho for obtaining payment of funds from other African States and entities into the account of PEI at Barclays Bank in Mauritius.

The resounding claim of Mrs Gurib-Fakim that she was doing no wrong but was only involved in a noble cause (the PASET Programme) would not convince even the most naïve, in view of the personal gratification which she was obtaining from her use of the Platinum Card and the funding of her expenses by the funds of the same entity (PEI) for which she was intensely lobbying during the concomitant period in 2016. Her personal shopping expenses funded by PEI, as it has been seen, had nothing to do with any philanthropic activities and could at best be only remotely and insignificantly connected to the highly-trumpeted PhD programme for African students.

In March 2016 Mrs Gurib-Fakim put up a proposal to elect Dr Sobrinho as a Honorary Fellow of the African Academy of Sciences. Mrs Gurib-Fakim, *inter alia*, presented the following in support of Dr Sobrinho's candidature, at the behest of Mr Mauricio Fernandes:

*"Beginning his career in insurance, Dr. Sobrinho moved to banking and in 2000 become a director at the Banco Espirito santo in Lisbon with the responsibility of founding a branch of the bank in his home country, Angola. Sobrinho led the bank through*

*a period of fast growth and earned the bank many prestigious awards, including the World Finance award for best bank in Angola. Under Sobrinho's supervision the bank increased its revenues from \$3 million to over US \$ 300 million in just a decade."*

... ..

*Sobrinho is the philanthropist, banker, businessman and father.*

... ..

*The nomination of Alvaro de Oliveira Madaleno Sobrinho is based on the recognition of his philanthropic standing, his devotion and contributions to scientific capacity in Africa and for his untiring effort and long term commitment to the goal of securing scientific independence for Africa.*

*The Planet Earth Institute, of which Dr Sobrinho is a founding member, is a non-profit NGO dedicated to furthering the development of Africa's science and technology resources.*

*Dr Alvaro Sobrinho has taken a leading role in launching a new scholarship fund aimed at furthering the advancement of scientific education in Africa. In partnership with other leading business figures from the continent, a coalition of African Governments and with the support of the World Bank, the scholarship will provide funding for some 10,000 PhDs."<sup>46</sup>*

Mrs Gurib-Fakim is also seen in February 2016, to be canvassing leading companies in the private sector in Mauritius to sponsor the Planet Earth Institute Foundation. The letters<sup>47</sup> were sent bearing the letterhead of the President and were signed by Mrs Gurib-Fakim in her capacity as President of the Republic and specified that *"the purpose of this letter is to invite you to partner with PEI Mauritius and contribute financially in our ongoing effort to promote the cause of science and development in Africa"*.

In the same letter, Mrs Gurib-Fakim stresses that the PEI is led by a distinguished Board of Council Members, including the prominent African investor,

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<sup>46</sup> Pages 100-101 of Document CO 4

<sup>47</sup> Pages 26, 27 and 28 of Document CO 2

Dr Sobrinho. The letters are addressed to some of the leading financial and business institutions in Mauritius. They are requested to make financial contributions by contacting Mr Mauricio Fernandes, Chief Executive of the Planet Earth Institute Foundation, on [mauricio@planetearthinstitute.org.uk](mailto:mauricio@planetearthinstitute.org.uk) . We are annexing a copy of the letter and a list of the targeted institutions which provide another illustration of the nature and extent of Mrs Gurib-Fakim's association and involvement with Dr Sobrinho and his PEI organisation **[Annex AH]**.

The evidence has also shown that there was a highly positive response in terms of financial contributions from the various entities of the private sector following the letters sent to them by Mrs Gurib-Fakim as President of the Republic.

#### **4.10 Réduit Appeal Fund**

Another instance where Mrs Gurib-Fakim was actively involved in the raising of funds was for the holding of a Global Women's Forum under her patronage in Mauritius on 16 and 17 June 2016. Again, however laudable could be the holding of such a forum in Mauritius, the issue of concern is that the main financial sponsor turned out to be Dr Sobrinho.

The Office of the President was responsible for the organisation of the Forum. On 24 December 2015, Mrs Gurib-Fakim in her capacity of President of Mauritius sent a joint letter co-signed by Ms Jacqueline Franjou, C.E.O of Women's Forum to Mr Agon, the C.E.O of L'Oreal, Paris asking him to confirm his acceptance to sponsor the Forum in Mauritius. The letter again bears the coat of Arms of Mauritius and the letter head of the President and the Republic of Mauritius although it was co-signed by the C.E.O of Women's Forum<sup>48</sup> **[Annex AI]**.

By way of a letter dated 9 February 2016, signed by Mr Dass Appadu, the financial contribution was sought from a list of sponsors who had been invited to a

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<sup>48</sup> Annex I of Document CO 63

dinner by the President of the Republic at the State House on 21 January 2016<sup>49</sup> **[Annex AJ]**. The letter indicated that cheques should be drawn to the order of “*Le Réduit Appeal Fund*” and should reached the Office of the President by the end of March 2016. The list of sponsors<sup>50</sup> **[Annex AK]** include the name of Mr Mauricio Fernandes, Chief Executive Officer of PEI.

According to records, a total amount of Rs 9,858,900 was received from sponsors. The major contribution came from Dr Sobrinho, who made a contribution of Rs 3,502,900 to the Forum which was then referred to as the “PEI WOMEN FORUM MAURITIUS”.

All the contributions were credited to ‘Le Réduit Appeal Fund’. The evidence of Mr Seebah has brought to light that ‘Le Réduit Appeal Fund’ was set up administratively in 1988 with the aim of providing support to charitable institutions and persons in distress. As from 2015 Mrs Gurib-Fakim enlarged the scope of its activities.

The Fund did not fall within the legal framework of public funds. It was not under the control of the Director of Audit and was not subject to government control. The Fund was managed and controlled by the Office of the President under the directives of the President of the Republic. The President was responsible for authorising activities or donations to be met from the Fund.

It was much later that it was suggested, following a meeting convened by the Secretary to the President, that the Fund be brought under the ambit of the Public Financial Management and a Deposit Account be opened for payments to be made through the Treasury, in line with established procedures.

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<sup>49</sup> Annex V of Document CO 63

<sup>50</sup> Annex VI of Document CO 63



## **CHAPTER 5 - VIP ACCESS**

### **5.1 Introduction**

Another striking illustration of how Mrs Gurib-Fakim had allowed the State House to literally become a platform for Dr Sobrinho and PEI to promote their activities in Mauritius, is provided by her intervention for their access to VIP facilities at the airport in Mauritius. Dr Sobrinho, as well as his staff, friends and relatives were invariably granted access to the VIP lounge at the SSR International Airport at the behest of the President's Office on each and every single visit they made to Mauritius from October 2015 to February 2017.

### **5.2 Access to VIP lounges**

Mr Tamanah Appadu, the desk officer of the VIP Section of the Prime Minister's Office, explained to the Commission the policy and criteria which were applicable at that time for obtaining VIP facilities at the airport.

VIP facilities in Mauritius are provided to a restricted list of persons which include Ministers, members of the National Assembly, Senior Government Officials, heads of religious bodies, diplomats and foreign dignitaries. There is a dedicated access which is located in a separated part of the SSR International Airport in order to facilitate movement of these persons on arrival or departure. The VIPs receive a personalised service with reserved lounge facilities and there is a special counter for the purposes of their check-ins, screening of luggage and immigration clearance.

Any request for VIP access by an eligible person is made to the VIP section of the Prime Minister's Office. The procedure is that an application is made to the Secretary for Home Affairs by the most senior officer in the organisation on behalf of the person who is requesting VIP access. Details of the person travelling, his

status, the details of the flight as well as the names of a maximum of 2 allowable greeters must be included in the application. The criteria for eligibility have to be satisfied before the request is approved.

### **5.3 Requests for access to VIP by Office of the President**

Mr Tamanah Appadu has submitted detailed particulars of the access to VIP lounge granted to Dr Sobrinho as well as to his relatives, guests and staff. This is evidenced by the documents produced by the VIP section of the Prime Minister's Office<sup>51</sup> [**Annexes AL, AM and AN**].

Dr Sobrinho as well as members of his family, his guests and the PEI staff and collaborators were granted access for their trips to and from Mauritius on no less than 62 occasions between 07 October 2015 and 21 February 2017. Again, this practice came to an abrupt end when questions were being raised in the press and eventually in the National Assembly concerning the association of Mrs Gurib-Fakim as President of the Republic with Dr Sobrinho and his collaborators in Mauritius.

The following 2 tables provide an insight into the frequency, dates and persons who were granted VIP access.

The first table (**Table E**) indicates that Dr Sobrinho was during that period personally granted access to VIP lounge on 35 occasions for departures and arrivals. The table also give the identity of the persons who were accompanying him on each occasion.

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<sup>51</sup> Documents Co 54, CO 55 and CO 56

**TABLE E****ACCESS TO VIP LOUNGE GRANTED TO MR ALVARO DE OLIVEIRA MADALENO SOBRINHO AT THE REQUEST OF THE OFFICE OF THE PRESIDENT**

SN	DATE OF REQUEST	DATE OF ARRIVAL/DEPARTURE	ACCOMPANIED BY
1	01.10.2015	04.10.2015	Mr. Jose Pinto/Mr. Mauricio Fernandes/wife/daughter
2	06.10.15	07.10.2015	Mr. Jose Pinto
3	30.10.2015	31.10.2015	Ms. Katrina Hulands
4	10.11.2015	20.11.2015	Mrs. Ana Madelano/Mr. Jose Pinto/Mrs. Marcia Pinto
5	16.11.2015	25.11.2015	Mrs. Ana Madelano/Mr. Jose Pinto/Mrs. Marcia Pinto
6	11.01.2016	16.01.2016	Mr. Jose Pinto
7	11.01.2016	21.01.2016	Mr. Jose Pinto
8	20.01.2016	20.01.2016	Mr. Jose Pinto
9	19.02.2016	21.02.2016	Mr. Jose Pinto
10	19.02.2016	26.02.2016	Mr Jose Pinto
11	31.03.2016	03.04.2016	Mrs. Ana Madaleno/Ms. Joana Madaleno
12	07.04.2016	10.04.2016	Mrs. Ana Madaleno/Ms. Joana Madaleno
13	28.04.2016	01.05.2016	--
14	02.05.2016	02.05.2016	--
15	09.05.2016	10.05.2016	--
16	13.06.2016	16.06.2016	Mr. David Madaleno/Mrs. Ana Madaleno/Mrs. Joana Madaleno
17	23.06.2016	23.06.2016	Mrs. Ana Madaleno
18	12.07.2016	16.07.2016	--
19	25.07.2016	26.07.2016	Mrs. Ana Madaleno

<b>20</b>	08.08.2016	14.08.2016	Mr. Jose Pinto
<b>21</b>	16.08.2016	17.08.2016	Mr. Jose Pinto
<b>22</b>	27.08.2016	29.08.2016	Mrs. Ana Madaleno
<b>23</b>	30.09.2016	05.10.2016	--
<b>24</b>	09.10.2016	10.10.2016	--
<b>25</b>	31.10.2016	01.11.2016	Mr. Jose Pinto
<b>26</b>	01.11.2016	05.11.2016	Mrs. Ana Madaleno
<b>27</b>	03.11.2016	06.11.2016	Mrs. Ana Madaleno
<b>28</b>	11.11.2016	14.11.2016	--
<b>29</b>	17.11.2016	21.11.2016	--
<b>30</b>	17.11.2016	18.11.2016	--
<b>31</b>	24.11.2016	26.11.2016	--
<b>32</b>	22.12.2016	26.12.2016	Mrs. Ana Madaleno
<b>33</b>	11.01.2016	12.01.2016	--
<b>34</b>	10.02.2017	14.02.2017	Dr. Joao Rodrigues
<b>35</b>	21.02.2017	23.02.2017	Dr. Joao Rodrigues

Dr Sobrinho was most of the time accompanied by members of his family and/or members of his delegation and greeted at the airport VIP lounge by his representative in Mauritius, Mr Mauricio Fernandes or Mr James Knight.

Mr Mauricio Fernandes and Mr James Knight, who were working in Mauritius for the PEI and for Dr Sobrinho as well as the guests and relatives of Dr Sobrinho were also provided access to the VIP lounge on no less than 27 occasions at the request of the Office of the President when travelling to or from Mauritius. The following table (**Table F**) provides the particulars of the persons

associated with Dr Sobrinho and the PEI who were granted access to the VIP Lounge from November 2015 to February 2017.

**TABLE F**

**REQUESTS FOR ACCESS TO VIP LOUNGES RECEIVED FROM THE OFFICE OF THE PRESIDENT IN RESPECT OF MEMBERS OF PLANET EARTH INSTITUTE (NOT TRAVELLING WITH MR. A. SOBRINHO)**

SN	DATE OF REQUEST	NAME OF PASSENGERS	TRAVEL DATES
1	10.11.15	1. Mrs Sarah Hambly 2. Rt. Hon. Lord Paul Boateng 3. Sir Christopher Edwards 4. Sir Magdi Yacoub (Board of Trustees, Planet Earth Institute) (Personal guests of H.E. Gurib-Fakim)	Arr: 21.11.15 Dep: 24.11.15
2	26.11.15	1. Mr. Mauricio Fernandes, CEO of PEI accompanied by: 2. His spouse Mrs. Kelly Taylor 3. Daughter Miss Anna Fernandes	Dep: 29.11.15
3	07.12.15	Mr. Mauricio Fernandes, CEO, PEI	Arr : 14.12.15
4	20.01.16	1. Mr. Rodrigues Martin 2. Mr. Pais Agostinho Homem (Special guests of HE Mrs. Gurib-Fakim)	Arr: 24.01.16 Dep: 28.01.16
5	19.02.16	Mr. Mauricio Fernandes (Special guests of HE Mrs. Gurib-Fakim)	Dep: 24.02.16 Arr: 26.02.16  Dep: 29.02.16 Arr: 06.03.16
6	19.02.16	1. Mrs. Kelly Fernandes 2. Miss Ana Fernandes (Special guests of HE Mrs. Gurib-Fakim)	Dep: 27.02.16 Arr: 28.03.16

<b>7</b>	16.03.16	Mr. Mauricio Fernandes (Special guest of HE Mrs. Gurib-Fakim)	Dep: 25.03.16 Arr: 05.03.16
<b>8</b>	25.03.16	1. Mrs Kelly Fernandes accompanied by: 2. Miss Ana Fernandes (Special guests of HE Mrs. Gurib-Fakim)	Arr: 09.04.16
<b>9</b>	25.03.16	1. Mr. Jose Pinto accompanied by: 2. Ms Marcia Pinto 3. Mr. Mathis Pinto 4. Mr. Illan Pinto (Special guests of HE Mrs. Gurib-Fakim)	Dep: 08.04.16
<b>10</b>	06.05.16	Mrs Ana Madaleno (Special guest of HE Mrs. Gurib-Fakim and spouse of Mr. A. Sobrinho)	Dep: 07.05.16
<b>11</b>	09.05.16	Mr, Mauricio Fernandes, personal guest of HE Mrs. Gurib-Fakim	Dep: 12.05.16 Arr: 15.05.16
<b>12</b>	11.06.16	Ms. Kelly Fernandes, Personal Guest of HE Mrs. Gurib Fakim	Dep: 12.06.16 Arr: 20.06.16
<b>13</b>	21.06.16	1. Mr. Joana Madaleno 2. Mr Sergio Figueredo 3. Miss Maria Represas (Guests of HE Mrs. Gurib-Fakim)	Dep: 22.06.16
<b>14</b>	07.07.16	1. Sir Christopher Edwards 2. Sir Magdi Yacoub (Special guests of HE Mrs. Gurib-Fakim)	Arr: 19.07.16 Dep: 22.07.16
<b>15</b>	12.07.16	Ms. Joana Madaleno, Guest of HE Mrs. Gurib-Fakim)	Arr: 13.07.16
<b>16</b>	12.07.16	Ms Ana Madaleno, Guest of HE Mrs. Gurib-Fakim)	Arr: 17.07.16
<b>17</b>	14.07.16	Ms Joana Madaleno, Guest of HE Mrs. Gurib-Fakim)	Dep: 15.07.16

<b>18</b>	21.07.16	Rt Hon. Lord Paul Boateng, guest of HE Mrs. Gurib-Fakim)	Dep: 22.07.16
<b>19</b>	02.08.16	Mr. Mauricio Fernandes, Guest of HE Mrs. Gurib-Fakim)	Dep: 15.08.16 Arr: 18.08.16
<b>20</b>	08.08.16	Ms Ana Madaleno, spouse of Dr. A. Sobrinho, personal guest of HE Mrs. Gurib-Fakim)	Arr: 11.08.16
<b>21</b>	22.08.16	1. Mrs. Amna Munawwar Awan accompanied by: 2. her spouse Mr. Salim Hanif (Guests of HE Mrs. Gurib-Fakim))	Arr: 25.08.16 Dep: 28.08.16
<b>22</b>	01.09.16	1. Mauricio Fernandes 2. Mrs. Kelly Fernandes 3. Children Anna and Clara Fernandes (Guests of HE Mrs. Gurib Fakim)	Dep: 10.09.16 Arr: 25.09.16
<b>23</b>	01.09.16	Mr. Mauricio Fernandes (Guest of HE Mrs. Gurib-Fakim)	Dep: 07.09.16 Arr: 08.09.16
<b>24</b>	01.12.16	Mr. Mauricio Fernandes (Guest of HE Mrs. Gurib-Fakim)	Dep: 05.12.16
<b>25</b>	01.12.16	1. Mrs. Kelly Fernandes accompanied by: 2. Children Anna and Clara Fernandes (Guests of HE Mrs. Gurib-Fakim))	Dep: 03.12.16
<b>26</b>	02.02.17	1. Lord Paul Boateng, Member of the House of Lords accompanied by: 2. Sir Christopher Edwards	Arr: 03.02.17 Dep: 05.02.17
<b>27</b>	13.02.17	Mrs Ana Madaleno, spouse of Dr. Alvaro Sobrinho	Arr: 14.02.17

Mrs Gurib-Fakim when confronted with the list of persons who were granted VIP access at the request of the Office of the President, denied having anything to do with the granting of VIP facilities to Dr Sobrinho and the PEI staff and relatives. According to her, it was only on 2 occasions that she gave instructions to organise

VIP access for her guests, when they had to attend the launching ceremony of the PEI in November 2015.

Mrs Gurib-Fakim denied the allegations of Mr Dass Appadu that she gave instructions for the Office of the President to arrange for VIP access on all these occasions. According to her, the first time she learnt about the correspondence between the Prime Minister's Office and the Office of the President in that connection was at the ICAC. Mrs Gurib-Fakim added that she does not personally know any of these persons, like Mr José Pinto or Mr J. Rodrigues, who have benefited from VIP access whilst travelling in the company of Dr Sobrinho.

Again, as usual, Mrs Gurib-Fakim's escape route was Mr Dass Appadu. For her, Mr Dass Appadu would be lying were he to say that all these applications were made at her request. In fact, those requests for access to VIP never crossed her desk.

Mr Dass Appadu, who was the Secretary to the President following the appointment of Mrs Gurib-Fakim as President on 5 June 2015 until he was transferred on 3 November 2016, provided detailed explanations as to how these VIP applications were made.

Mr Dass Appadu denied that the only time Mrs Gurib-Fakim had requested him to apply for VIP facilities for Dr Sobrinho and PEI and their guests was at the time of the launching of PEI. It is quite normal that the requests for access to VIP never crossed Mrs Gurib-Fakim's desk, since they were not processed by the President but by the staff of the Office of the President. But the evidence of Mr Dass Appadu, which as will be seen, is fully corroborated by the exchanges with the Prime Minister's Office, indeed indicate that these requests for VIP Access were made as directed by, and with the knowledge and consent of, Mrs Gurib-Fakim.



Mr Dass Appadu explained that in August 2015, he was informed by the President, Mrs Gurib-Fakim that Dr Sobrinho and Mr Mauricio Fernandes would be coming to the State House as Dr Sobrinho had the intention of investing in the banking sector in Mauritius.

In October 2015, Mrs Gurib-Fakim called him in her office and requested him to make arrangements for VIP Access for Dr Sobrinho, Mr José Pinto, Mr Mauricio Fernandes and his family. He accordingly sent a request for access to VIP on the same day to the Prime Minister's Office for its approval.

In the very first letter of request for VIP dated 01 October 2015<sup>52</sup>, the following is spelt out in support of the request for the granting of VIP access to Dr Sobrinho and his group **[Annex AO]**.

- “1. *Dr Sobrinho is now in the process of setting up an offshore bank in Mauritius for which he has applied for a licence to the authorities concerned.*
2. *Dr Sobrinho will be accompanied by Mr José Pinto, one of his closest aides.*
3. *The CEO of the future bank, Mr Mauricio Fernandes is also arriving on the same day.*
4. *Both Dr Sobrinho and Mr Fernandes are personally known to Her Excellency the President.*
5. *It should be noted that Mr Fernandes and family will be carrying their personal belongings to Mauritius”.*

In November 2015, the PEI was officially launched in Mauritius by Mrs Gurib-Fakim and Dr Sobrinho in the course of a ceremony organised by the President at the State House to which Mrs Gurib-Fakim had invited Ministers as well as many local and foreign eminent personalities **[Annexes AP<sup>53</sup> and AQ<sup>54</sup>]**.

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<sup>52</sup> Document CO 66

<sup>53</sup> Speech by Her Excellency Mrs A Gurib Fakim, President on the occasion of the launch of PEI

<sup>54</sup> Post of Mr Alvaro Sobrinho in Blog, Business News, Science dated 1 December 2015

Mr Dass Appadu went on to explain how from then onwards the State House was used as a platform for PEI activities which became the utmost priority of the President. Dr Sobrinho thereafter became a regular visitor to the State House for meetings, lunches and other functions with the President.

Dr Sobrinho as well as his entourage were invariably granted access to the VIP lounge at the SSR International airport whenever they came to Mauritius. Mr Dass Appadu explained how this was always done upon the President's express verbal instructions. Mrs Gurib-Fakim instructed Mr Dass Appadu to process applications for VIP facilities, as and when requested by the CEO of PEI, Mr Mauricio Fernandes. Mr Mauricio Fernandes was based in an office in Ebène which was the local headquarters of Dr Sobrinho's business as well as the PEI local office. Mr Mauricio Fernandes would regularly call on the President at the State House at least twice weekly. He would sometimes hand over to the President the flight details of Dr Sobrinho and/or his family members or other guests for obtaining VIP access. Whenever the President would travel abroad, she would direct Mr Dass Appadu to process any such requests emanating from Mr Mauricio Fernandes who would send emails with flight details for obtaining access to VIP facilities at the airport. As directed by Mrs Gurib-Fakim, Mr Dass Appadu would instruct the staff of the Office of the President to communicate the requests for VIP access to the Prime Minister's Office. The administrative staff working in the Office of the President at that time, namely Mrs Chooroomoney, Mrs Guirdharry and Mrs Codadeen prepared and signed the requests which were vetted by Mr Dass Appadu.

From then on, VIP facilities were extended, following requests from the Office of the President, to not only Dr Sobrinho and members of his family but also to Mr Mauricio Fernandes, the CEO of PEI, Mr James Knight, the Communications Director of PEI and other members of the PEI on their visit to Mauritius.

Mr Dass Appadu maintained that all requests for access to VIP lounge and car park facilities for Dr Sobrinho, his guests, members of his family and members of PEI were made upon the express verbal instructions of the President and that the President was fully aware of every single application that was made to the Prime Minister's Office for Dr Sobrinho and his entourage to have access to VIP facilities at the airport.

There are two events which occurred in April 2016 and in September 2016 respectively with regard to the granting of VIP facilities to Dr Sobrinho and his entourage which would confirm Mr Dass Appadu's version that Mrs Gurib-Fakim was fully informed and would be personally responsible for all these requests for VIP access at the airport.

#### **5.4 Letter from Prime Minister's Office – 29 April 2016**

On **29 April 2016**, Mr Nowbuth, the desk officer of the Home Affairs Division of the Prime Minister's Office who was responsible for processing applications for VIP access, addressed a letter<sup>55</sup> to the Secretary to the President. He was writing on behalf of the Secretary for Home Affairs, in reply to a request for VIP facilities for Dr Sobrinho and family for an arrival scheduled on 2 May 2016. Since the requests, being made by the Office of the President in favour of Dr Sobrinho and other persons, were in connection with the PEI, which was an NGO, the attention of the Office of the President was drawn to the fact that members of NGO's were not entitled to VIP lounge facilities.

Mr Nowbuth also drew attention to the fact that similar requests for representatives of PEI and their family members had been made on several occasions in the past. Access had been granted exceptionally on the basis that these persons were 'Special Guests' of the President. Mr Nowbuth requested confirmation as to whether these persons were indeed 'Special Guests' of the

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<sup>55</sup> Tab 6(b) of Document CO 54

President and that it was recommended that VIP facilities should accordingly be granted to them on that account. He also specified that any such request should be signed by the Supervising Officer of the concerned Ministry/Department.

On the same day, Mr Dass Appadu showed the letter of Mr Nowbuth to Mrs Gurib-Fakim and informed her of the stand of the Prime Minister's Office with regard to VIP access for Dr Sobrinho and his entourage to which she immediately retorted: *"Eski mo péna droit faire ene demande VIP pour ene quelqu'un qui pé investir par milliards dans Maurice"*. Mr Dass Appadu discussed the contents of that letter of 29 April from Mr Nowbuth with Mrs Gurib-Fakim. Mr Dass Appadu also informed Mrs Gurib-Fakim of a meeting which was scheduled later on the same day with Mr Ballah, the Secretary for Home Affairs, who was concerned with the rising number of requests from the Office of the President for VIP facilities for Dr Sobrinho and persons connected to PEI. In the course of the meeting with Mr Ballah, the latter pointed out to Mr Dass Appadu that the PEI requests for VIP facilities were on the high side. Mr Dass Appadu informed Mr Ballah that the requests were made with the express authority of the President. He suggested to Mr Ballah that he should speak to the President in person. Mr Ballah was not keen to do so. Mr Ballah then informed him that henceforth he (Mr Dass Appadu) should indicate in all requests for VIP which are to be signed by him that the persons in whose favour the applications were being made were either the personal guests of the President or persons personally known to her. Only then would the Prime Minister's Office approve the requests for VIP access. Mr Ballah also asked him to provide additional information pertaining to the investment projects of Dr Sobrinho.

On his return from the meeting, Mr Dass Appadu immediately reported the tenor of his conversation with Mr Ballah to Mrs Gurib-Fakim and the conditions which were imposed by the Prime Minister's Office for such requests to be approved. Henceforth all future written requests for VIP facilities for Dr Sobrinho and his entourage will have to contain a clause to the effect that they are her

special guests. The President instructed him to draft a letter which was duly vetted and approved by her. The letter dated 29 April 2016<sup>56</sup> (**Annex AR**) contained, inter alia, a paragraph about PEI activities and stated that Dr Sobrinho was well known to Her Excellency the President. The request for VIP facilities was granted following this letter which was sent to the Prime Minister's Office upon the instructions of Mrs Gurib-Fakim

Thereafter all requests for VIP facilities from the Office of the President for Dr Sobrinho and other persons connected to him or PEI were made in accordance with the conditions imposed by the Prime Minister's Office. The persons in respect of whom applications were made were always described in the request letter as being the "*guests*", "*personal guests*" or "*special guests*" of the President. Dr Sobrinho and his entourage were invariably granted access to the VIP lounge at the SSR International Airport on each and every single visit they made to the country. The requests were duly cleared by the President in person. Mr Dass Appadu added that no Secretary would venture to add such a clause without the approval of the President.

## **5.5 Query by Prime Minister's Office in September 2016**

In or about September 2016, Mr Ballah was appointed Secretary to the Cabinet and Head of Civil Service and was replaced as Secretary for Home Affairs by Mr Premhans Jhugroo. In or about October 2016, Mr Dass Appadu received a verbal query from Mr Jhugroo, concerning the frequent requests for access to VIP facilities made by the Office of the President for Dr Sobrinho and his staff. Mr Jhugroo told him that the Prime Minister's Office was in the process of reviewing VIP access facilities at the SSR International Airport and future requests on behalf of Dr Sobrinho would not be entertained as he was the Chairman of an NGO. Mr Dass Appadu immediately reported the statement of Mr Jhugroo to Mrs Gurib-Fakim who flared up and, in his presence, spoke to Mr Jhugroo and expressed her

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<sup>56</sup> Tab 6(c) of Document CO 54

disagreement with the PMO's stand. She enquired from Mr Jhugroo as to her rights as President to be granted VIP facilities for her guests. She told Mr Jhugroo that the Office of the President had previously written to the PMO on this issue after which she banged down the phone.

When confronted with this telephone conversation with Mr Jhugroo with regard to VIP facilities, Mrs Gurib-Fakim was quite elusive. At first, she stated that she did not recall having ever spoken to Mr Jhugroo in the course of any personal intervention by her for the granting of VIP facilities to Dr Sobrinho and his associates. She later in the course of a written statement conveyed that she cannot positively say that she had never spoken to Mr Jhugroo over the phone before finally stating '*I do not know to whom Mr Jhugroo actually spoke when he was under the impression that he was speaking to me*'<sup>57</sup>. She conceded however she has no reason to believe that Mr Jhugroo would mislead the Commission.

## **5.6 Version of Mr Jhugroo, Secretary for Home Affairs**

In October 2016 Mr Premhans Jhugroo replaced Mr Ballah as Secretary for Home Affairs. He explained to the Commission that following an application<sup>58</sup> **[Annex AS]** which had been received from the Office of the President for the granting of VIP facilities to Dr Sobrinho and a PEI staff, he informed Mr Dass Appadu that in accordance with government policy it would not be in order to approve such an application although this had been done in the past. He suggested to Mr Dass Appadu that she explained to the President that it would not be in order to extend VIP facilities to Dr Sobrinho.

Mr Jhugroo related to the Commission how on the same day he received a phone call from the President in person who spoke to him in respect of the application which had been made in favour of Dr Sobrinho and his spouse.

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<sup>57</sup> Written Statement of Mrs Gurib-Fakim dated 30.01.20 – Annex V

<sup>58</sup> Letter dated 23.12.16

Mr Jhugroo explained to the President the policy of government concerning VIP facilities but the President retorted by impressing upon him the importance of Dr Sobrinho. She also pointed out to him that such facilities had always been granted in the past to Dr Sobrinho and his staff and queried why it should now be stopped. Mr Jhugroo tried to explain that they had been exceptionally granted in the past and that he would take up the matter with his superior officer who was the Secretary to Cabinet.

These facilities were eventually granted to Dr Sobrinho and his entourage but it was unequivocally pointed out to the Commission by Mr Jhugroo that had it not been for the personal intervention of the President, the requests for VIP facilities to Dr Sobrinho and his entourage would have never been granted.

Mr Dass Appadu explained the tenor of the letter which he had been instructed by Mrs Gurib-Fakim to send to the Prime Minister's Office in that connection on 31 October 2016<sup>59</sup> **[Annex AT]**. It is specified in that letter that *"Both Dr Sobrinho and Mr Pinto are the guests of Her Excellency the President" "Dr Alvaro Sobrinho, Chairperson of the Planet Earth Institute (PEI) and owner of the ASA group of companies .... He will be accompanied by Mr José Pinto, Financial Controller of ASA". "It should be noted that ASA is investing over Rs 700m in the Global Business Sector in Mauritius" and that "the company though its philanthropic organisation, PEI has also offered a grant of US\$ 1 million to ten Mauritius students to undertake PhD research programmes..."*.

The evidence of Mr Jhugroo gives the lie to the version of Mrs Gurib-Fakim that she had not personally intervened vis-à-vis Mr Jhugroo in order to ensure that VIP facilities be granted to Dr Sobrinho and his entourage and that she had nothing to do with all these VIP applications save only for an application in November 2015 for the launching ceremony of the PEI.

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<sup>59</sup> Document CO 54 - letter dated 31 October 2016

The version of Mr Jhugroo is indeed fully concordant with the version of Mr Dass Appadu and brings to light the indispensable personal intervention of Mrs Gurib-Fakim in October 2016 in order to secure authorisation for Dr Sobrinho, his family and associates to obtain continued access to VIP facilities at the airport.

Mr Dass Appadu also pointed out that it would have been inconceivable that he would on his own accord, in his capacity as Secretary to the President, apply for VIP access for Dr Sobrinho and all his associates on the basis that they were the personal or special guests of the President. Had he done so, the President could have questioned him or reported him to any competent authority, the Honourable Prime Minister or the Head of Civil Service, the Police or the ICAC, for having processed VIP applications without the President's knowledge or authorisation.

There was a Parliamentary Question on 28 March 2017 in relation to VIP access granted to Dr Sobrinho and his group, following articles which appeared in the press in February and March 2017. According to Mr Dass Appadu, Mrs Gurib-Fakim was necessarily apprised in advance of that question which required a compilation of all the occasions on which Dr Sobrinho as well as his family and collaborators were granted access to the VIP lounge<sup>60</sup>. **[Annex AU]**. But there was never, at any stage, any complaint nor any report to any person or authority by Mrs Gurib-Fakim against Mr Dass Appadu for having processed those VIP applications without her consent or knowledge.

In December 2016, Mrs Gurib-Fakim would personally intervene to ensure that the requests for access to the VIP lounge at the airport be favourably considered by the Prime Minister's Office as is evidenced by the letter which she directs her personal Secretary to write to Mr Jhugroo, the Secretary for Home Affairs on 23 December 2016 **[Annex AS (Supra)]**<sup>61</sup>. Reference is made therein

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<sup>60</sup> Annex F of Document CO 126

<sup>61</sup> Letter dated 23.12.16



to the personal telephone conversation which “*Her Excellency the President had ... with you today*” impressing the following upon Mr Jhugroo:

*“2. Dr Sobrinho is the owner of the ASA Group of Companies incorporated in Mauritius. ASA has invested nearly one billion rupees in the Global Financial Sector in Mauritius. The company, through its philanthropic organization, PEI, has also offered a grant of US\$ 1 million to 10 Mauritian students to undertake PhD research programmes in universities in South Africa. The main objective of PEI is to support the training of 10,000 African PhD students including from Mauritius during the next 10 years.*

*3. Her Excellency the President is the Vice-Chairperson of PEI, which is fully established in Mauritius since November last year.*

*4. Both Dr Sobrinho and his spouse are the guests of Her Excellency the President.*

*5. Dr Sobrinho will be travelling regularly to Mauritius in view of his commitments and investment portfolios ...and any other future requests for access to the SSRIA Lounge could be favourably considered.”*

The evidence plainly indicates that Mrs Gurib-Fakim made an abusive, improper and indecorous use of her position as President in order to obtain access to VIP lounge facilities at the airport for Dr Sobrinho as well as for members of his family, guests and staff from October 2015 to February 2017. This practice, like the use of the PEI Platinum Card for personal shopping, was stopped by Mrs Gurib-Fakim in March 2017 in the wake of the articles which appeared in the press at that time.

# **CHAPTER 6 - THE SETTING UP OF THE**

## **COMMISSION OF INQUIRY BY MRS GURIB-FAKIM**

### **6.1 Setting up of Commission of Inquiry**

On 16 March 2018, Mrs Gurib-Fakim issued a communiqué announcing the setting up of a Commission of Inquiry into: (1) The Regulatory Authorisation of Business and Financial Services Entities held and controlled directly or indirectly by Dr Sobrinho and his relevant counterparts in Mauritius; (2) Leaking of Banking Records; and (3) Conduct of the President in relation to credit card issued by PEI.

The Communiqué mentioned that the President of the Republic of Mauritius was appointing Sir Hamid Moollan, G.O.S.K, Q.C, as Chairman and Commissioner of the said Commission of Inquiry. The terms of reference were also set out in the Communiqué<sup>62</sup> **[Annex AV]**.

The following salient facts with regard to the setting up of the Commission of Inquiry are not in dispute and have been amply established:

1. On 16 March 2018 Mrs Gurib-Fakim did, on her own accord, set up the Commission of Inquiry without the advice or knowledge of Cabinet or any other authority.
2. She appointed Sir Hamid Moollan, QC as Chairman and Commissioner of the said Commission of Inquiry by way of an official letter addressed to him on the same day<sup>63</sup> **[Annex AW]**.

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<sup>62</sup> Pages 53-54 of Document CO 4

<sup>63</sup> Page 6 of Document CO 5

3. On the same day she wrote a letter to the Prime Minister to which she attached a copy of the terms of reference of the Commission of Inquiry<sup>64</sup> **[Annex AX]**. The letter mentioned that it was being sent “*for your information*”.
4. Mrs Gurib-Fakim also instructed her secretary to send a Communiqué to Top FM and Radio Plus as well as an email to Mr Jean Marc Poché of Le Mauricien.
5. On the same day at around 6.00 p.m. she received a letter from the Prime Minister informing her that her act of appointing the Commission of Inquiry constituted a serious breach of section 64 of the Constitution, was legally invalid and of no effect<sup>65</sup> **[Annex AY]**.
6. On the same day, the Prime Minister’s Office issued a Press Communiqué stating that the purported appointment of the Commission of Inquiry constituted a serious violation of section 64 of the Constitution by the President and was “*legally invalid and of no effect*”<sup>66</sup> **[Annex AZ]**.
7. There was no follow up to the setting up of the Commission of Inquiry.

## 6.2 Background Facts

On 5 June 2015, Mrs Bibi Ameenah Firdaus Gurib-Fakim, G.C.S.K, C.S.K. assumed office as President of the Republic of Mauritius.

In July 2015, Mrs Gurib-Fakim attended a conference organised by PEI in London. One of the stated objectives of the PEI, which was chaired by Dr Sobrinho, was a philanthropic programme for scientific training and education

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<sup>64</sup> Page 3 of Document CO 5

<sup>65</sup> Page 13 of Document CO 5

<sup>66</sup> Page 14 of Document CO 5

in Africa. The PEI was discussing capacity building through PhD programmes with other institutions which, it was considered, would produce some 10,000 PhD's in Africa. Mrs Gurib-Fakim joined the PEI as vice Chairperson of its Board of Trustees. In November 2015, a PEI branch was launched in the course of a ceremony hosted by Mrs Gurib-Fakim at Le Réduit State House.

In May 2016, Mrs Gurib-Fakim was, following a PEI Board resolution initiated by Dr Sobrinho, issued with a Platinum Credit Card in her name with a credit limit of 1 million rupees.

As from November 2016 there were articles in the local press referring to suspicious fraudulent transactions of Dr Sobrinho and questioning the genuineness of the PhD programmes for allegedly serving the cause of scientific education in Africa. There were further articles published in February 2017 and March 2017 raising questions concerning the association of Mrs Gurib-Fakim as President of Republic with Dr Sobrinho who was suspected of being involved in a massive embezzlement of funds to the tune of 600 million US dollars at the expense of the Banco Espírito Santo Angola, of which he was the Chief Executive.

On 28 February 2018, l'express published the article entitled "*PEI: Les folles dépenses de Madame la présidente*"<sup>67</sup>. The Bank statements of the PEI Platinum Card account indicated that Mrs Gurib-Fakim had been using the card regularly from September 2016 to March 2017 in order to effect purchases, notably of personal luxury items for more than 2 million rupees funded by PEI of Dr Sobrinho. The card was meant to cater for her logistic expenses to promote scientific education in Africa. The article thus went on to state that "*Alors que cet argent devait servir dans un cadre professionnel, la présidente l'aurait utilisé à d'autres fins*".

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<sup>67</sup> Annex B

### 6.3 Version of Mrs Gurib-Fakim

Mrs Gurib-Fakim, related the circumstances which led her to appoint a Commission of Inquiry:

In the night of 27 February 2018, whilst going through her e-mails, she came across an e-mail from a journalist asking a series of questions before the publication of an article which was due to appear in a newspaper on the following day. She did not answer the email. On the following day, i.e. on **28 February 2018**, she was surprised to see splashed in the said newspaper copies of bank statements pertaining to one of her bank accounts. The bank statements referred to the purchase of goods allegedly made by her by using a credit card issued to her by the Planet Earth Institute Foundation. She instructed her Secretary to request the Attorney General to call upon her at Le Réduit in order to “*provide some kind of guidance as to what [she] was supposed to do because the Institution of the Presidency was being attacked.*” The Attorney General said he was busy and could not come. She rang the Prime Minister and asked him to request the Attorney General to call upon her for advice. Her telephone conversation with the Prime Minister was followed by a letter addressed to him.

In the afternoon of **28 February 2018**, she received the visit of the Attorney General. He was of the view that in the light of the Presidential Immunity conferred upon her by the Constitution there was not much she could do. He advised her not to take any legal action against the press.

In the course of her weekly meeting with the Prime Minister on **1 March 2018**, she explained to him the circumstances in which she had been given the Platinum Credit Card. She also informed the Prime Minister that what had been published in the press were events which had occurred in 2016 and 2017; that she had resigned from the PEI in March 2017; and that all the funds which she had received by using that card had been reimbursed since March 2017. The Prime Minister did not make any comment and left without saying anything.

On the same day she contacted Mr Ivan Collendaveloo, the Vice Prime Minister (VPM) and solicited his advice with regard to the articles which had been appearing in the press. According to Mrs Gurib-Fakim, the VPM advised her to issue a short communiqué to the press to question the authenticity of the bank statements and to ask l'express to submit a reply within 24 hours. She followed his advice and on the same day made a declaration to Radio Plus.

On **3 March 2018** there were other articles which were published in the press. She met Sir Aneerood Jugnauth, Minister Mentor at an Award ceremony. Sir Aneerood queried her about the articles which had been appearing in the press. He wanted to have particulars of the expenses which had been paid by her with the Platinum card. She told him that she had already refunded the money due on that card since March 2017. Mrs Gurib-Fakim stated the following to him: "*Minister Mentor, I have used that card. I have refunded everything. I don't owe anything to anyone because we are talking about March 2017*". When Sir Aneerood was questioned by the press later on that day, he made a statement saying that Mrs Gurib-Fakim had refunded everything.

On **5 March 2018**, the VPM asked her to furnish a copy of the bank statements in question which she communicated to him on the next day.

On **6 March 2018**, at around 11.30 a.m., the VPM rang Mrs Gurib-Fakim to tell her that he would be meeting with the Prime Minister in 20 minutes.

In the early afternoon, Mrs Gurib-Fakim called the VPM in order to enquire about the outcome of his meeting with the Prime Minister. She was told that the Prime Minister had said nothing.

At around 3.00 p.m., the VPM called Mrs Gurib-Fakim again to say that he would like to meet her along with the Prime Minister later on the same day. Mrs Gurib-Fakim asked him about the purpose of their visit. She was told that it

had been decided that she should submit her resignation. Mrs Gurib-Fakim questioned the VPM as to why she should do so since she had done nothing wrong. She further stated to him *“I would never resign, if I have done something wrong, then there is a process to remove a President, call for the Tribunal.”*

She texted the VPM the following message<sup>68</sup>:

*“Just know that I will never resign and please proceed with the Tribunal”.*

She also sent him the following message:

*“I cannot meet you this evening and I will start speaking now to the public.*

*I had listened to both your advice. Now I will do it my way”.*

Later Mrs Gurib-Fakim again texted the VPM to tell him that:

*“You better start defending me as I have done nothing wrong. Thanks.”*

Later the VPM informed her office that he and the Prime Minister would be calling at the State House. At around 4.30 p.m., both the VPM and the Prime Minister came to her office at Le Réduit. The meeting lasted for about 20 minutes and she was asked by the Prime Minister to give a date for her resignation. Mrs Gurib-Fakim again said that she would not resign as she had done nothing wrong. The VPM and the Prime Minister left without saying anything to her.

**On 07 March 2018** there was a function at the State House for the launching of a book entitled *“From Le Réduit to the State House”*, which was a book published in the context of the 25<sup>th</sup> Anniversary Celebration of the Republic of Mauritius and the 50<sup>th</sup> Anniversary of the Independence of Mauritius. Only the VPM attended the

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<sup>68</sup> Document CO21

function and no ministers came. Mrs Gurib-Fakim delivered a speech in the course of which she explained that she had done nothing wrong.

**On 08 March 2018**, Mrs Gurib-Fakim met Minister Mentor at the State House who informed her that at a Special Cabinet meeting held earlier on the same day, it had been decided that a Tribunal would be set up to remove her from office. She queried him about the reason for that decision and she was told that it was on account of her use of, and payments made with, the Platinum Card issued by PEI.

Mrs Gurib-Fakim told the Minister Mentor that if the Government wanted her to leave then they would have to set up a Tribunal as this is the process which is provided for in the Constitution. According to Mrs Gurib-Fakim, the Minister Mentor advised her “[...] *not to go down that route, that it was better for me to resign because in front of the Tribunal, people would say all sorts of things against me...*”. The advice that the Minister Mentor gave to Mrs Gurib-Fakim was to resign and to give a date to the Prime Minister. Mrs Gurib-Fakim refused to resign and imparted to the Minister Mentor that she had to clear her name first. The Minister Mentor left and his parting words to Mrs Gurib-Fakim were that she should give the date of her resignation to the Prime Minister.

**On 9 March 2018** at around 9.30 a.m., she received the visit of the Prime Minister at the State House. The Prime Minister was adamant that she should set a date for her resignation and suggested the 15<sup>th</sup> of March 2018, as he intended to hold a press conference on the same day to publicly announce her resignation. She refused. In the evening she was shocked to hear the Prime Minister announcing in the news that she had agreed to resign from her Office on 15 March 2018. Shortly afterwards, the Government Information System issued a communiqué to the international press announcing her resignation from Office over a financial scandal. It was broadcasted worldwide that she had used charity money to go shopping. In the evening, she reacted by denying that she had



resigned by publishing 2 tweets on her Twitter page to announce that she was still in post:

*“have not resigned yet”*

*“It is being reported that I am resigning ..... I am still in post”*<sup>69</sup> [Annex AAA).

As the events unfolded over the days and the pressure started mounting, she felt more and more isolated and considered she had been let down by the Government. On 9 March 2018, at the instance of a close friend of hers, she met Mr Attorney Gilbert Noel (hereafter referred to as Mr Noel) at the State House and they discussed the publication of the bank statements in the press. His advice to her was that Barclays Bank was in breach of the law and recommended that a *mise-en-demeure* be served on the Bank. She did not ask, nor did Mr Noel explain to her, the purpose of serving a *mise-en-demeure* on the Bank. Mr Noel did not explain how a *mise-en-demeure* would help at that particular point in time. The *mise-en-demeure* was served later on the bank with a claim for damages.

On **10 March 2018**, she met Mr Noel at a lunch at her friend’s place. They did not discuss the Barclays Bank issue as her friend’s spouse was a Board member of Barclays Bank. They instead discussed the Government’s purported decision to set up a Tribunal to remove her from Office. Mr Noel expressed the view that a Commission of Inquiry was the best forum for her to clear her name. He also advised her that, as per the Commissions of Inquiry Act, the President could set up a Commission of Inquiry. The question of the setting up of a Commission of Inquiry was raised by Mr Noel himself, who was the only person with a legal background attending the lunch.

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<sup>69</sup> Document CO8

On **11 March 2018**, she requested a friend of hers, working in Ghana and an expert in communications, to draft a communiqué to rebut the allegations published against her in the press, as Mr Torriden Chellapermal, her press attaché was on leave. This communiqué was an attempt by her to provide some explanation to counter the “*deluge*” of media comments and accusations.

On **12 March 2018**, Mrs Gurib-Fakim received the visit of the Regional Director of Barclays Bank who was accompanied by the Chairman of Barclays Bank Mauritius. The visit was a courtesy call to show sympathy. Mrs Gurib-Fakim had not yet served the *mise-en-demeure* on the Bank and she informed them that the matter was being handled by her lawyers. On the same day there was a State lunch which was given in honour of the President of India, who was on official visit to Mauritius.

On **13 March 2018**, she gave her consent to Mr Noel to proceed with the service of the *mise-en-demeure* on Barclays Bank. By then, all contacts between her Office and the Prime Minister’s Office had been severed. The Prime Minister had without giving any reason stopped his weekly meetings with her and she was no longer receiving any ‘dossiers’ except those requiring urgent replacement of Ministers.

On **14 March 2018**, she caused to be posted on her website the communiqué that her friend from Ghana had drafted [**Annex S (*supra*)**]<sup>70</sup>. The communiqué was remitted to Mrs P. Guirdharry for circulation to the press. On the same date she took cognisance of a press article in which Mr Yousuf Mohamed, Senior Counsel (hereafter referred to as Mr Mohamed) was expressing his willingness to offer legal assistance to her as Counsel.

Mrs Gurib-Fakim conceded that she did not consult Mr Seebah, the Secretary to the President, in respect of the communiqué which was issued on

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<sup>70</sup> Pages 50-51 of Document CO 1

14 March 2018. According to her, Mr Seebah had made it clear from the start that he would not take care of any communiqué. She also acknowledged that when the communiqué came out, Mr Seebah had a rough time explaining to the Secretary to the Cabinet that he had not been involved in its drafting. She added that at no point in time did she exclude or discard Mr Seebah. However, after the setting up of a Tribunal for her removal had been discussed in Cabinet, she did not seek his advice anymore.

#### **6.4 Meeting with Mr Yousuf Abdul Razack Mohamed, Senior Counsel and Mr Nadeem Hyderkhan**

As she felt completely isolated and was not receiving any support from Government to protect the Office of the President, she accepted to meet Mr Mohamed. One Juneid Al Khalifah, who was an acquaintance of one of her officers Miss Rachna Seenauth, had arranged a meeting with Mr Mohamed. In the evening of 14 March 2018, Mr Mohamed came to the State House accompanied by a junior barrister, Mr Nadeem Hyderkhan and Juneid Al Khalifah. Rachna Seenauth was also present. Mr Mohamed requested Mrs Gurib-Fakim to draw up a chronology of events depicting what had taken place since her assumption of office. He said to her *“Madam, you must put everything now in writing a sort of statement for me so that I can look into it”*. He also questioned her about her expenditure, the expenses incurred by her with the PEI card and the contradictions which were being raised in the press. The chronology of events was for the purpose of drawing up an affidavit and was to include all the events up to 14 March 2018.

At the end of the meeting she took Mr Mohamed aside and asked for his opinion about the setting up of a Commission of Inquiry for the purpose of clearing her name. *“What do you think of a Commission of Inquiry?”* to which Mr Mohamed replied that he would think about it. Mr Mohamed also suggested to her that she should contact Mr Hervé Duval, Senior Counsel (hereafter referred to

as Mr Duval) and Miss Yanilla Moonshiram, to join the legal team as counsel which would appear for her in the event of the setting up of a Tribunal for her removal.

On **15 March 2018**, Mrs Gurib-Fakim read in the newspapers that the Government intended to set up a Tribunal to remove her. She sought the advice of Mr Irfan Rahman, the Electoral Commissioner and Mr Dick Ng Sui Wa, a barrister who was an acquaintance of Miss Seenauth. They both advised her to resign. In the evening, she called Mr Noel and asked him to come to the State House on the following day in order to prepare the terms of reference for a Commission of Inquiry.

On **16 March 2018**, Mr Noel called at the State House at about 8.30 a.m. and informed her that he would need the assistance of a Counsel to draft the terms of reference and he would therefore need to contact Mr Mohamed for that purpose.

Mrs Gurib-Fakim called Mr Mohamed and asked him to come and help in the drafting of the terms of reference. Mr Mohamed was unable to attend the State House and sent his junior, Mr Hyderkhan. On the same day she discussed the issue of the Tribunal on the phone with Mr Duval and asked him whether he was willing to be part of her legal team before the Tribunal. Mrs Gurib-Fakim also requested his presence at the State House to help in the drafting of the terms of reference. As Mr Duval could not understand what terms of reference she was speaking about and the reason why Mr Noel should be at the State House to draft terms of reference, she handed the phone to Mr Noel. Mrs Gurib-Fakim added that Mr Noel did not inform her of the tenor of his telephone conversation with Mr Duval nor disclosed the contents of an email addressed to him by Mr Duval, a copy of which was only given to her much later. It was in fact on 10 April 2018 that she came to know that Mr Duval had informed Mr Noel of his reasons for not vetting the draft terms of reference of the Commission of Inquiry.

Mr Hyderkhan arrived at the State House at about 9.15 a.m. on the same day and they started to discuss the contents of the terms of reference. It was on the same occasion that Mr Noel suggested that Sir Hamid Moollan, Q.C. (hereafter referred to as Sir Hamid) be appointed to chair the Commission. Mr Noel rang Sir Hamid and passed on the phone to Mrs Gurib-Fakim. She informed Sir Hamid that she was in the process of setting up a Commission of Inquiry, and after explaining to him the context behind her initiative, asked him whether he would agree to chair the Commission of Inquiry. Sir Hamid agreed.

The drafting of the terms of reference ended at about noon following an exchange of emails with Mr Mohamed. Messrs Noel and Hyderkhan left the State House. She had the terms of reference ready and was waiting for Mr Mohamed to tell her what to do next. At around 12.30 p.m., Mr Mohamed called her and asked her to "*hold on, not to proceed*" until he had spoken to Sir Hamid later after the Friday prayers. Mrs Gurib-Fakim was waiting for Mr Mohamed to advise her on how to proceed. As she did not hear from him, she called Mr Mohamed and was told that he was on his way to meet Sir Hamid, and would call her back. Twenty minutes later she again phoned Mr Mohamed who informed her that he was still with Sir Hamid. Mrs Gurib-Fakim asked him whether she could proceed with the Commission of Inquiry as they had been waiting since midday. She asked him verbatim "*May I?*" and according to her Mr Mohamed replied: "*No, you can't do it, but tactically you can.*" By that she understood that she could go ahead. She responded by telling him that she was proceeding with the Commission of Inquiry and he told her to "*go ahead*". She added that had there been any issue regarding her response she would have expected her legal advisers to inform her.

On the same day, at 3.00 p.m. she instructed her secretary to send a communiqué to Top FM and Radio Plus and an email to Mr Jean Marc Poché of 'Le Mauricien'. A correspondence was sent to the Prime Minister informing him of the setting up of the Commission of Inquiry. A letter was also sent to Sir Hamid, informing him of his appointment to chair the Commission of Inquiry.

In the evening at around 6.00 or 7.00 p.m., she received a letter from the Prime Minister informing her that her acts and doings amounted to a serious breach of section 64 of the Constitution, were legally invalid and of no effect. On the same evening at about 8.00 p.m. she received a text message from Mr Duval, stating the following: *“Dear Madam, I note with respect that you chose to ignore my advice which leaves me with no alternative but to decline to act further in relation to the constitutional issues. For the record, immediately after our conversation, I sent an email to Gilbert Noel fully explaining why I could not agree with this course of action. I wish you the best of luck in your future endeavor Hervé”*.

On **17 March 2018** at around 10.00 a.m. Mrs Gurib-Fakim received a phone call from Mr Mohamed. He wanted to see her urgently. At 10.30 a.m., Mr Mohamed met her at the State House in presence of Messrs Noel and Hyderkhan. Miss Rachna Seenauth and Mrs Sadhna Seechurn were also present. Mr Mohamed advised her that the best course of action would be for her to resign as he had some serious information against her. She replied that she was not ready to resign. After Mr Mohamed had left, she phoned her husband and upon his advice she tried but in vain to contact the Prime Minister. She then spoke to Mr Gavin Glover, Senior Counsel. He also advised her to resign. Thereafter she called Mr Mohamed and requested him to come to the State House in order to help her draft her letter of resignation. Mr Mohamed came accompanied by Messrs Noel and Hyderkhan. The letter stated that she would resign with effect from 23 March 2018. A police rider brought the letter of resignation to the Speaker on the same day.

## **6.5 The evidence of Mr Yousouf Abdul Razack Mohamed, Senior Counsel**

Following an article which appeared in the press on 13 March 2018 and which referred to the setting up of a Special Tribunal for the impeachment of the

President, Mr Mohamed made a statement to the press to say that he was willing to offer legal assistance to Mrs Gurib-Fakim.

On **14 March 2018**, Mr Nadeem Hyderkhan, junior counsel in his chambers, informed him that the President wished to meet him. On the same day, he called upon the President at the State House in company of Mr Hyderkhan where they were very warmly received. It was the first time he was meeting Mrs Gurib-Fakim in person. After having introduced himself to Mrs Gurib-Fakim, he enquired from her about the purpose of the meeting. Mrs Gurib-Fakim replied *“well, hoping that you are going to be able to help in my present circumstances.”* They discussed the Sobrinho affair, the expenses incurred with the PEI card and the contradictions as to what she had reportedly stated. They reviewed the whole situation including the articles which had appeared in the press. In the end, he asked her to put everything in writing in the form of a statement so that he could go through it. From their conversation he understood that the purpose of their meeting was to prepare for the eventuality of appearing before a Tribunal for the removal of the President.

In the afternoon of **15 March 2018**, he again called at the State House in company of Mr Hyderkhan at the request of the President. He queried her about the written statement which on the eve he had asked her to prepare. She had not prepared anything. He again questioned her about her activities abroad, her travels and expenses paid with the PEI card as reported in the press. He also asked her whether she had refunded the money. The meeting took place in presence of Mr Hyderkhan and the two secretaries of Mrs Gurib-Fakim. After sometime Mrs Gurib-Fakim asked her secretaries and Mr Hyderkhan to leave as she wanted to speak with Mr Mohamed in private. After everybody had left Mrs Gurib-Fakim said to him *“Mr Mohamed, I have been advised to set up a Commission of Inquiry.”* He asked her whether she could do that. She replied that she had been so advised. He told her *“You be careful, Mrs Fakim. Madam, be careful because you have to go through the Cabinet for that purpose. You*

*cannot do it by yourself.” She replied “Alright but at least I want to insist on my terms of reference. Will you please help me draft them?”<sup>71</sup>*

He then went outside and met Mr Hyderkhan who had been waiting for him. He informed Mr Hyderkhan of what he had been told by Mrs Gurib-Fakim and asked him to jot down some points for the terms of reference and to submit them to him on the next day.

In the morning of **16 March 2018** whilst he was on his way to Port Louis, he received a phone call from Mr Hyderkhan who informed him that the President wished to meet them. As he had to appear before the Supreme Court he asked Mr Hyderkhan to see the President. At 9.04 a.m. he received an email<sup>72</sup> from Mrs Gurib-Fakim attached to which was a draft of the terms of reference which he presumed had been drafted by Mr Noel [**Annex AAB**]. He didn't look at the email. Whilst he was in his office getting ready to go to court, he received a phone call from Mr Noel. Mr Noel referred to section 64 of the Constitution and stated that, according to his interpretation of that section, Mrs Gurib-Fakim could, of her own volition set up a Commission of Inquiry. He put an end to the conversation telling him that they would discuss the matter later.

At 09.53 a.m. he received an email<sup>73</sup> [**Annex AAC**] which contained an attachment of the first draft of the terms of reference. At 10.04 a.m., he received a second email from Mr Hyderkhan and an attachment with the same terms of reference. He made a few corrections to the draft and instructed his secretary to email it to Mr Hyderkhan which was done at 10.25 a.m.

After attending to his court matters, at around noon on the same day, he met Counsel Miss Moonshiram, Mr Duval and Mr Hyderkhan in his Chambers. The

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<sup>71</sup> Proceedings of 23 August 2018

<sup>72</sup> Document CO 20

<sup>73</sup> Document CO 17



purpose of the meeting was to discuss the legal representation of Mrs Gurib-Fakim before the Special Tribunal, which, it was being expected, would be set up for the removal of Mrs Gurib-Fakim.

Mr Mohamed added that after he and Miss Moonshiram examined the provisions of section 64 of the Constitution, they both concluded that Mr Noel's interpretation of that section was wrong. The President was not empowered and could not on her own set up a Commission of Inquiry. He was also informed by Mr Hyderkhan that Mrs Gurib-Fakim had already contacted Sir Hamid to chair the proposed Commission of Inquiry. In presence of Mr Duval and the two other barristers, he phoned Mrs Gurib-Fakim and told her "*Madam there is a legal issue about this. Please do not proceed, hold on. I understand that you have written to Sir Hamid Moollan or been communicating with him. I shall go and see him. I shall get in touch with him immediately.*"

He immediately called Sir Hamid and informed him of his apprehension regarding section 64 and his appointment to chair the Commission of Inquiry. He asked to meet Sir Hamid in presence of Mr Noel. Sir Hamid agreed to meet him alone after the Friday prayers. He met Sir Hamid at around 1.45 p.m. and expressed the view that "*[...] section 64 does not permit her off her own bat to set up this commission of Inquiry*" to which Sir Hamid replied "*[...] I am in the process of writing to the Prime Minister accepting the Commission of Inquiry*". He tried to dissuade Sir Hamid from doing so but the latter told him that he was not in a position to take any decision on the correctness of his appointment.

Whilst he was in the office of Sir Hamid, the latter received a phone call from Mrs Gurib-Fakim. Sir Hamid told her that he was in a meeting with Mr Mohamed and would call her back. He then left the Chambers of Sir Hamid. Later, at around 3.30 p.m., whilst he was in his Chambers in company of Mrs Tooriah Prayag, a journalist, Mrs Gurib-Fakim phoned him. She wanted to know the outcome of his meeting with Sir Hamid. He told her "*Madam you are*

*asking me what has happened with Sir Hamid when you have already put me before a "fait accompli". You have already appointed him. You have written to him already."* Mrs Gurib-Fakim replied *"Mr Mohamed, I have done it for tactical reason."*

Mr Mohamed denied the version of Mrs Gurib-Fakim that at about 2.30 p.m., Mrs Gurib-Fakim called him whilst he was in Sir Hamid's Chambers. Mr Mohamed maintained that he spoke to her at 3.30 p.m., in presence of Mrs Prayag who was interviewing him about the Sobrinho affair. Mr Mohamed stated that right from the outset he had no doubt that the setting up of a Commission of Inquiry without the approval of the Cabinet was not legal and against the Constitution. He also explained that he nevertheless assisted in the drafting of the terms of reference after he had told Mrs Gurib-Fakim that she was bound by law to consult the Cabinet or the Attorney General. Mrs Gurib-Fakim had replied that she would do so but that she wanted the Commission of Inquiry to be on her own terms of reference.

Mr Mohamed added that since it was clear to him that Mrs Gurib-Fakim could not set up a Commission of Inquiry without the approval of the Cabinet, he asked Mrs Gurib-Fakim to allow him time to speak to Sir Hamid in order to inform Sir Hamid that Mrs Gurib-Fakim was wrong and to persuade him against accepting his appointment.

According to Mr Mohamed, since he had already met Sir Hamid at 1.45 p.m., he could not have told Mrs Gurib-Fakim at 2.30 p.m. that he was going to meet Sir Hamid. Mr Mohamed explained that he called Mrs Gurib-Fakim whilst he was in his office in presence of Messrs Duval and Hyderkhan and Miss Moonshiram. Mr Mohamed also denied the version of Mrs Gurib-Fakim that he told her that she could go ahead with the Commission of Inquiry by saying, *"No, you can't do it but tactically you can"* and when Mrs Gurib-Fakim stated *"Ok. I will proceed"*, Mr Mohamed replied: *"Go ahead."*

On **17 March 2018**, at about 10.30 a.m., he met Mrs Gurib-Fakim at her request at the State House in presence of Messrs Hyderkhan and Noel. She asked him “*What now.*” He replied, “*What now? You have violated the Constitution. You should not have done it. You have also witnessed what the Prime Minister has said at his press conference and the communication by the Prime Minister that he had many things against you. If there was to be a special Tribunal you would be grilled and I am afraid you will not be able to get out of it because of your various contradictions regarding the payments, PEI card, your travel, etc. For the sake of your family and for the sake of your father who now and then prays by my side in the Mosque, I see him devastated. For the sake of your children, for the sake of your husband and for your own reputation, you should resign.*”<sup>74</sup> Mr Mohamed added that he also told her “*This country cannot afford to see two people at the top of the country in conflict, permanent conflict.*” Mrs Gurib-Fakim replied that she would take a decision to which he retorted that she had to decide on the same day.

At about 1.45 p.m. on the same day, he received another phone call from Mr Hyderkhan to the effect that Mrs Gurib-Fakim had asked to see them again. He went to Le Réduit in company of Mr Hyderkhan. Mr Noel was also present. At around 2.30 p.m., Mrs Gurib-Fakim informed him of her decision to resign and asked him to draft her letter of resignation. Mrs Gurib-Fakim asked him to include in that letter that she would not resign on the same day but to give her another week for her to be able to collect all her personal items from the State House. Mr Mohamed dictated the terms of the letter of resignation which Mrs Gurib-Fakim signed in his presence. Mr Mohamed informed the Attorney General of the President’s decision to resign and that her letter of resignation would be dispatched to the Speaker.

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<sup>74</sup> Proceedings of 23 August 2018

## 6.6 The evidence of Mr Gilbert Noel

Mr Noel's testimony before the Commission may be summed up as follows:-

He first met Mrs Gurib-Fakim at the State House at around 8.30 a.m. on **9 March 2018**. He had been requested by a common friend to call upon Mrs Gurib-Fakim for the purpose of discussing the legal implications of the publication of the bank statements of Mrs Gurib-Fakim in the press. Mrs Gurib-Fakim was determined to proceed with an action to sue the bank for breach of confidentiality. He queried Mrs Gurib-Fakim about the card in connection with which the bank statements had been published in the press. Mrs Gurib-Fakim's explanation was that she had inadvertently switched cards and that her personal credit card had been deactivated for some time.

The advice of Mr Noel was that there were no sufficient details and information to proceed with an action against the bank. Mrs Gurib-Fakim insisted that the bank should at least be made aware of the prejudice the publication was causing to her. He then advised her to cause a *mise-en-demeure* to be served on the bank.

On **10 March 2018**, he met Mrs Gurib-Fakim at the place of their common friend. They discussed some legal issues and Mrs Gurib-Fakim informed him of her meeting with the Prime Minister. She then raised the issue of a Commission of Inquiry which she considered would be the best way to clear her name. Since he was not familiar with the legal implications and procedure for the setting up a Commission of Inquiry, he never advised her to set up a Commission of Inquiry. His only advice to her was to seek legal advice from counsel as to whether she could set up a Commission of Inquiry.

On **13 March 2018**, the *mise-en-demeure* was prepared and served on the bank with the approval of Mrs Gurib-Fakim. In the afternoon of **14 March 2018**, he met Mrs Gurib-Fakim at the State House in the company of Messrs. Mohamed

and Hyderkhan. The purpose of the meeting was to prepare for the hearing before the Tribunal which may be set up for the removal of the President. The issue of the setting up of a Commission of Inquiry was not at any time raised or discussed.

On **15 March 2018**, at about 8.30 p.m., Mrs Gurib-Fakim phoned him and requested him to draft the terms of reference of a Commission of Inquiry. His immediate answer to her was that it was not within his competence to do so and that he had never done such a thing before. He also asked her whether she had sought advice from her legal panel of counsel concerning her powers to set up a Commission of Inquiry. Mrs Gurib-Fakim's answer was that she had been legally advised that she could proceed with the Commission of Inquiry but that she had no one to draft the terms of reference. In the evening of 15 March, he prepared a draft of the terms of reference based on factual details which were to his knowledge and from information which was already in the public domain. He forwarded by email a copy of the draft to Mrs Gurib-Fakim at 7.44 a.m. on 16 March 2018.

At around 8.30 a.m. on **16 March 2018**, Mr Noel went to the State House with a copy of the draft. He again expressed to Mrs Gurib-Fakim his doubts about the setting up of a Commission of Inquiry by her. He told Mrs Gurib-Fakim that in practical terms and from a financial and logistics perspective, she would not be able to proceed without the Executive and that she should have recourse to the Attorney General. He advised her to seek the advice of the Attorney General or alternatively of a Senior Counsel. At around 8.40 a.m Mrs Gurib-Fakim phoned Mr Duval, whose clear advice was that the President was not legally entitled to proceed with the setting up of a Commission of Inquiry. Mr Duval referred to a debate he had in the past with former President Purryag on the interpretation of section 64 of the Constitution. His advice was followed by an email at 8.51 a.m. to which Mr Duval attached the letter which he had sent to Mr Purryag<sup>75</sup> (**Annex AAD**). Mr Duval spoke to him as well as to Mrs Gurib-Fakim.

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<sup>75</sup> Document CO 25

In spite of the clear advice of Mr Duval that she could not set up a Commission of Inquiry, Mrs Gurib-Fakim still wanted the terms of reference to be drafted in order to proceed with the Commission of Inquiry. Mr Hyderkhan came with another draft of the terms of reference. They considered both drafts together with Mrs Gurib-Fakim. Mrs Gurib-Fakim opted for the draft of Mr Hyderkhan. He called Mr Mohamed who said that Mrs Gurib-Fakim could not proceed with the setting up of a Commission of Inquiry and to 'hold on'. In the meantime, Mrs Gurib-Fakim was pressing on them to finalise the draft. Mr Hyderkhan and himself finalised the draft at around 9.30 a.m. which they emailed to Mr Mohamed. Following further telephone conversations with Mr Mohamed, the draft was amended and a second draft was emailed to Mr Mohamed.

Mr Noel added that in the course of his telephone conversation with Mr Mohamed, the issue of the person who would chair the Commission of Inquiry also arose. Mr Mohamed suggested the name of Sir Hamid. Mrs Gurib-Fakim asked him to call Sir Hamid. Around 10.00 a.m. he phoned Sir Hamid and gave him a brief synopsis of the intention of Mrs Gurib-Fakim. He then passed on the phone to Mrs Gurib-Fakim. Mrs Gurib-Fakim spoke to Sir Hamid telling him that she wanted to clear her name through a Commission of Inquiry.

Once the draft was finalised, Mr Hyderkhan sent it by email to Mr Mohamed before they left the State House. He could not participate in the meeting of legal advisers which was to be held in the Chambers of Mr Mohamed at noon. He, however, came across Mr Mohamed at 1.45 p.m. and was given to understand that earlier on the same day Mr Mohamed had met Messrs Duval, Hyderkhan, and Miss Moonshiram. Mr Mohamed had in their presence, already advised Mrs Gurib-Fakim that she could not proceed with the setting up of a Commission of Inquiry.

Still according to Mr Noel, he spoke to Mrs Gurib-Fakim in the afternoon of 16 March 2018 before attending a meeting of the Law Society scheduled at 2.00

p.m. Mrs Gurib-Fakim told him that she was awaiting clearance from Mr Mohamed. Later after attending his meeting, he went to the chambers of Mr Mohamed where he met Mr Hyderkhan who informed him that Mrs Gurib-Fakim had decided to proceed with the Commission of Inquiry. At around 3.00 p.m., he called Mrs Gurib-Fakim to enquire what had happened. Mrs Gurib-Fakim told him that she had a discussion by phone with Mr Mohamed. Mr Mohamed had stated to her that it would not be legally in order to set up the Commission of Inquiry and had said: *“I cannot give you legal clearance to proceed. Do you still want to proceed?”*. Mrs Gurib-Fakim had retorted that she would proceed with the Commission of Inquiry.

In the morning of **17 March 2018**, Mrs Gurib-Fakim asked Mr Noel to attend the State House. Messrs Mohamed and Hyderkhan were already there when he arrived. Mr Mohamed advised Mrs Gurib-Fakim to resign. Mr Noel denied having suggested to Mrs Gurib-Fakim the name of Sir Hamid to chair the Commission of Inquiry.

## **6.7 The evidence of Mr Hyderkhan**

In the late afternoon of **14 March 2018**, Mr Hyderkhan received a phone call from an acquaintance, Mr Junaid Khalifah, who asked him to arrange for Mrs Gurib-Fakim to meet with Mr Mohamed. He contacted Mr Mohamed and they met Mrs Gurib-Fakim at the State House at around 6.00 p.m. on the same day. Mr Khalifah as well as Miss Seenauth and Mrs Seechurn were also present. Mrs Gurib-Fakim discussed issues pertaining to the Tribunal and stated that she was not getting any advice from the Attorney General. She wanted to retain the services of Mr Mohamed. Mr Mohamed told her that she would have to constitute a legal team to represent her should a Tribunal be set up for her removal. Mr Mohamed also asked her to prepare in the meantime a statement of the events in chronological order. No mention of any Commission of Inquiry was made in his presence on that evening.

On **15 March 2018** he met Mrs Gurib-Fakim anew at the State House in company of Mr Mohamed. He made a contemporaneous note of their discussions. At the end of the meeting, as they were about to leave, Mrs Gurib-Fakim asked to speak to Mr Mohamed in private. When Mr Mohamed came out he apprised him of the intention of Mrs Gurib-Fakim to set up a Commission of Inquiry. Mr Mohamed asked him to start working on the terms of reference. Later in the evening he checked the law and concluded that a Commission of Inquiry could not be set up without the approval of Cabinet. Mr Hyderkhan added that he prepared a draft of the terms of reference as suggested by Mr Mohamed. He intended to hand over the draft to Mr Mohamed on the next day.

In the morning of **16 March 2018** at about 8.30 a.m., he noticed two missed calls from the State House on his mobile. He returned the call and was asked to request Mr Mohamed to call immediately at the State House. He immediately contacted Mr Mohamed who told him that he would not be able to be at the State House in view of his court commitments. He requested him to go instead. On his way to the State House he phoned his office and was informed by Mr Mohamed that he had received a draft of the terms of reference from Mr Noel. Mr Mohamed asked him to show the draft of the terms of reference prepared by him to Mr Noel and Mrs Gurib-Fakim.

He reached the State House at around 9.30 a.m. Mr Noel was in the office of Mrs Gurib-Fakim. He was shown a copy of the draft prepared by Mr Noel and was asked to help with the drafting. He informed Mrs Gurib-Fakim that he had already prepared a draft which was intended for Mr Mohamed. He had a soft copy on his laptop which he showed to Mrs Gurib-Fakim at her request. He also informed Mrs Gurib-Fakim that the approval of the Cabinet was required in order to set up a Commission of Inquiry. Mrs Gurib-Fakim did not question him on his views. Mrs Gurib-Fakim added a few more items on the draft. They appear as points 9,10,11,12 and 13 in the Communiqué. He was asked by Mrs Gurib-Fakim to email a copy of the amended draft to Mr Mohamed. Whilst they were waiting



for the reply of Mr Mohamed, Mrs Gurib-Fakim added a heading to the amended draft. At 10.24 a.m. he received the vetted draft from Mr Mohamed after he had made a few corrections.

Before they left the State House, Mr Noel spoke to Sir Hamid on his phone and thereafter passed on the phone to Mrs Gurib-Fakim. The purpose of the phone call to Sir Hamid was to ask whether he would agree to chair a Commission of Inquiry. After the phone conversation they were having tea when Mr Noel spoke of Mr Duval's advice against the setting up of a Commission of Inquiry. He immediately told Mrs Gurib-Fakim that she should speak to Messrs Mohamed and Duval. She flatly refused to do so. According to Mr Hyderkhan he was not aware that Mrs Gurib-Fakim would set up a Commission of Inquiry later on that day without seeking the approval of Cabinet.

On the same day at about 12.30 p.m., he was in Mr Mohamed's Chambers. Miss Moonshiram and Mr Mohamed were discussing section 64 of the Constitution and they both agreed that the President could not set up a Commission of Inquiry on her own without the approval of Cabinet. Mr Duval joined them and he too agreed that pursuant to section 64 of the Constitution the President was not empowered to set up a Commission of Inquiry without the approval of Cabinet. In their presence, Mr Mohamed phoned Mrs Gurib-Fakim to inform her that there was a legal issue and to 'hold on' until he would have spoken to Sir Hamid. Again, in their presence, Mr Mohamed phoned Sir Hamid. He could not recall the tenor of their conversation.

Mr Hyderkhan added that he also learnt from Mr Duval that he had sent an email on the same day to Mr Noel with a written advice explaining why Mrs Gurib-Fakim could not proceed with a Commission of Inquiry without the approval of Cabinet.

On **17 March 2018**, he accompanied Mr Mohamed to the State House. Mr Noel was also present. Mr Mohamed explained to Mrs Gurib-Fakim that she should resign. One of the reasons was that she had violated the Constitution by setting up on her own a Commission of Inquiry without the approval of Cabinet. Later, on the same day, they went again to the State House at Mrs Gurib-Fakim's request, who had by that time agreed to resign. Mr Mohamed drafted the resignation letter which Mrs Gurib-Fakim signed.

## **6.8 The evidence of Sir Hamid Moollan QC**

In the morning of **16 March 2018**, Sir Hamid received a phone call from Mr Noel, who was calling him on behalf of the President. He was asked whether he would be willing to chair a Commission of Inquiry into the Sobrinho affairs. His reply was that he had no objection on condition that all the formalities and procedures were fulfilled. Mr Noel told him that Mrs Gurib-Fakim wished to speak to him. He answered that it was not necessary but Mr Noel nonetheless passed the phone to Mrs Gurib-Fakim. They simply exchanged civilities and Mrs Gurib-Fakim thanked him for accepting the offer. Mrs Gurib-Fakim did not mention anything to him concerning the purpose of, or the formalities required in connection with, the setting up of the Commission of Inquiry. That was the first and last conversation he had with Mrs Gurib-Fakim on 16 March 2018.

Immediately afterwards, he wrote a letter to the Prime Minister<sup>76</sup> wherein he referred to his conversation with Mr Noel and that in principle he had no objection to chair a Commission of Inquiry provided all formalities be fulfilled **[ANNEX AAE]**. A copy of that letter was also sent to Mrs Gurib-Fakim. Later in the day he met Mr Mohamed at his request. Mr Mohamed voiced out his concern that it was for Cabinet to set up a Commission of Inquiry. His response to Mr Mohamed was that he had already informed Mrs Gurib-Fakim that he was willing to help provided all the required formalities were fulfilled. He also told Mr Mohamed that

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<sup>76</sup> Page 9 of Document CO 5

since he was Mrs Gurib-Fakim's legal adviser, it was for him to make sure that his advice to her was followed. He merely had a passive role until he was properly appointed.

Sir Hamid added that he received a letter of appointment from the President dated 16 March 2018.

In the afternoon of the same day however, he received another letter from the Prime Minister. That letter referred to his purported appointment as Chairman of the Commission of Inquiry. He was informed that a serious breach of section 64 of the Constitution had been committed and that his appointment was legally invalid and of no effect.

## **6.9 The evidence of Mr Satydanand Aujeet, Deputy Permanent Secretary, Prime Minister's Office**

Mr Aujeet from the Prime Minister's Office gave evidence to the following effect: -

A letter dated 16 March 2018 from Sir Hamid addressed to the Prime Minister was received at the Prime Minister's Office on the same day at around 3.00 p.m. **[Annex AAE (*supra*)]**<sup>77</sup>. Enclosed with Sir Hamid's letter was a letter from the President appointing Sir Hamid as Chairman of a Commission of Inquiry. About half an hour later on the same day, a letter from the President addressed to the Prime Minister was also received at the Prime Minister's Office **[Annex AX (*supra*)]**<sup>78</sup>. That letter was to apprise the Prime Minister of the appointment of Sir Hamid to chair a Commission of Inquiry, the purpose behind the setting up of the Commission of Inquiry, and its terms of reference. A communiqué announcing the setting up of the Commission of the Inquiry and its terms of reference issued by

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<sup>77</sup> Page 9 of Document CO5

<sup>78</sup> Page 3 of Document CO5

the Office of the President was also annexed to the said letter. Upon receipt of the two letters, the Prime Minister examined the matter in consultation with the Attorney General and the Solicitor-General and the Secretary to Cabinet and Head of the Civil Service.

Later, on the same day at about 6.30 p.m. the Prime Minister issued a letter<sup>79</sup> to the President informing her that the purported appointment of the Commission of Inquiry was legally invalid, of no effect, and that she had committed a serious breach of section 64 of the Constitution. Mention was also made in the letter that any purported action by any person pursuant to this unlawful act of hers would be equally invalid and unlawful. The letter was copied to Sir Hamid.

A press communiqué<sup>80</sup> in English and French was also issued by the Prime Minister's Office to inform the public that the purported appointment of the Commission of Inquiry and the appointment of Sir Hamid as Chairman of the said Commission by the President constituted a serious violation of section 64 of the Constitution, was legally invalid and of no effect. The public was also informed that any purported action by any person pursuant to this unlawful act of the President would be equally invalid and unlawful.

Following the letter of the Prime Minister, no Commission of Inquiry was set up.

## **6.10 Denial by Mrs Gurib-Fakim**

Mrs Gurib-Fakim was confronted with the testimony of her legal advisers Messrs Mohamed, Hyderkhan and Noel. She denied in essence their version that she had been unequivocally advised by them that she could not legally proceed with the setting up of the Commission of Inquiry without Cabinet approval.

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<sup>79</sup> Annex AY – page 13 of Document CO 5

<sup>80</sup> Annex AZ – page 14 of Document CO 5

Mrs Gurib-Fakim explained that her motivation in setting up a Commission of Inquiry was to inform the public of the truth and to clear her name. Her main concern was that she had to clear her name as wrong and baseless allegations were being published in the press against her. It was being wrongfully alleged that she had intervened and influenced the decision-making process of the BOI and FSC with regard to Dr Sobrinho's application for business and banking licences and that she was the *confidante* of Dr Sobrinho.

#### **6.10.1 Mr Gilbert Noel**

When confronted with the evidence of Mr Noel, Mrs Gurib-Fakim denied that Mr Noel had expressed to her his doubts concerning her powers to set up a Commission of Inquiry on her own and had asked her to seek legal advice from the Attorney-General or a Senior Counsel before doing so. She also denied that when she asked Mr Noel to prepare the draft terms of reference, she indicated to him that she had already been advised by Counsel that she could go ahead with the Commission of Inquiry. Mrs Gurib-Fakim denied that on 16 March 2018 she spoke to Mr Duval, who advised against the setting up of the Commission of Inquiry. Mrs Gurib-Fakim denied that she was informed by Mr Noel of the clear advice of Mr Duval which was to the effect that legally and constitutionally it would not be in order for her to set up the Commission of Inquiry.

Mrs Gurib-Fakim also denied that it was at her request that Mr Noel rang Sir Hamid. She went on to deny that in the afternoon of 16 March 2018, she had told Mr Noel that despite the fact that Mr Mohamed had not given his legal clearance to proceed with the Commission of Inquiry, she nonetheless wanted to set up the Commission of Inquiry.

### **6.10.2 Mr Yousuf Mohamed, SC**

Apart from denying in essence the version of Mr Noel, Mrs Gurib-Fakim also denied that she was warned against the setting up of the Commission of Inquiry by Mr Mohamed. Mrs Gurib-Fakim agreed that at the meeting of 14 March 2018 she asked to speak to Mr Mohamed alone. She denied that when she raised the question of a Commission of Inquiry, Mr Mohamed told her *“You be careful Mrs Fakim. Madam be careful because you have to go through the Cabinet for that purpose. You cannot do it by yourself.”*

Mrs Gurib-Fakim thus denied that on 14 March 2018 when she raised the question of a Commission of Inquiry with Mr Mohamed, she was told that she could not set up a Commission of Inquiry without going through Cabinet and that she cannot do so on her own by herself. She added that on 16 March 2016 Mr Mohamed told her, with regard to the setting up of the Commission of Inquiry, *“Tactically you can. Legally you can’t, but tactically you can.”*

Mr Mohamed never told her on 17 March 2018 *“Madam, you have violated the law, the Constitution, you should not have done it.”* Mr Mohamed also never told her that if there were to be a Tribunal she would not be able to clear the allegations against her because of her various contradictions in connection with the payments with the PEI Card.

### **6.10.3 Mr Nadeem Hyderkhan**

Mrs Gurib-Fakim also denied the version of Mr Hyderkhan. Mr Hyderkhan never mentioned to her on 16 March 2018 that the terms of reference which were being drafted would require Cabinet’s approval. Mr Hyderkhan never told her she would need the approval of Cabinet in order to set up a Commission of Inquiry. She conceded that she added a few points to the draft. She added that she was never told by Mr Hyderkhan that Mr Duval was against the idea of setting up a

Commission of Inquiry and that she had to speak to Mr Mohamed and Mr Duval before proceeding any further but she refused.

Mrs Gurib-Fakim added it did not dawn upon her that the legality of her decision to set up a Commission of Inquiry was questionable or whether the correct legal procedure was being adopted. She was being assisted by a team of barristers amongst whom was Mr Mohamed, a well-known barrister in the legal profession. At no time was she made to understand that she could have been acting against her constitutional and legal powers.

According to her, she was never advised by any counsel that she could not proceed without Cabinet's approval and without the terms having been vetted by the Attorney General.

#### **6.10.4 Not Aware of Procedure**

According to Mrs Gurib-Fakim, it was only after she received the letter of the Prime Minister in the afternoon of 16 March 2018 that she realised that it was not strictly within the confines of her powers to set up a Commission of Inquiry without the approval of Cabinet. She added that there was a total lack of support from the Executive and no willingness to defend the Institution of the President. She was completely isolated and the letter of the Prime Minister made her feel even more alienated and shut out from the Executive. Had she known that she was acting in breach of the Constitution, she would have refrained from taking the course of action which she did.

She conceded however that between the 10<sup>th</sup> and 16<sup>th</sup> March 2018 none of the lawyers, to whom she had chosen to have recourse, told her that she could set up on her own, by virtue of the Constitution or any other law, a Commission of Inquiry.

She did not contact Mr Seebah or the Solicitor-General before deciding to set up the Commission of Inquiry. She did not mention her plan of setting up a Commission of Inquiry to Mr Seebah. She conceded that the Solicitor-General had previously on 28 February 2018, responded immediately to a request for advice by submitting a comprehensive and detailed legal advice dealing with all the legal issues which had been raised in connection with the publication of the article in l'express. But she did not personally choose to contact the Solicitor-General again for advice before setting up the Commission of Inquiry as she was under a lot of pressure and the context might have modified her thinking.

She was not aware of the procedure for setting up a Commission of Inquiry although she had signed all the documents for the setting up of the Commission of Inquiry on Drug Trafficking chaired by Mr Lam Shang Leen. According to her, Mr Dass Appadu, the then Secretary to the President, had merely asked her to sign the documents without briefing her.

She admitted however that a minute dated 14 July 2015 was addressed personally to her by the then Prime Minister. She took cognisance of the minute which set out the procedure for the setting up of the Commission of Inquiry on Drug Trafficking before she signed. She conceded however that she knew from that minute that it is the Prime Minister acting on behalf of the Cabinet who advises the President as to who should be the Chairperson and the Members of the Commission of Inquiry; that pursuant to section 2(2) of the Commissions of Inquiry Act, the President signed the Commission including the Terms of Reference which had been vetted by the Attorney General's Office.



## **6.11 The Evidence of Mr Motichand Seebah – Administrative Procedures**

On 15 May 2017, Mr Seebah was posted at the State House as Secretary to the President. As Secretary to the President he was the administrative Head of the Office of the President. He was responsible for the overall administration of the Office of the President and for assisting the President in her constitutional and official obligations.

As Administrative Head, he was the accounting officer who managed the public funds allocated to the budget of the Office of the President. He was also the head of the administrative staff working at the Office of the President which included the Administrative Cadre, the Deputy Permanent Secretary, the Assistant Permanent Secretary, the General Services Staff and some specialised departmental grades. All these persons worked under his direction and control.

However, on his posting to the Office of the President in May 2017, Mrs Gurib-Fakim told him that she had a small team of officers working directly under her. The team was headed by Mrs Seechurn who was Mrs Gurib-Fakim's Personal Secretary. There were also the following officers in that team: Miss Rachna Seenauth, Assistant Maintenance Officer, Mrs Parsooramen, an intern on contract from the Ministry of Finance, Mr Khodabaccus, an officer recruited under the 'Service to Mauritius Scheme', and Mrs Venkatapillay, Management Support Officer. Mr Seebah added that although these officers were accountable to him administratively, they were in effect working directly under Mrs Gurib-Fakim and they never reported to him.

Mr Seebah also explained that advice has to be sought from the Attorney General's Office with regard to any legal issue which may arise in connection with the discharge of the President's functions and duties. The request would be made to the Solicitor-General as there is no other legal adviser to the President. The advice would be sought either orally or in writing, depending on the urgency of the

matter. He would verbally ask the desk officer at the office of the Solicitor-General for his/her legal opinion. His verbal request would be followed by a written letter. Once he receives the written advice he would inform the President. He may also look for precedents of legal advice which may have been tendered in the past in connection with the legal issue which has arisen.

In the morning of 28 February 2018, Mrs Gurib-Fakim called him in her office and showed him the title of an article which had been published in l'express, and which read "*Les folles dépenses de Madame la Presidente.*"

Mrs Gurib-Fakim wanted to publish a communiqué to inform the public that the contents of the article were false and unfounded.

He indicated to Mrs Gurib-Fakim that before doing so, it would be wiser to seek legal advice from the office of the Solicitor-General. Mrs Gurib-Fakim accepted that legal advice on that issue be sought from the Solicitor-General.

He immediately drafted a letter seeking legal advice from the Solicitor-General. In the morning of 1 March 2018, the Solicitor-General faxed his written advice dated 28 February 2018 to the Office of the President [**Annex Y (*supra*)**]<sup>81</sup>.

They both went over the legal advice of the Solicitor-General after which he told Mrs Gurib-Fakim that it would not be wise for him as Secretary to the President to give a declaration to the Central CID and to have the communiqué issued.

As a result of the legal advice, Mrs Gurib-Fakim did not press with the declaration to the police nor with the issue of the proposed Communiqué. He also told her to have a word with the Prime Minister, as advised by the Solicitor-General, as to the best course of action to be taken. He is not aware whether Mrs Gurib-

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<sup>81</sup> Document CO 52

Fakim had any communication with the Prime Minister with regard to the press article of 28 February 2018.

According to Mr Seebah, he was not at all involved in the drafting of the communiqués dated 14 and 16 March 2018. He became aware of the contents of these two communiqués only when they were broadcasted on radio. Mr Seebah explained that in practice all communiqués issued under the signature of the Office of the President should first obtain his clearance as Administrative Head and then that of the President. This is the current and normal practice in all Ministries and Departments. This is essential in order to ensure that the right information is communicated to the public. As regards the two Communiqués, he was kept in the dark. To his knowledge, there had never been any request for legal advice from the Attorney General's Office before any of the said communiqués was issued.

Mr Seebah explained that the Office of the President has an official website which is usually managed, updated and maintained by the Central Information System Division, a Government agency, ("the CISD"). The officer of the CISD, a System Analyst, who was managing the website was relieved of her duties in September 2016. On 1 September 2016, Mr Dass Appadu, the former Secretary to the President, wrote to the Director of the CISD to inform the latter that the services of the Webmaster were no longer needed. The CISD officer was at the request of Mrs Gurib-Fakim replaced by Miss Seenauth, Assistant Maintenance Officer. Miss Seenauth was, prior to being assigned the duties of updating the website, responsible for providing support to the Maintenance Officer. Her job was to liaise with relevant departments or Ministries for the carrying out of any maintenance work or repairs that needed to be carried out at the Château or to any other buildings in its compound. She was working directly under the supervision of Mrs Gurib-Fakim who chose the items to be placed on the website. Miss Seenauth also created an unofficial Facebook page. Mr Seebah was not

authorised to have access to the Facebook page. It was only those in the special small team created by Mrs Gurib-Fakim who had access to the Facebook page.

Mrs Gurib-Fakim conceded that on 28 February 2018 she showed the press article that was published in a newspaper on 28 February entitled “*Les folles dépenses de Madame La Présidente*” to Mr Seebah. They discussed the matter and upon her instructions Mr Seebah wrote to the Solicitor-General in order to ask for legal advice.

## **6.12 Administrative procedure for setting up a Commission of Inquiry**

Mr Seebah also explained the legal and administrative procedure that is currently in force in conformity with the Constitution and the law for the setting up of a Commission of Inquiry. The decision to set up a Commission of Inquiry rests with the Government and Cabinet. Once a decision is taken, the Prime Minister’s Office prepares in consultation with the Solicitor-General the proposed Commission. The terms of reference of the Commission and its composition are prepared. The Prime Minister then advises the President to set up the Commission and request the President, pursuant to section 64(1) of the Constitution and section 2(2) of the Commissions of Inquiry Act, to sign the Commission duly vetted by the Solicitor-General. Recommendation is also made to the President for the appointment of a secretary. The President signs the Commission and a communiqué is then issued by the Office of the President. The Prime Minister’s Office arranges for the signed Commission to be published in the Government Gazette. The Office of the President issues letters of appointment to the commissioners and arrange for them to take the oath of office before the President. Logistic arrangements are then made for the Commission to carry out its inquiry.

He recollects that a Commission of Inquiry on Drug Trafficking was appointed in accordance with the above legal procedure during the tenure of office

of Mrs Gurib-Fakim as President. So far as he was concerned, the above procedure was not complied with for the purported setting up of the Commission of Inquiry which was to be chaired by Sir Hamid.

### **6.13 Briefing of Mrs Gurib-Fakim as to Commission of Inquiry**

It is further confirmed by the testimony of Mr Dass Appadu that the President's first major assignment as President was the setting up of a Commission of Inquiry on Drug Trafficking. A file from the Prime Minister's Office was received for the setting up of the Commission of Inquiry. Mr Dass Appadu seized the opportunity to brief Mrs Gurib-Fakim on the exercise of the constitutional functions of the President in the appointment of a Commission of Inquiry, which was well settled following legal advice received from the Attorney General's Office in 2013.

In March 2013, following the flood disaster in which several people lost their lives, the powers of the President to appoint a Commission of Inquiry on his own initiative became an issue. Consultations were held with the Attorney General's Office following which, on 15 May 2013, the Office of the President issued a communiqué to announce that the President could not appoint a Commission of Inquiry of his own initiative without the approval of Cabinet. A second communiqué was issued on 22 May 2013 explaining the exercise of the legal and constitutional functions of the President under the Constitution with regard to the appointment of a Commission of Inquiry. These two communiqués as well as information concerning the role and legal functions of the President in the appointment of a Commission of Inquiry, were kept in a red file at the State House. When documents were received from the Prime Minister's Office in July 2015 for the appointing of the Commission of Inquiry on Drug Trafficking, Mr Dass Appadu explained to Mrs Gurib-Fakim the ambit of her powers and functions as President with regard to the setting up of a Commission of Inquiry in conformity with the legal advice which was on file at the State House since 2013.

In order to ascertain whether there has been any violation of the Constitution by Mrs Gurib-Fakim in relation to the setting up of the Commission of Inquiry, it is necessary to examine for that purpose the relevant provisions of the Constitution which govern the functions and the exercise of the powers of the President under the Constitution or any other law.

## **CHAPTER 7 – THE PRESIDENT**

### **7.1 The President**

The terms of reference require the Commission not only to inquire and report on all the circumstances relating to the purported appointment of the Commission of Inquiry by her. They also require the Commission to look into any failure by Mrs Gurib-Fakim to comply with the constitutional and legal provisions in respect of the setting up of the Commission of Inquiry and to find out whether there has been any act or attempt to usurp the exercise of executive authority in breach of the Constitution or any other law. It is necessary therefore at this juncture to carry out an overview of the Constitutional provisions which may be applicable and relevant for that purpose in order to examine whether there has been any violation of the Constitution or of any other law by Mrs Gurib-Fakim in that respect.

### **7.2 Head of State**

In section 1 of the Constitution, it is declared that Mauritius “*shall be a sovereign democratic State*”. Being a democratic republic, it cannot have a hereditary monarch as the Head of State. The 1968 Constitution provided for “*a Governor-General and a Commander-in-Chief of Mauritius who shall be appointed by Her Majesty and shall hold office during Her Majesty’s pleasure and who shall be Her Majesty’s representative in Mauritius*” [section 28]. The 1968 Constitution was amended by Act No. 48 of 1991 which in its **section 28(1)(a) of the Constitution** creates the institution of President in the following terms: -

#### **“28. The President**

*(1) There shall be a President who shall –*

*(a) be the Head of State and Commander-in-Chief of the Republic of Mauritius;”*

Section 28(1) also seeks to subject defence or military forces, if any, to the civilian authority by vesting in the President the Supreme Command of any such forces as “*Commander-in-Chief of the Republic of Mauritius*”.

### **7.3 Eligibility**

The Constitution sets out the criteria of eligibility for election to the Office of President. A candidate for the Office of President must be a citizen of Mauritius, of at least 40 years of age and a resident of Mauritius for at least 5 years prior to his election. This is provided in **section 28(3) of the Constitution** which reads as follows: -

*“28(3) No person shall be eligible for election to the office of President unless he is a citizen of Mauritius who is not less than 40 years of age and has resided in Mauritius for a period of not less than 5 years immediately preceding the election.”*

### **7.4 Election of President**

The President is not elected directly by the People. The framers of the Constitution have chosen an elective procedure whereby the President is elected by the National Assembly.

Section **28(2)(a)(i) of the Constitution** provides the following in that connection:

**“28. The President**

(1) ... ..

(2) (a) *The President shall –*

- (i) *be elected by the Assembly on a motion made by the Prime Minister and supported by the votes of a majority of all the members of the Assembly”.*



The President is not elected by universal suffrage directly by the People but by the votes of a majority of all the members of the Assembly. It is only upon a motion of the Prime Minister that the Assembly may embark into the voting process for the election of the President. **Section 28(2)(b) of the Constitution** further provides that such a motion “*shall not be the subject matter of a debate in the Assembly*”. In practice therefore, the President would invariably be chosen by the party which commands a majority in the Assembly, since there can be no other candidate for the election of President other than the one who is presented necessarily through a motion of the Prime Minister. This method of electing the President also aligns itself with the concept that effective power of the Executive and government should reside in the Cabinet headed by the Prime Minister and not in the President as such.

## **7.5 Tenure of term of Office**

1. A person elected to the Office of President shall hold office for a term of 5 years and shall be eligible for re-election [**section 28 2(a)(ii) of the Constitution**]. There is no limit set under the Constitution as to the number of terms which a person may serve as President.
2. The President shall, at the expiry of the term of 5 years continue to hold office until his successor assumes office as President. There is no time limit set for the election of the succeeding President.
3. It is open to the President to resign his office either on or before the expiry of his term. The Office of President also becomes vacant where the President dies or where he is removed or suspended from office pursuant to section 30 of the Constitution [**Section 28(6) of the Constitution**].

## 7.6 Conditions for holding office

1. The President is mandatorily enjoined by the express provisions of **section 28(1)(b) of the Constitution** to:

*“uphold and defend the Constitution and ensure that –*

*(i) the institutions of democracy and the rule of law are protected;*

*(ii) the fundamental rights of all are respected; and*

*(iii) the unity of the diverse Mauritian nation is maintained and strengthened”.*

2. A person elected to the Office of President is further required by **section 30B of the Constitution** to take the oath set out in the Third Schedule before assuming his functions as President. The President is therefore bound to subscribe to the oath in the execution of his functions, and during his tenure, as President. The President is on oath, to defend the Constitution, the Rule of Law and the democratic institutions and to ensure that the fundamental human rights are protected.

**Section 50 of the Criminal Code** provides that:

*“Any person who, by force or violence, induces or compels the President to exercise or refrain from exercising in any manner any of the powers vested in him by law, shall commit an offence and shall, on conviction, be liable to penal servitude for life or, where the Court is satisfied that compelling reasons exist which justify the imposition of a lesser sentence and has specified the reasons on the record of the proceedings, for a term not exceeding 60 years.”*

3. The President cannot hold any other office of profit or remuneration. He cannot exercise or engage in any profession, calling or business during his

term of office. This is expressly prescribed in the unequivocal terms of **section 28(4) of the Constitution** which says that:

*“28(4) Where a person is elected to the office of President, he shall not whilst in office –*

- (a) hold any other office of emolument, whether under the Constitution or otherwise;*
- (b) exercise any profession or calling or engage in any trade or business.”*

## **7.7 Exercise of functions**

The Constitution spells out the powers of the President in the exercise of his functions as “*Head of State and Commander in Chief of the Republic of Mauritius*”. Since, as it has been seen, the President is not elected directly by the people, it would not have been in conformity with the democratic norms contemplated by the Constitution to give independent executory powers of Government to the President. Just like it would appear anomalous, within a democratic framework of government, to have the President elected by universal suffrage directly by the People without giving him any substantive power of Government.

The Constitution accordingly sets up a mechanism by which responsibility for decision making and implementation of executive functions devolves on other institutions or persons.

Thus, although it is provided under **section 28(1)(a) of the Constitution** that the President shall be “*the Head of State and Commander-in-Chief of Mauritius*” and under **section 58(1)** that “*The executive authority of Mauritius is vested in the President*”, these provisions must be read subject to the other provisions of the Constitution which prescribe how executive authority is to be exercised in Mauritius. Our Constitution is largely based on a Westminster type of democratic government under which the Head of State is essentially a titular Head

with prescribed constitutional functions whilst the Prime Minister is the head of Government and the Executive.

**Sections 58(2) and (3) of the Constitution** provide the following with regard to the exercise of the executive authority which is vested in the President under **section 58(1) of the Constitution**.

**“58. Executive authority of Mauritius**

(1) ...

(2) Except as otherwise provided in this Constitution, that authority may be exercised by the President either directly or through officers subordinate to him.

(3) Nothing in this section shall preclude persons or authorities, other than the President from exercising functions as may be conferred upon them by any law”.

Nothing in this section therefore prevent Parliament from conferring by law the exercise of executory functions to authorities and persons, other than the President. By virtue of **section 58(3)**, Parliament may legislate to vest the exercise of any executive power or function, in any person or authority other than the President, subject to such legislation being constitutionally compliant.

Furthermore, **section 58(2) (supra)** prescribes that the exercise of executive authority is carried out “as otherwise provided in this Constitution”, which means that the President is bound to exercise the executive authority vested in him in the manner prescribed by the Constitution.

**Section 64(1) of the Constitution** provides in that connection that the President is bound to act in accordance with Cabinet or Ministerial advice, “in the exercise of his functions not only under the Constitution”, but also where he acts by virtue of “any other law” except for those situations, and in those cases, where he can act on his own and independently of Cabinet as directed by the Constitution. The President, however, is empowered to act on his own and independently of

Cabinet, only in the situations where he is required to do so by the Constitution and may not therefore be empowered to do so by virtue of any other law.

As it has been seen, **section 28(1) of the Constitution** also seeks to subject defence forces to the civilian authority by vesting in the President the Supreme command of any such forces. But the President is bound to exercise his functions either as “Head of State” or as “*Commander in Chief of the Republic of Mauritius*” in conformity with **Section 64(1) of the Constitution** which reads as follows:

**“64. Exercise of President’s functions**

*(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet or in his own deliberate judgment.”*

The Constitution broadly envisages and prescribes 4 types of situation with regard to the exercise by the President of his functions and powers under the Constitution: -

- (i) where he acts on the “*advice*” of Cabinet;
- (ii) where he acts on the “*advice*” of any other person or authority other than Cabinet;
- (iii) where he acts “*in his own deliberate judgment*”; and
- (iv) where he acts after “*consultation*” with another person or authority.

### **7.7.1 Advice of Cabinet**

The general rule is that the President can only act in the exercise of any of his functions whether under the Constitution or by virtue of any law (as in our case, where it would be by virtue of the Commissions of Inquiry Act) in accordance with

the advice of Cabinet or a Minister, acting under the general authority of Cabinet. Such that the President is essentially a formal head of the executive with the executive power resting effectively with the Prime Minister and the Ministers who are responsible for conducting the administration of government.

The President therefore exercises the powers and functions conferred on him, by or under the Constitution, in accordance with the advice of Cabinet, save in spheres where the President is required, by or under the Constitution, to exercise his functions, on the advice of some other person or body, “*in his own deliberate judgment*” or after “*consultation*” with some other person or authority.

**Section 61(1) of the Constitution** creates the Cabinet consisting of the Prime Minister and other Ministers. **Section 61(2)** goes on to provide that: “*The functions of the Cabinet shall be to advise the President in the government of Mauritius*”.

The provision in section 61(1) that “*There shall be a Cabinet*” is mandatory. At no point in time can the President dispense with this body which remains in function whilst there is in office a Prime Minister even if Parliament is dissolved [**sections 57 and 60 of the Constitution**]. The President is entitled to request Cabinet to reconsider any of its advice to him but is bound to act in accordance with such advice once it has been reconsidered by Cabinet [**section 64(2) of the Constitution**]. In such circumstances the President cannot act contrary to, or without, the advice of Cabinet.

In our Cabinet system of government therefore executive authority in the constitutional sense is vested in Cabinet on whose advice the President acts. Our Constitution has adopted in that respect the British system of a parliamentary executive, in that the President is only ‘*a formal or constitutional head of the executive*’ and that the real and effective executive power is exercised by the

Ministers and Cabinet. It is therefore the primary responsibility of Cabinet to formulate governmental policy and its transmission into law for implementation.

That it should be so is an imperative need for meeting the norms and the proper functioning of the democratic form of government which our Constitution enshrines in at least 2 respects:

- (i) Judicial reviewability of executive action; and
- (ii) Accountability of the executive to the elected representatives of the People in Parliament.

In the first instance, since the President is immune from judicial process **[section 30A of the Constitution]**, it becomes possible to subject the exercise of executive authority to judicial or constitutional scrutiny by the Supreme Court only where such executive authority is exercised by the executive arm of Government and not by the President personally.

Secondly, since the President is not answerable or accountable to the Assembly, it is the Cabinet and Ministers who are made collectively responsible to the Assembly and the elected representatives of the people of Mauritius, for any advice to the President and '*for all things done*' in the exercise of their executive authority. **[Section 61(2)] of the Constitution (*Infra*)**

The working of our Parliament, inspired from the British system of Parliamentary democracy is therefore not limited only to exercising the functions of a legislature. Parliament also provides the forum which ensures transparency, accountability and answerability of government action by the executive to the elected representatives of the People of Mauritius.

**Section 61(2) of the Constitution** indeed sets up one of the pillars of Parliamentary democracy which is the collective accountability and answerability

of Cabinet and Ministers, to the National Assembly in respect of the exercise of their executory functions and advice to the President: “*The Cabinet shall be collectively responsible to the Assembly for any advice given to the President by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in execution of his office*”.

**Sections 58(2) and 64(1) of the Constitution** therefore provide that the President exercises executive authority and functions in accordance with the advice of Cabinet or through subordinate officials as prescribed by law. But there are exceptions to the above general rule, which are provided by the Constitution itself where it says that the President may act in his own deliberate judgment, or on the advice of, or following consultation with any person or authority other than Cabinet, as outlined below at **paragraphs 7.7.2, 7.7.3 and 7.7.4**.

### **7.7.2 In his own deliberate judgment**

The requirement that the President may only act in accordance with the advice of Cabinet or other persons or authority, however, is not absolute. The Constitution has reserved certain functions which the President may exercise on his own without any advice from Cabinet or from any other person or authority. They are distinct from the exercise by the President of his functions of executive authority in accordance with the advice of Cabinet, or any other person, or through his subordinate officers.

The President is not bound to act in accordance with the advice of Cabinet, or any other person or body, and is empowered to act on his own, in conformity with the Constitution, where the Constitution expressly provides that the President “*shall act in his own deliberate judgment*” [**section 64(1) of the Constitution (*supra*)**].

The President is thus conferred with the power to exercise in his personal capacity such important constitutional functions as the appointment of the Prime



Minister in conformity with **section 59(3) of the Constitution**, the appointment of the leader of the opposition [**section 73 of the Constitution**], the Chairperson and members of the Commission on the prerogative of Mercy [**section 75(2) of the Constitution**], the dissolution of Parliament following a vote of no confidence in the Government in conformity with **section 57(1)(a)(i) and section 57(1)(b) of the Constitution**.

The President is empowered to exercise a margin of appreciation whilst acting in his own deliberate judgment, but within the parameters fixed by the Constitution, in certain grave and exceptional situations relating in particular to the dissolution of the Assembly; or to the appointment or removal of the Prime Minister following a vote of no confidence by the Assembly or following the results of a general election.

Where the Assembly passes a resolution of no confidence in the Government and the Prime Minister before resigning advises the President to dissolve Parliament, the President may in his own deliberate judgment decline to act in accordance with the advice of the Prime Minister and invite another person, who appears to him to command a sufficient majority in the Assembly, to form a Government [**Section 57(1)(a)(ii) of the Constitution**].

It is also open to the President to dissolve Parliament pursuant to **section 57(1)(b) of the Constitution** where he considers that there is no prospect within a reasonable time to appoint as Prime Minister a person who can command the support of the majority in the Assembly.

The President may remove the Prime Minister from office where, acting in his own deliberate judgment, he considers that the Prime Minister will no longer be able to command the support of a majority of members in the Assembly following the holding of an election [**section 60(2) of the Constitution**].

### 7.7.3 Advice of other persons or authority

By virtue of **section 61(3) of the Constitution**, the President is bound to act in accordance with the advice of the Prime Minister for the appointment and removal from office of Ministers pursuant to **section 59(2) of the Constitution**, the assignment of responsibilities to Ministers pursuant to **section 62 of the Constitution**, for the performance of the functions of the Prime Minister during his absence or illness pursuant to **section 63(2) of the Constitution**, and for the prorogation or dissolution of Parliament, subject however to the provisions of **section 57 of the Constitution**.

The President is also required by the Constitution to act in accordance with the advice of other institutions or persons in the discharge of some of his constitutional functions. For instance, the President is required to act upon the advice of the Chief Justice for the appointment of the Senior Puisne Judge **[section 77(2) of the Constitution]** and in accordance with the advice of the Judicial and Legal Service Commission for the appointment of Judges **[section 77(3) of the Constitution]**.

### 7.7.4 Consultation

The Constitution also provides for the President to exercise certain powers following consultation with a person or authority other than the Cabinet.

**Section 77(1) of the Constitution** provides for instance that “*the Chief Justice shall be appointed by the President, acting after consultation with the Prime Minister*”.

The President appoints the Chairperson and members of the Public Service Commission **[section 88 of the Constitution]**, the Disciplined Forces Service Commission **[section 90 of the Constitution]**, The Electoral Boundaries Commission, the Electoral Supervisory Commission and the Ombudsman

**[section 96 of the Constitution]** after consultation with the Prime Minister and the leader of the opposition and such other persons as are prescribed by the Constitution.

**Section 64(4) of the Constitution** lays down that:

*“Where the President is directed by this Constitution to exercise any function after consultation with any person or authority other than the Cabinet, he shall not be obliged to exercise that function in accordance with the advice of that person or authority”.*

In such a situation, the President has a duty to consult. But the final decision remains his as he is not bound to conform with the advice or views of the party whom he is required to consult.

## **7.8 Right to be informed**

The President is otherwise entitled to be *“fully informed”* by the Prime Minister concerning the general conduct of Government and he may in that connection request any particular information relating to the Government of Mauritius **[section 65 of the Constitution]**.

## **7.9 Presidential Assent to Legislation**

The power to make laws is by virtue of **section 46(1) of the Constitution** vested in Parliament:

*“(1) The power of Parliament to make laws shall be exercisable by Bills passed by the Assembly and assented to by the President”.*

Parliament has the supreme power of legislation subject only to compliance with the Constitution. A bill voted by the Assembly however requires the assent of

the President of the Republic before it may be proclaimed and be enforced **[section 46(1) of the Constitution (*supra*)]**.

The President is not empowered, at any stage, to withhold assent in respect of legislation voted by the Assembly pertaining to taxation, appropriation of funds from the Consolidated Fund, or with regard to any certified amendment to the Constitution **[sections 46(2)(b)(i)(ii) and 54 of the Constitution]**.

In the case of any other Bill, the President may withhold assent and return the Bill within 21 days for reconsideration by the Assembly. But the President is bound to give his assent to the Bill after it has been reconsidered and passed again by the Assembly **[section 46(2)(c) and (d) of the Constitution]**. Failure on the part of the President to give assent to the Bill exposes him to immediate removal pursuant to section 46(2) of the Constitution by a simple majority of all the members of the Assembly on a motion of the Prime Minister, without the need to have recourse to the Procedure for the President's removal and hearing before a Tribunal as laid down under section 30 of the Constitution **[section 30(2) of the Constitution]**.

## **7.10 Immunity and Privileges**

**Section 30A of the Constitution** provides that, except for an action brought under **section 64(5) of the Constitution**, the President enjoys absolute immunity from judicial process during his term of office 'in respect of acts done or purported to be done in the performance of his functions'.

### ***"30A. Privileges and immunities***

*(1) Subject to section 64(5), no civil or criminal proceedings shall lie against the President or the Vice-President in respect of the performance by him of the functions of his office or in respect of any act done or purported to be done by him in the performance of those functions.*

*(2) Subject to section 64(5), no process, warrant or summons shall be issued or executed against the President or the Vice-President during his term of office.”*

Under **section 30A(1) of the Constitution**, the President therefore enjoys immunity in respect of *“any act done or purported to be done by him in the performance of his presidential functions”*.

**Section 30A(2) of the Constitution** appears to extend the scope of the immunity as it seeks to prohibit the issue of any process, warrant or summons such that the President is not amenable to any judicial proceedings.

The immunity from judicial process under section 30A(2) however applies only during his term of office. He may therefore become amenable, after his term of office, to any civil or criminal proceedings which do not fall within the scope of immunity provided in respect of acts which are related to the performance of his presidential functions.

The exception under **section 64(5) (Supra)** provides that the President is amenable to judicial proceedings before the Supreme Court only where he seeks to dissolve the National Assembly otherwise than as authorised under the Constitution.

Furthermore, the Constitution protects and preserves the secrecy and confidentiality of communications in respect of advice or consultation between the President and any other person or authority which cannot be questioned in any court of law. **Section 64(5)(a) of the Constitution** indeed provides that any question relating to any advice or consultation between the President and any person or authority, where required by the Constitution, cannot be subjected to any judicial scrutiny and therefore remains confidential. Section 64(5)(a) reads as follows:

**“64. Exercise of President’s functions**

*(5) (a) Subject to paragraphs (b) and (c), where the President is required by this Constitution to act in accordance with the advice of or after consultation with any person or authority, the question whether in fact he has so acted shall not be called in question in any court of law.*

**7.11 Sanction for violation of Constitution by President**

Judicial proceedings for violation of the Constitution or for any criminal offence or civil sanction against the President during his term of office therefore lie outside the purview of the Courts. The only sanction provided by the Constitution in respect of any violation of the Constitution or any serious act of misconduct by the President is political.

**Section 30 of the Constitution** provides as follows:

**“30. Removal of the President and the Vice-President**

*(1) The President or the Vice-President may be removed from office in accordance with this section for -*

- (a) violation of the Constitution or any other serious act of misconduct;*
- (b) inability to perform his functions whether arising from infirmity of mind or body or from any other cause.”*

The only instance where the Constitution provides for a judicial intervention in respect of a presidential constitutional decision is where the President dissolves Parliament otherwise than under the proviso to **section 57(1) of the Constitution**. This is made explicit by **sections 64 (5)(b) and (c) of the Constitution** which read as follows: -

*“(5) (b) Where the President dissolves Parliament otherwise than under the proviso to section 57, the Prime Minister, may by motion, request the Supreme Court to enquire into the decision.*

*(c) Upon the hearing of a motion under paragraph (b), the Supreme Court shall determine whether or not the President has acted in accordance with the advice of the Prime Minister and where the Supreme Court declares that the President has not acted in accordance with such advice the dissolution of the Parliament shall, subject to section 57(2), have no effect.”*

Except for a decision for dissolution of Parliament by the President which may be challenged in Court under **sections 64(5)(b) and (c) (supra)**, the President is totally immune from any judicial proceedings as well as from any judicial process during his term of office. We shall consider later in greater details the scope of the Presidential immunity in **Chapter 11**.

## **7.12 Procedure for Removal**

The President may only be removed from office on one of the grounds laid down in **section 30(1) of the Constitution (supra)**. There is a two-tiered process for his removal which in both instances, may only be triggered by a motion of the Prime Minister.

The first motion by the Prime Minister would be for the setting up of a Tribunal to investigate the grounds on which the removal of the President is sought. The motion must state the full particulars of any ground for removal. The Tribunal may only be set up by the Chief Justice if there is a resolution passed by a majority of not less than two-thirds of all the members of the Assembly [**section 30(3)(a)(b)(c) and section 30(8) of the Constitution**].

The Tribunal following its investigation of any charge submits a report to the Assembly delivered to the Speaker. Where the Tribunal recommends the removal of the President, the Prime Minister, may within the prescribed time limit, bring a second motion which would be for the removal of the President. The motion, this time, only requires the votes of a majority of all the members of the Assembly in

order to sanction a removal of the President [**sections 30(3)(d)(e)(f) and (7) of the Constitution**].

There is no need to subscribe to the above procedure for the removal of the President where the President fails to give his assent to a Bill passed by the Assembly in violation of **section 46(2) of the Constitution**. There is in such a case no requirement of a Tribunal. The President may be removed from office “*on a motion made by the Prime Minister in the Assembly and supported by a majority of the votes of all the members of the Assembly*”.



## **CHAPTER 8 – VIOLATION OF THE CONSTITUTION**

### **8.1 Violation of section 28(4) of the Constitution**

It has already been seen how, by the use of the PEI credit card for her personal gratification, Mrs Gurib-Fakim violated section 28(4) of the Constitution [Chapter 3].

The evidence has indeed unequivocally brought to light the manner in which, whilst being President of the Republic, she cashed upon the benefits of the PEI Platinum Card lavishly funded by PEI for her personal gratification [Chapter 3].

### **8.2 Violation of section 64(1) of the Constitution**

It is beyond dispute that Mrs Gurib-Fakim also violated **section 64(1) of the Constitution** when she set up the Commission of Inquiry on 16 March 2018. The Commission of Inquiry was set up pursuant to section 2(2) of the Commissions of Inquiry Act. In the exercise of her functions under such a law, Mrs Gurib-Fakim was not empowered to act otherwise than in accordance with the advice of Cabinet. Mrs Gurib-Fakim could only exercise her functions of appointing a Commission of Inquiry pursuant to a law, which is the Commissions of Inquiry Act, “*in accordance with the advice of Cabinet*”. By virtue of the application of **section 64(1) of the Constitution**, the appointment of a Commission of Inquiry was not therefore a function which the President could perform ‘in his own deliberate judgment’ or in any other manner except in accordance with the advice of Cabinet. Mrs Gurib-Fakim violated the provisions of **section 64(1) of the Constitution** when on 16 March 2018 she proceeded to set up the Commission of Inquiry upon her own initiative, without the advice of Cabinet [See Chapter 6].

### **8.3 Violation of established administrative procedures**

Mrs Gurib-Fakim also failed to act in accordance with the established administrative procedures which were applicable for the appointment of such a Commission of Inquiry [See Chapter 6].

#### **8.3.1 Personally aware of procedure for setting up the Commission of Inquiry**

There is ample evidence to demonstrate that she was made personally aware of the procedure, and the conditions, subject to which a Commission of Inquiry may be appointed by the President. This was when the Commission of Inquiry on Drug Trafficking was set up in July 2015. The documents on file contained an explicit minute for the setting up of the Commission of Inquiry by Government forwarded by the Prime Minister. The mode of appointment of the Commissioner of Inquiry pursuant to section 2(2) of the Commissions of Inquiry Act is abundantly clear from the minute. This minute was approved personally by Mrs Gurib-Fakim after she had taken cognisance of same as is witnessed by her signature of the minute on 14 July 2015<sup>82</sup> [Annex AAF]. She was also made aware of the publication of the Commission in the Gazette. Mrs Gurib-Fakim signed the various letters for the appointment of the Commissioners and the Secretary. More importantly, she was expressly briefed in July 2015 by Mr Dass Appadu, the former secretary to the President, as to the legal procedure for the setting up of a Commission of Inquiry and the need for the President to act in accordance with the advice of Cabinet for that purpose.

#### **8.3.2 Solicitor-General discarded**

The evidence of Mr Seebah, the Secretary to the President, highlighted the failure by Mrs Gurib-Fakim to seek legal advice from the Solicitor-General before her setting up of the Commission of Inquiry.

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<sup>82</sup> Document CO 65(m)

The excuse of Mrs Gurib-Fakim that she felt isolated and could not have recourse to government legal advisers is wholly untenable. She indeed had a prompt response following the request for legal advice which was previously sought from the Solicitor-General by the Secretary to the President on 28 February 2018 [**Annex Y (supra)**]<sup>83</sup>. She had no excuse for her failure to have recourse to the competent and objective legal advice of the Solicitor-General which was readily available before taking any decision as to the setting up of the Commission of Inquiry.

### **8.3.3 Administrative Channel discarded**

Mrs Gurib-Fakim had in fact at the material time been acting in complete disregard of the administrative set up pertaining to the administration of her office.

This has been made explicit by Mr Seebah the Secretary to the President who stated that during that period, the President was operating in a closed setting, where no one other than those in Mrs Gurib-Fakim's special team were admitted. In the words of the Secretary to the President "*I was not, never involved nor was my advice called for*".

Mr Seebah was not made aware of the communiqué which was issued on 16 March for the setting up of the Commission of Inquiry and addressed to the Prime Minister and to Sir Hamid Moollan, QC, for his purported appointment as Chairman of the Commission of Inquiry [**Annex AV (supra)**]<sup>84</sup>. Nor was he made aware of any of the other correspondence by Mrs Gurib-Fakim for the setting up of the Commission of Inquiry [**Annexes AW<sup>85</sup> and AX<sup>86</sup> (supra) respectively - letters to Sir Hamid & the Prime Minister**]. These were never cleared by, nor brought to the attention of the Secretary to the President.

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<sup>83</sup> Document CO 52

<sup>84</sup> Pages 53-54 of Document CO 4

<sup>85</sup> Page 6 of Document CO 5

<sup>86</sup> Page 3 of Document CO 5

Mr Seebah, as Secretary to the President never knew who drafted these documents and who issued the Communiqué and placed it on the website and the Facebook page of the Office of the President. This Communiqué was not placed on the official website of the State House. The Secretary to the President first came to know about this Communiqué when it was announced on the radio late in the afternoon on 16 March 2018. A copy of the Communiqué was only placed in the Confidential Registry at 9.15 a.m. on 19 March 2018. The Secretary to the President was also kept in the dark as to the visitors who called on the President or at the State House on 16 March 2018. Mrs Gurib-Fakim had set up a special cell which was operating independently of the Secretary to the President, although the latter was the administrative head of the office.

Mrs Gurib-Fakim had chosen to discard both the Secretary to the President and any recourse to legal advice from the Solicitor-General in order to be able to pursue a secretive line of action which would best suit her personal agenda which would become apparent as she embarks into the setting up of her Commission of Inquiry.

#### **8.3.4 Advice of personal legal advisers discarded**

But here too, she failed to follow and chose to disregard the clear and unequivocal legal advice of all the other legal advisers to whom she had chosen to have recourse and who had, in no uncertain terms warned her that she could not lawfully proceed with the setting up of the Commission of Inquiry without the approval of Cabinet. This was repeatedly brought home to her by Mr Mohamed and the panel of lawyers to whom she had recourse in lieu of the Solicitor-General. On 14 March 2018, when she queried Mr Mohamed about the setting up of a Commission of Inquiry, Mr Mohamed warned her: *“You be careful Mrs Fakim, Madam be careful because you have to go through Cabinet for that purpose. You cannot do it by yourself”*. To which she replied: *“Alright but at least I want to insist on my own terms of reference. Will you please help me draft them?”* The testimony of all her legal advisers, Mr Noel, Mr Hyderkhan and Mr Mohamed

unequivocally indicate that the terms of reference were being drafted after it had been explained to Mrs Gurib-Fakim that she would not be able to proceed with a Commission of Inquiry on those terms of reference unless they have been approved by Cabinet after being vetted by the Attorney General's office.

After the drafting of the terms of reference, whilst she was awaiting clearance from Mr Mohamed, Mr Mohamed phoned her in the afternoon of 16 March 2018 before the setting up of the Commission of Inquiry to tell her: "*Madam there is a legal issue about this. Please do not proceed, hold on*".

She nevertheless paid no heed to the legal advice as she proceeded to set up the Commission of Inquiry by emphatically telling Mr Mohamed "*Mr Mohamed, I have done it for tactical reason*". According to her when on 16 March 2018 she asked Mr Mohamed whether she could proceed with the Commission of Inquiry Mr Mohamed replied "*legally you can't do it, but tactically you can*". This was denied by Mr Mohamed. But what is important to retain is that, upon her own admission, she was told that it would not be legally in order to proceed with the Commission of Inquiry. In the course of her examination before the Commission of Inquiry however, she finally admitted that she was never told by her legal advisers that she could in law and by virtue of the Constitution set up a Commission of Inquiry.

**Proceedings of 06 August 2019:**

"Q: *Those lawyers which you have chosen to have recourse did they, at any stage between the 10<sup>th</sup> and the 16<sup>th</sup>, that is, in the setting up of the Commission of Inquiry, told you yes, you can set up, in law or by virtue of the Constitution, a Commission of Inquiry?*

A: *They never said.*

Q: *They never said so?*

A: *No.*"

Mrs Gurib-Fakim's denial of the version of all her 3 legal advisers is devoid of any credit. They had following concertation with 2 other lawyers, Mr Duval and Miss Moonshiram, communicated in clear terms to Mrs Gurib-Fakim that she was not legally empowered to set up the Commission of Inquiry on her own without the approval of Cabinet. Although it seems that at the outset there may have been a suggestion for the setting up of a Commission of Inquiry emanating from Mr Noel, and that Mr Noel and Mr Hyderkhan actively participated in the drafting of the terms of reference which were vetted by Mr Mohamed, it indisputably emerges from the evidence that Mrs Gurib-Fakim was emphatically warned before her setting up of the Commission of Inquiry by all her legal advisers that she was not legally entitled to do so without the approval of Cabinet. After she had appointed Sir Hamid as the Chairman of the Commission of Inquiry, the latter wrote to the Prime Minister to inform him that he had no objection to chair the Commission provided that *'all formalities are fulfilled'*.

She had been told in no uncertain terms at the material time by all her legal advisers that the setting up of the Commission of Inquiry would be in breach of the Constitution. She was also informed of Mr Duval's view that she could not set up a Commission of Inquiry without the approval of Cabinet. This is indeed confirmed by the tenor of the text message sent to her by Mr Duval, immediately following her Communiqué for the setting up of her Commission of Inquiry: *"Dear Madam, I note with respect that you chose to ignore my advice which leaves me with no alternative but to decline to act further in relation to the constitutional issues"* It was in fact the indisputable and unanimous view of all her legal advisers that she would be violating section 64(1) of the Constitution by setting up the Commission of Inquiry without the approval of Cabinet.

That she should discard the Secretary to the President and the official administrative channel; avoid to consult the Solicitor-General for legal advice; and act contrary to the unequivocal legal advice of all her legal advisers, is very

revealing of an attitude bent upon pursuing her hopeless bid to set up the Commission of Inquiry in utter contempt of the Constitution and the law.

It is absolutely clear that Mrs Gurib-Fakim failed to comply with the established administrative procedures for the appointment by the President of a Commission of Inquiry and Mrs Gurib-Fakim, did, by her setting up of a Commission of Inquiry on 16 March 2018, usurp the executive functions of Cabinet and violated **section 64(1) of the Constitution**.

#### **8.4 Guardian of the Constitution – Violation of section 28(1)(b) of the Constitution**

We also need to refer to the overarching principles enshrined in **section 28(1)(b) of the Constitution** which govern the conduct of the President in the exercise of his functions under the Constitution. **Section 28(1)(b) of the Constitution** as it has been seen, enjoins the President to adhere strictly to the principles enunciated in that section. It is incumbent upon the President in the execution of his or her duties to uphold and defend the Constitution. The President is mandatorily required to ensure that the institutions of democracy and the Rule of Law are protected. The sanctity of these principles is further underscored by the fact that the President has to subscribe to the Presidential Oath (Third Schedule) by virtue of which he or she has to swear or solemnly affirm “*to defend the constitution and the institutions of democracy and the rule of law*”.

The framers of the Constitution therefore considered that the provisions of section 28(1)(b), although succinctly set out in the Constitution in binding terms, were not sufficient. The Constitution further imposes upon the President, in view of his apex position as Head of State, that he or she should be bound by an Oath to live up to all these sacrosanct democratic principles in the discharge of his or her duties as President of the Republic.

Before assuming her functions, Mrs Gurib-Fakim, did, pursuant to **section 30B of the Constitution**, take and subscribe the Oath set out in the Third Schedule to the Constitution:

*“OATH OF PRESIDENT”*

*I, Bibi Ameenah Firdaus Gurib-Fakim, do solemnly affirm that I will faithfully execute the office of President and will, to the best of my ability without favour or prejudice, defend the Constitution and the institutions of democracy and the rule of law, ensure that the fundamental rights are protected and the unity of the diverse Mauritian nation maintained and strengthened.”*

That the President is bound by an Oath, by virtue of the Constitution which is the Supreme Law, to act as the “*guardian*” of the Constitution and to ensure the protection of the Rule of Law is not therefore to be lost sight of in the further consideration of the President’s conduct in the present matter.

The evidence has indeed brought to light that Mrs Gurib-Fakim violated the provisions of **section 28(1)(b) of the Constitution** as well as the Presidential Oath which she subscribed upon assuming office as President. She clearly failed to faithfully execute the Office of President in conformity with **section 28(1)(b) of the Constitution** and in compliance with the Oath which she had taken. She made an abusive use of her office and influence as President in several respects in order to serve the interests of Dr Sobrinho and his group of companies whilst at the same time taking advantage of the pecuniary benefits afforded by the PEI card funded by the PEI Foundation.

She also failed to uphold the Constitution and defend the institutions of democracy and the Rule of Law by the manner in which she proceeded to set up a Commission of Inquiry in blatant breach of her constitutional obligations to act in accordance with the advice of Cabinet.



Instead of upholding the Constitution, she violated the Constitution. Instead of defending the institutions of democracy she made an abusive use of one of the most important constitutional institutions entrusted to her which is the Office of President. She also as President usurped the executive authority of another democratic and constitutional institution which is the Cabinet.

## **8.5 Violation of Oath**

Any violation of the Constitution by its guardian indisputably constitutes in such circumstances a violation of what Mrs Gurib-Fakim had solemnly affirmed under oath to protect and defend.

The violation of the Constitution by Mrs Gurib-Fakim as its appointed guardian as President of the Republic would indeed in the present circumstances constitute a violation of what Mrs Gurib-Fakim had solemnly affirmed under the sanctity of a constitutional Oath to defend.

Mrs Gurib-Fakim embarked not only into a violation of the sacrosanct democratic principles enshrined in **section 28(1)(b) of the Constitution** but she also violated the Oath which she had subscribed to honour and defend pursuant to **section 30B and the Third Schedule to the Constitution**.

## **8.6 Breach of Rule of Law**

The evidence has also brought to light that she has potentially committed several criminal offences in breach of the law of the Republic, despite her solemn undertaking under Oath to uphold and protect the Rule of Law.

### **8.6.1 Breach of Section 77 of the Criminal Code**

It indeed clearly emerges from the evidence, that her acts in violation of the Constitution, tantamount to an offence in breach of **section 77 of the Criminal**

**Code.** Section 77 criminalises any arbitrary act, ordered or committed by a public functionary, an agent of, or person appointed by the Government “*where such an act is prejudicial to the Constitution of Mauritius*”.

These would have no doubt been relevant and material in determining whether she had committed “*any violation of the Constitution or any other serious act of misconduct*” for the purpose of her removal as President pursuant to **section 30 of the Constitution**.

But, however, since Mrs Gurib-Fakim had resigned as President with effect from 23 March 2018, the question of her removal in accordance with the procedure laid down under **section 30 of the Constitution** did not arise. There has as a result been no need for a hearing by a special Tribunal set up under **section 30(1) of the Constitution** to investigate into any grounds for removal based on any alleged violation of the Constitution or any act of serious misconduct.

## **8.7 Unlawful, improper and indecorous use of the Office of the President**

It is useful to recall however, that the Terms of Reference of the Commission also enjoin us “*to inquire into and report on all the circumstances related to the resignation of Mrs Ameenah Gurib-Fakim as President of the Republic, in particular “the unlawful, improper or indecorous use of the Office of the President”.* (Underlining ours)

The evidence, set out earlier under chapters 3,4,5 and 6, has brought into sharp focus the nature and extent of the favours and support which Mrs Gurib-Fakim indisputably caused to be provided to PEI and the Alvaro Sobrinho companies by making an improper and abusive use of her position as President of Republic; be it for the obtaining of banking or financial licences; for their unlimited and continuing access to VIP facilities at the airport; for raising funds for PEI or for

promoting the various interests of Dr Sobrinho and his entities both nationally and internationally.

Our penal laws create various offences which are relevant in determining her “*unlawful use of the Office of the President*”. The following list is by no means exhaustive:

- (i) Under **section 2 of the Prevention of Corruption Act [“POCA”]** an “*act of corruption*” means an act which constitutes a corruption offence. This includes “*any conduct whereby, in return for a gratification, a person does or neglects from doing an act in contravention of his public duties*”.
- (ii) **Section 2(b)(iii) of POCA** also defines “*a corruption offence*” as including “*the abuse of a public office for private gain*”.
- (iii) **Section 2(b)(v) of POCA** further includes as an “*act of corruption*”, constituting a corruption offence, any conduct whereby a person obtains, for himself or for any other person, any gratification for inducing a public official, by the exercise of personal influence, to do an act in the exercise of his duties to show favour to any person.
- (iv) **Public official using his office for gratification**  
**Section 7(1) of POCA** criminalises the conduct of “*any public official who makes use of his office or position for a gratification for himself or another person*”.
- (v) **Influencing public official**  
**Section 9 of POCA** creates an offence for unduly influencing by pressure a public official with a view to the performance by that public official of an act in the execution of his functions or duties.

(vi) **Trafic d'influence**

**Section 10 of POCA** creates an offence for any person or public official who accepts or obtains a gratification from any other person, in order to make use of "*his influence to obtain any benefit from a public body*" [**Sections 10(4) and (5) of the POCA**].

We need to emphasise, for the avoidance of any doubt, that it is not within the purview of this Commission's functions to assess or advise whether any criminal proceedings would lie or should be instituted against Mrs Gurib-Fakim for any criminal offence.

These are matters which are exclusively within the province of the appropriate authorities vested with the constitutional and legal powers to institute such criminal proceedings as they may deem fit in the light of any actionable evidence.

In the same vein, it will be incumbent upon the appropriate judicial authorities to determine whether immunity would lie by virtue of Section 30A of the Constitution, in the eventuality of any prosecution for a criminal offence.

Whether Mrs Gurib-Fakim is amenable to any judicial proceedings is a matter which fall solely within the province of the authorities constitutionally and legally mandated to determine such matters; the Commission is however bound to inquire and conclusively report as mandated by its Terms of Reference.

## **CHAPTER 9**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **(ITEM 1 OF THE TERMS OF REFERENCE)**

##### **9.1 Conclusions (Item 1 of the Terms of Reference)**

For all the given reasons, the Commission concludes as follows as regards item 1 of its terms of reference:

1. Mrs Gurib-Fakim, by her purported appointment of a Commission of Inquiry on 16 March 2018, violated **section 64(1) of the Constitution [See Chapters 6 and 8]**.
2. Mrs Gurib-Fakim failed to comply with the established administrative procedures applicable to the setting up of the Commission of Inquiry **[See Chapters 6 and 8]**.
3. Mrs Gurib-Fakim did, whilst holding office as President of the Republic, violated **section 28(4) of the Constitution** by cashing on the credit card funded by the PEI **[See Chapter 3]**.
4. Mrs Gurib-Fakim did, by the unlawful, improper and indecorous use of the Office of President, procure, or attempted to procure, undue advantages and gratification to another person in particular but not limited to (i) the affording of VIP access to Dr Sobrinho and his entourage; (ii) the raising of funds for PEI; and (iii) the assisting of Dr Sobrinho and his entities in their business and financial activities **[See Chapters 4 and 5]**.

5. Mrs Gurib-Fakim did, whilst holding office as President, violate **section 28(1)(b) of the Constitution** by failing to uphold the Constitution and the functioning of the institutions of democracy in conformity with the Rule of Law and the Constitution [**See Chapter 8**].
6. Mrs Gurib-Fakim did, whilst holding office as President, fail to faithfully execute the Office of the President and violated the Oath, to which she solemnly affirmed to owe allegiance pursuant to **section 30B and the Third Schedule to the Constitution** [**See Chapter 8**].
7. Mrs Gurib-Fakim, by her unlawful, abusive and improper use of the Office of President, violated the Rule of law acting in breach of one or more of the following legal provisions:
  - (i) Public official using office for gratification, in breach of **sections 2 and 7 of the Prevention of Corruption Act**.
  - (ii) Influencing public official, in breach of **sections 2 and 9 of the Prevention of Corruption Act**.
  - (iii) 'Trafic d'influence', in breach of **sections 2 and 10 of the Prevention of Corruption Act**.
  - (iv) Violation of Constitutional provisions in breach of **section 77 of the Criminal Code** [**See Chapters 3,4,5 and 8**].

## 9.2 Recommendations

The examination of the role and powers of the President in **Chapter VII** has, *inter alia*, brought to light the constitutional responsibilities of the President in ensuring the functioning of the democratic process in the State of Mauritius.

But the evidence has also brought to light how Mrs Gurib-Fakim whilst holding office as President, has in several respects violated the Constitution which is the supreme law of the country.

It is vital for the proper functioning of Mauritius as a democratic State that such a thing should never happen. Any usurpation or abuse by the President of any constitutional or legal functions constitutes a dangerous threat to the very foundation of our democratic system and the Rule of Law.

The President has a vital constitutional role in the carrying out or ensuring in conformity with the Constitution, the orderly transfer of executive power which may arise following a general election, the holding of elections, the appointment of a Prime Minister and Ministers which would constitute the Cabinet, the Proclamation for the first sitting of a new Parliament, the dissolution of Parliament, the appointment of the leader of the opposition and the appointment of the Chief Justice.

The Commission's inquiry has revealed that there are, for instance, excellent security and protocol arrangements in place at the Office of the President. But the administrative structure and organisation of the office of a Head of State must be geared to provide full technical, legal and logistic support of the highest standard and competence which must be readily available to assist the President in the exercise of his constitutional functions. The Office of the President cannot in that respect operate along generally the same lines as a Ministry or a Government department.

### **Recommendation 1**

The Commission recommends a review of the present administrative structure and organisation of the Office of the President with a view to considering the adoption of the following measures:

- (i) The President may, if he so desires but following consultations with the appropriate bodies, appoint as members of his personal staff such public officers as he may select from a list of names submitted by the Public Service Commission.

- (ii) The President may, acting in his own discretion, appoint on a contract on non-pensionable terms, or retain the services of, any legal, technical or qualified person which he may deem necessary for the prompt and efficient discharge of his functions under the Constitution.
- (iii) Except in the case of persons holding public offices, the appointment, terms and conditions of service, disciplinary control or termination of appointment shall be matters for the President to decide acting in his discretion.
- (iv) The President may, acting in his own discretion, arrange for, or cause to be arranged, the training of any member of the presidential staff which the President may deem necessary for the proper discharge of his functions.
- (v) The salaries or allowances payable to any person appointed, or whose services have been retained, by the President, to assist him in the exercise of his constitutional functions shall be a charge on the Consolidated Fund.

## **Recommendation 2**

The Commission recommends that the President be empowered to appoint in his own discretion and on such terms and conditions, as he may decide, any advisory body or committee, which he may deem necessary, to advise him on any matter pertaining to the functions of his office or on such other matters as he may deem fit.

## **Recommendation 3**

Another shortcoming which has come to light is the lack of an adequate administrative set up regulating the internal working of the Office of the President in order to ensure that the Office of the President is provided with an appropriate



and well-defined operational structure. For instance, the National Assembly is in the exercise of its independent constitutional powers governed by a set of Rules and Standing Orders for its internal procedure **[Section 48 of the Constitution]** Likewise, the Courts are in the exercise of their independent judicial functions governed by the adjectival law and procedural Rules which regulate the internal working of the Courts.

The Commission recommends the adoption of Rules and Directives which would regulate the running and internal administration of the Office of the President.

#### **Recommendation 4**

The Commission recommends that any purported change pertaining to the administration of the Office of the President shall:

- (i) give due consideration to the hierarchy and dignity of the Office of President;
- (ii) be carried out following consultation with the stakeholders and other relevant bodies concerned with the running and administration of the Public Service; and
- (iii) be subjected wholly and directly to the discretion and control of the President in a manner which insulates the Office of the President from any hypothetical executive or external intervention.

## **CHAPTER 10- REMOVAL OF PRESIDENT**

### **ITEM 2 OF THE TERMS OF REFERENCE**

***“2. To make recommendations, as appropriate, in respect of the provisions under Chapter IV of the Constitution relating to the removal and suspension of a President or Vice-President including the appropriateness of the mechanism of a Tribunal for such removal in order to ensure the proper and uninterrupted functioning of the institutions of democracy and the rule of law in conformity with the Constitution.”***

The **1968 Constitution** which created the office of Governor-General provided that the Governor-General *“shall be appointed by Her Majesty”* and *“shall hold office during Her Majesty’s pleasure”* [**section 28**].

The 1968 Constitution was amended by the Constitution of Mauritius [Amendment No. I] Act [Act No. 48 of 1991] for Mauritius to become a Republic and created, in the new Chapter IV of the Constitution, the Office of President in order to make the change from a constitutional monarchy to a republic.

The President is appointed by the National Assembly and holds office for a term of 5 years, or until the newly-elected President takes office, unless:

- (i) the President dies or resigns prior to the expiry of his term of office;
- or
- (ii) he is removed or suspended from office.

The Constitution places its trust on the President to execute his office in conformity with the provisions of the Constitution. As it has been seen [**Chapter VII**], the President has a vital role to play in order to ensure the sound and uninterrupted functioning of the democratic institutions within the framework of a

democratic State. The President is enjoined by an oath to do so. He has immunity from judicial process and is generally immune from judicial control. He is also immune from Parliamentary control except for his removal or suspension from office.

The President may only be removed or suspended from office by the National Assembly in accordance with **section 30 of the Constitution**.

Section 30 sets out the grounds upon which a President may be removed from office as well as the procedure which may lead to his removal or suspension.

## **10.1 Grounds for removal**

The President may be removed from office on one of the following grounds pursuant to **section 30(1) of the Constitution**:

1. Violation of the Constitution.
2. Any serious act of misconduct.
3. Inability to perform his functions due to:
  - (i) physical disability; or
  - (ii) mental impairment; or
  - (iii) any other cause.

The only other instance is where he fails to give his assent to a Bill in breach of **section 46(2) of the Constitution** in which case the President may be removed from office on motion of the Prime Minister voted by a majority of all the members of the Assembly. The President may otherwise be removed only in accordance with the procedure set out in **sections 30(3) to 30(8) of the Constitution**.

## **10.2 Procedure for removal and suspension**

The procedure for the removal of the President involves the following steps:

### **10.2.1 Motion of Prime Minister in the Assembly**

The motion must state, with full particulars, the ground or grounds for the removal of the President which have to be investigated by a Tribunal **[Section 30(3)(a) and (b) of the Constitution]**.

### **10.2.2 Resolution of the Assembly (First leg)**

There must be a resolution of the Assembly supported by the votes of at least two-thirds of all the members of the Assembly for the Tribunal to investigate the grounds which constitute the charges against the President **[Section 30(3)(c) of the Constitution]**. The Assembly may in such a case also resolve that the President be suspended from performing the functions of his office **[Section 30(5) of the Constitution]**.

### **10.2.3 Appointment of Tribunal**

In conformity with **section 30(8) of the Constitution**, the Chief Justice appoints a Tribunal consisting of a Chairperson and either 2 or 4 members from amongst persons who hold or have held office as Judges of a Court of the highest jurisdiction in a Commonwealth State.

### **10.2.4 Investigation by Tribunal**

The President has the right to appear and to be legally represented before the Tribunal in the course of the investigation and hearing of the charges by the Tribunal **[Section 30(4) of the Constitution]**.

### **10.2.5 Report of Tribunal**

The Tribunal submits a written report to the Assembly which is delivered to the Speaker with a recommendation as to the removal or not of the President **[Section 30(3)(d) of the Constitution]**.

### **10.2.6 Motion by Prime Minister**

The Prime Minister may move the Assembly for the removal of the President where there is a recommendation to that effect by the Tribunal. The motion has to be made by the Prime Minister within 20 days of the receipt of the Tribunal's report by the Speaker. Where the Assembly is not sitting, the motion has to be made within 20 days of its first sitting **[Section 30(3)(f) of the Constitution]**.

### **10.2.7 Removal of President by Resolution of the Assembly (Second leg)**

The Office of the President becomes vacant if the motion of the Prime Minister is voted by a majority of all the members of the Assembly **[Section 30(7) of the Constitution]**.

The President is maintained in office, and the President's suspension, if any, shall lapse (i) where the Tribunal following its investigation does not recommend his removal; or (ii) where there is no motion brought before or voted by the Assembly for the President's removal despite a recommendation for his removal by the Tribunal **[Section 30(6) of the Constitution]**.

In Mauritius, the fact that the procedure for the removal of the President involves multiple institutions and persons provides a significant guarantee against any singular decision of an arbitrary nature. Although it can be initiated only on motion of the Prime Minister, it requires the approval of an enhanced majority of the National Assembly for referral to a Tribunal for investigation, before it is finally determined by the National Assembly, again on a motion of the Prime Minister. The Assembly however may only remove the President following a

recommendation for his removal emanating from a Tribunal. The Tribunal which hears the charges and upon which it is incumbent to recommend to the Assembly whether the President should be removed or not, is composed of a Chairperson and members appointed by the Chief Justice of Mauritius.

### **10.3 Comparable Systems**

Before making a critical analysis and assessment of the provisions in respect of the mechanism for the removal of the President under Chapter IV of our Constitution, it is appropriate and helpful to carry out an overview of the mechanism for the removal or destitution of the President in comparative democratic systems which are governed by written Constitutions.

The constitutional mechanism for the removal or destitution of a President would in that respect fall broadly into 2 different categories:

**(A) Removal by legislature only,**

where all the stages of the decision-making process for removal remain exclusively within the political province of the legislature.

**(B) Removal by legislature subject to investigation by independent body,**

where the decision-making process for initiating and ultimately removing the President resides with the legislature, but removal is subject to the complaints against the President being investigated and determined by an external independent body, which may be either a Court or a Tribunal.

## 10.4 Removal wholly by Legislature

There are several jurisdictions where the whole process for the removal of the President is eminently political. Removal of the President is decided solely by the legislature following an inquisitive process and a determination of the grounds for removal which take place exclusively before Parliamentary bodies or Committees. There is no referral in the decision-making process to any body or institution other than the legislature.

### 10.4.1 United States

This would be the case, for instance, in the United States of America. The U.S legislature, being bicameral, is composed of a lower body, the House of Representatives and an upper body, the Senate.

The impeachment process is a three-step procedure which remains throughout within the province of these two bodies of the legislature.

Firstly, the Congress investigates into any alleged misconduct or violation by the President typically through its House Judiciary Committee.

Secondly the House of Representatives which has the sole power of impeachment votes by simple majority the articles of impeachment which would constitute the charges against the President **[Article 1, Section 2, Clause 5 of the United States Constitution]**.

Thirdly it is the Senate which has the sole power to try any such impeachment and to decide whether the President should be removed or not. The only judicial input is that it is the Chief Justice of the U.S Supreme Court who presides over the proceedings in the Senate for the impeachment of the President. Conviction in the Senate for the destitution of the President requires the

concurrence of two-thirds of the members of the Senate who are present [**Article 1, Section 3, Clauses 6 and 7 of the US Constitution**].

A set of rules have been adopted by the House of Representatives and the Senate for the implementation of the Impeachment process. The powers of the US Congress to carry out its legislative investigations, in the course of an impeachment process, have been widely acknowledged in a number of cases by the US Supreme Court.

(1) **McGrain v. Daugherty, 273 U.S. 135, 161 (1927)**

(2) **Quinn v. United States, 349 U.S. 155, 160 (1955)**

(3) **Sinclair v. United States, 279 U.S. 263 (1929)**

(4) **Barenblatt v. United States 360 U.S. 109, 126 (1959)**

#### **10.4.2 France**

In France as well, the process for the destitution of the President is wholly political. The whole process is carried out by the legislature. The President, who enjoys full immunity from judicial process, may only be removed in accordance with the procedure for his destitution laid down in **Article 68 of the French Constitution** and **La Loi Organique no. 2014-1392 du 24 Novembre 2014 portant application de l'Article 68 de la Constitution [Annex AAG]**. Article 68 provides that "*Le Président de la République ne peut être destitué qu'en cas de manquement à ses devoirs manifestement incompatible avec l'exercice de son mandat. La destitution est prononcée par le Parlement constitué en Haute Cour*".

The procedure for destitution involves the joint participation of both houses, "*L'Assemblée Nationale*" and "*Le Sénat*".

It may be initiated before either house which, by a majority of two-thirds of its members, has to adopt a resolution for the matter to be determined by the "*Haute Cour*" of the "*Parlement*".



The '*proposition*' for destitution adopted by the first house must be transmitted to the other house which has to decide within 15 days whether to adopt the proposition or not. It must again be adopted by a majority of two thirds of the members of the second house failing which the procedure for destitution is terminated and cannot proceed any further. The matter may therefore be referred to the "Haute Cour" for determination only if there is a resolution supported successively by two-thirds of the members of each of the "*l'Assemblée Nationale*" and "*Le Sénat*".

The "*Haute Cour*" is composed of 22 members with eleven members being designated by each House. The "*Haute Cour*", which is presided by "*Le Président de l'Assemblée Nationale*", has a time-limit of 1 month to complete its task. Its proceedings are held in public. The President is destituted only if the "*Haute Cour*" so decides by a majority of two-thirds of its 22 members.

#### **10.4.3 India**

In India, too, the decision-making process for the removal of the President falls solely within the jurisdiction of Parliament and involves both houses of Parliament; the Lok Sabha (the lower House) and the Rajya Sabha (the upper House). The resolution to impeach the President may be initiated in either House of Parliament [**Article 61(1) of the Constitution**]. The President in India can be impeached only "*for violation of the Constitution*" and the resolution for his impeachment must be passed by a majority of not less than two-thirds of the total membership of the House where the resolution is initiated.

When one house has preferred a duly voted resolution for impeachment, it becomes incumbent on the other house to investigate and try same. Where as a result of the investigation the second House passes a resolution by a majority of not less than 2/3 of its total membership declaring that the charge against the President has been proved, such resolution shall have the immediate effect of

removing the President from office on the date on which the resolution is passed. **[Article 61(4) of the Constitution of India].**

So, unlike the United States, the impeachment for the President of India can be tried by either of the 2 houses and not only by the Upper House. But whereas in the **United States**, the votes of 2/3 of the members of the Senate which tries the impeachment are required, in India the vote of 2/3 of all members of each House is required at each stage i.e when in the first instance the first house passes a resolution for impeachment and at the second stage when the second house passes a resolution for removal following investigation.

There are several other jurisdictions which have adopted a procedure for the removal of President which remains solely within the purview of their legislature. For instance, in **Kenya**, following a motion voted by two thirds of all members of the National Assembly, it becomes incumbent upon the other house, the Senate, to determine and report whether the allegations against the President have been substantiated. If two-thirds of all members of the Senate vote to uphold any impeachment charge, the President shall cease to hold office **[Section 145 of the Constitution of Kenya].**

In all these jurisdictions the decision-making process, whether for initiating the procedure or for the determination of the charges, lie exclusively with the legislative bodies. It has been seen that in France the "*Haute Cour*" is made up exclusively of the members of the "*L'Assemblée Nationale*" and the "*Sénat*". The only judicial input in the United States is that it is the Chief Justice who presides over the impeachment proceedings in the Upper House (The Senate), but there too, the final decision for the destitution of the President resides exclusively with the members of the Senate. The presence of the Chief Justice is essentially to ensure that due process is observed in the course of the hearing. **Tanzania** has, with some variation, adopted a similar approach. Following a motion supported by two thirds of all the members of Parliament, the Speaker appoints 7 members of

Parliament to form part of a “Special Committee of Inquiry” chaired by the Chief Justice of the United Republic of Tanzania but the Committee also includes the Chief Justice of Zanzibar. The “Special Committee of Inquiry” submits a report to the National Assembly which finally decides by at least a two-third majority of all its members whether the President should be removed or not.

## **10.5 Referral of charges for removal to a Court or Tribunal.**

There is an alternative procedure which has been adopted by a number of other jurisdictions by virtue of which the decision-making process is not wholly political inasmuch as it is not the sole responsibility of the legislature to determine the removal of the President. In most of these jurisdictions, as in Mauritius, although the National Assembly initiates the decision to prefer charges for the removal of the President, the decision to inquire into whether these charges are substantiated and may justify the removal of the President is vested in a separate and distinctively independent body from the Legislature.

### **10.5.1 Referral to Court**

There are several jurisdictions where there is a referral by Parliament to a Court for a determination of the allegations or charges against the President. In **Germany** either house, the Bundestag or the Bundesrat, may impeach the Federal President before the Federal Constitutional Court. If the Federal Court finds the Federal President guilty of a wilful violation of the Basic law or of any other federal law, it may declare that the President has forfeited his office and following his impeachment, issue an interim order preventing him from exercising his functions of President.

In **Sri Lanka**, the Constitution provides that the resolution voted by not less than two-thirds of all the members of the Assembly “*shall be referred by the*

*Speaker to the Supreme Court for inquiry and report*". **[Section 38 of the Constitution of Sri Lanka]**.

In **Malaysia**, proceedings for the removal of the head of State, The Yang Di-Pertuan Agong, are referred to the "Special Court" which is made up of "*the Chief Justice of the Federal Court, who shall be the Chairman, the Chief Judges of the High Courts, and two other persons who hold or have held office as judges of the Federal Court or a High Court*" **[Section 182 of the Constitution of Malaysia]**.

In **Cyprus**, it is the Supreme Constitutional Court which is vested with the jurisdiction to decide any question arising in connection with the liability and removal of the President. **[Article 44 of the Constitution of Cyprus]**.

In **Seychelles**, following a referral by the National Assembly and the Speaker, it is the Constitutional Court which is vested with the responsibility of investigating the charges against the President and "*to report to the Speaker whether it finds that the particulars of the allegation specified in the motion constitute a prima-facie case for the removal of the President*" **[Section 54 of the Constitution of Seychelles]**.

### **10.5.2 Referral to Tribunals**

There is a number of other jurisdictions where the complaint against the President is referred for investigation to a Tribunal specially set up for that purpose and which in most cases is composed of judges who hold and have held office in the highest jurisdictions.

In **Singapore**, following a referral by Parliament, the Tribunal mandated to inquire into, and report on, the allegations made against the President "*consists of not less than 5 Judges of the Supreme Court appointed by the Chief Justice of*

*whom the Chief Justice shall be one*” [Section 22 L of the Constitution of Singapore].

In **Trinidad and Tobago**, following a motion by the Assembly [Section 61 of the Constitution], the complaint against the President is investigated and followed by a report made by a Tribunal “*consisting of the Chief Justice and four other judges appointed by him, being as far as practicable the most senior judges*” [Section 36 of the Constitution of Trinidad and Tobago].

In **Ghana**, the Tribunal set up to hear the charges for the removal of the President is also appointed by the Chief Justice who acts as Chairman and who sits “*with the four most senior justices of the Supreme Court*”. [Section 69 of the Constitution of Ghana].

In **Gambia** as well, a resolution for the removal of the President is referred to a Tribunal appointed by the Chief Justice consisting of a justice of the Supreme Court as Chairperson and 4 other members, 3 of which must hold or have held high judicial office [Section 107 of the Constitution of Gambia].

In **Guyana**, the Tribunal is appointed by the Chancellor and consist of a Chairman and not less than 2 other members from among persons who hold or have held office as a Judge of the Court with unlimited civil or criminal jurisdiction or a Court having jurisdiction on appeals from any such Court. [Section 181 of the Constitution of Guyana].

## **10.6 Analysis of Chapter IV of our Constitution relating to Removal of the President**

An overview of the relevant provisions of the Constitutions of comparable democratic States has permitted us to have a useful insight into one of the most important aspects for the removal of the President, which is the procedural mechanism for his removal.

It has been seen that in some developed jurisdictions like the United States, France and India, the decision-making process is vested wholly in the Legislature. By virtue of their Federal Constitutions and the involvement of bicameral houses, there is a degree of filtering process which is provided by the need to have an enhanced majority in either or both houses. This is meant to operate as a safeguard against any arbitrary decision.

We do not have any form of bicameral process in Mauritius. Our Constitution however provides for a mechanism whereby the Legislature is not empowered to reach the final decision to remove the President on its own. It can only hold the President accountable for any violation of the Constitution or serious misconduct which may lead to his removal following an investigation and recommendation by an external independent body which is a Tribunal set up by the Chief Justice.

As it has been seen, this exercise in some jurisdictions is carried out by the Supreme Court or the Constitutional Court [**Sri Lanka, Germany, Cyprus, Seychelles**] or a Special Court [**Malaysia**].

In some other jurisdictions, the referral by the Legislature is for the investigation to be carried out not by a Court but by an independent Tribunal which consists of judges of the highest jurisdiction who are appointed by the Chief Justice or the head of the Judiciary [**Singapore, Trinidad and Tobago, Gambia, Ghana, Guyana**].

**Mauritius** falls in that same category since the Legislature cannot proceed with the removal of the President unless and until the Tribunal has, following its investigation, made a recommendation to that effect.

The mechanism laid down under Chapter IV of the Constitution offers several safeguards which ensure a fair investigative and hearing process in determining whether a President or Vice President should be removed from office.

It involves multiple bodies. The decision-making process is not centred on any single organisation of government as is the case where the whole process falls solely within the province of the legislature. After the Prime Minister has brought a first motion for referral to a Tribunal, the motion has to be supported by the votes of an enhanced majority which should be two thirds of all the members of the Assembly.

The main criteria applicable to the first motion and resolution are:

- (i) the grounds for removal must be clearly formulated and fully particularised;
- (ii) they must be based on one of the grounds specified in section 30(1) of the Constitution;
- (iii) the motion must be voted by at least 2/3 of all the members of the Assembly.

Quite significantly it is not incumbent upon the Assembly at that juncture to make any assessment of the evidence or decide whether the charges are founded or proved. The Assembly only scrutinises whether sufficient and valid grounds exist for initiating the process by way of a referral to a Tribunal for investigation into the charges or allegations. This first leg of the process however remains essentially a political process which is subjected to the dominance of a prescribed majority. There is a risk however that such a process may at that juncture entail

subjective decisions on the part of members of the Assembly motivated purely by political or partisan considerations.

But the safeguard remains the Tribunal where the highest test as to the President's liability on any of the listed grounds is carried out by an independent panel of Judges through the application of the legal standards required for a fair hearing.

There can be no removal of the President solely upon the initiative or decision of the political institution which the National Assembly is. There must not only be an investigation but also a recommendation for the removal of the President by the Tribunal. In the absence of a recommendation for the removal of the President by the Tribunal the whole procedure comes to a grinding halt since the National Assembly is not empowered to proceed any further with the removal of the President [**Section 30(3)(e) of the Constitution**].

Another strong safeguard is indeed the method of appointment of the Chairperson and members of the Tribunal prescribed in Chapter IV of the Constitution. The Legislature has no say in the appointment of the Tribunal. The choice of its Chairperson and members is vested in the Chief Justice who is the only person to decide upon the composition of the Tribunal.

**Section 30(8) of the Constitution** goes further in ensuring the setting up of an impartial and independent Tribunal by expressly providing that the Tribunal shall be comprised exclusively of Judges holding or having held the highest judicial offices in the hierarchy of the Judicial system of a Commonwealth State. The Chairperson and the 2 or 4 members of the Tribunal must be selected by the Chief Justice only "*from amongst persons who hold or have held office as a Judge of a Court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from such a Court*".



The method of appointment of the Tribunal as well as the status of the Chairperson and Judges who would make up such a Tribunal are the best guarantees of an independent and impartial institution.

**Section 30(4) of the Constitution** provides an additional safeguard for a fair hearing before the Tribunal by ensuring that the President is entitled to be present and to be legally represented before the Tribunal during its investigation.

There is no doubt that the hearing and recommendation by an independent Tribunal constitutes a vital mechanism in securing a fair and impartial outcome in the course of proceedings for the removal of the President. The role and function of the Tribunal is only limited to submit, following its investigation, a report stating to the Assembly whether in the circumstances a removal of the President is recommended. The Tribunal has no further powers to sanction the President. But the Tribunal provides an impartial forum which would sanction an honourable acquittal should the President be unjustly accused.

It is the Assembly which has the final say subject to a timely motion being introduced by the Prime Minister [**Section 30(3)(e)(f) of the Constitution**]. In the final resort it is incumbent upon the Assembly to decide whether to remove the President or not. It is the Assembly which elects the President and the Constitution has considered it fit that, because it is the Assembly which elects the President, the same body should have the power to remove the President from office. Section 30(1) of the Constitution emphasises that the President “*may be removed*” and not “*shall*” or “*must*” be removed. The Constitution does not obligate the Assembly to remove the President, even where there has been a recommendation for his removal by the Tribunal and there has been a finding of serious misconduct or of violation of the Constitution against the President or even where he is found to be physically or mentally incapacitated. The Assembly is not bound to implement the recommendation of the Tribunal to remove the President, even though it is open to the Assembly at that stage to do so by a simple majority.

In the final analysis it appears that the mechanism provided under Chapter IV of the Constitution remains the best alternative for the removal of the President. Although the first and last leg of the process must come necessarily from the National Assembly on a motion of the Prime Minister, the procedural mechanism is so evenly balanced that the Assembly cannot on its own remove the President. It cannot do so without the recommendation by a Tribunal. Quite importantly such a Tribunal, by the method of its appointment and composition, has all the attributes and offers all the safeguards of an impartial and independent panel insulated from any political interference or external influence. The requirement of a 2/3 majority for initiating the process is an additional safeguard to control any abusive use of the process for removal of the President.

We shall however examine some of the shortcomings in relation to the procedure for the conduct of the proceedings before the Tribunal before analysing in the next chapter the potential dangers inherent to such a mechanism for removal, which may arise in the light of the nature and scope of the Presidential immunity under the Constitution.

## **10.7 Proceedings before Tribunal**

It has been seen that **section 30(8) of the Constitution** spells out how the Tribunal should be constituted. But as regards the hearing and the conduct of proceedings before the Tribunal, the only provisions that have been inserted in the Constitution are to be found in **section 30(4) of the Constitution** which says that the President '*shall have the right to appear and to be represented before the tribunal during its investigation*'.

There is no doubt that such a Tribunal would readily adopt all the rules of natural justice in order to afford a just and fair hearing to all the parties involved.

But a fundamental question which arises is whether the Tribunal is endowed, legally or constitutionally, with all the necessary powers which it requires to be able to carry out effectively the task with which it is mandated under **Section 30 of the Constitution**. The Tribunal does not have any such powers – section 30(4) is only concerned with the right of the President to a fair hearing. The Constitution is otherwise silent as to the powers of the Tribunal. The Tribunal cannot, for instance, by virtue of the Constitution or any other law, compel the attendance of witnesses or production of evidence. Nor is it open to such an *ad hoc* Tribunal to invoke any inherent powers to do so in the absence of any appropriate legal framework or legislation.

By way of comparison, the framers of the Constitution did not merely create the office of Ombudsman as an investigating body but they also spelt out the powers of the Ombudsman to carry out an investigation pursuant to **section 97 of the Constitution**. For instance, **section 99(2) of the Constitution** provides the following with regard to disclosure of information:

*“(2) For the purposes of any such investigation, the Ombudsman shall have the same powers as the Supreme Court in respect of the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of the production of documents”.*

**Section 99(3)** goes on to remove any restriction upon the disclosure of information by virtue of any law which purports to impose a duty of confidentiality or secrecy. There are safeguards however, provided in **section 99(4) and (5) of the Constitution**, which prohibit and regulate the disclosure of information to the Ombudsman in relation to Cabinet proceedings or where it would be contrary to the public interest to disclose information relating to defence or security. **Section 101(1) of the Constitution** also provides that no proceedings of the Ombudsman in the discharge of his functions *“shall be called in question in any court of law”*.

To complete the legal arsenal **section 102 of the Constitution** further makes provision for the enactment of a law “*for such supplementary and ancillary matters as may appear necessary or expedient*” and “*for the procedure to be observed by the Ombudsman in performing his functions*”.

As regards the Supreme Court as well as the Court of Civil Appeal and Court of Criminal Appeal, the Constitution, whilst creating these courts, went on to state that they shall have “*such jurisdiction and powers as may be conferred upon them ... by the Constitution or any other law*” [**section 76(1) and section 80(2) of the Constitution**]. There have indeed been enacted, further to the constitutional provisions creating these Courts, a panoply of laws to provide them with all the powers needed to exercise effectively their jurisdiction.

The same approach has been adopted in the creation of the Public Bodies Appeal Tribunal pursuant to section 91A of the Constitution, which is a Constitutional Tribunal vested with hearing functions. It is provided in relation to this Tribunal in **section 91A(16) of the Constitution** that:

*“(16) There shall be such provision as may be prescribed for such supplementary or ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this section”*

Parliament enacted in that connection the Public Bodies Appeal Tribunal Act, which in its sections 6 and 7, vest the Tribunal with all the necessary powers to compel the attendance of witnesses and to obtain production of any evidence “*as it thinks necessary or expedient*”. Any person who fails to attend the Tribunal or any person who “*refuses to take an oath before the Tribunal or to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him in any proceedings before the Tribunal or to produce any article or document when required to do so by the Tribunal*” commits an offence.

It was not imperative to spell out in the Constitution itself, as was done in the case of the Ombudsman, all the investigating powers of a Tribunal set up under section 30(8). All the ancillary or incidental provisions necessary to empower the Tribunal to carry out its investigation and constitutional functions could, as in the case of the Supreme Court, the Courts of Appeal or the Public Bodies Appeal Tribunal, be prescribed in any other law enacted by Parliament or, where appropriate, by the making of Rules.

Several other Constitutions, comparable to ours, provide the necessary mechanism for setting up the powers, practice and procedure of the Tribunal for the removal of the President. This is done either by expressly empowering the Tribunal to regulate its own procedure or by providing for the making of Rules or for the enactment of enabling legislation by Parliament. The Constitution of Trinidad and Tobago contains in its section 36, provisions of a similar nature as in our Constitution for the removal of the President. The investigative process is entrusted to a Tribunal consisting of the Chief Justice and 4 other Judges appointed by him. **Section 36 of Trinidad and Tobago Constitution** however goes on to provide that *“The procedure of the tribunal shall be such as is prescribed, but, subject to such procedure, the tribunal may regulate its own procedure”*.

There are equivalent provisions in several other Constitutions. In **Ghana**, **section 69 of its Constitution** provides that the *“Rules of Court Committee”* shall make Rules for the practice and procedure of the Tribunal for the removal of the President. In **Singapore**, it is provided that ‘such tribunal may regulate its own procedure and make rules for that purpose [**Section 22L(5) of the Constitution of Singapore**].

**Section 182 of the Constitution of Malaysia** specifically cater for the making of Rules on the advice of the Chief Justice *‘to provide for the removal of any difficulty or anomaly whatsoever in any written law or in the carrying out of any*

*function, the exercise of any power, the discharge of any duty, or the doing of any act ... and for that purpose ... may make any modification, adaptation, alteration, change or amendment whatsoever to any other law”.*

The Constitutional Court in **Seychelles** may, for the purpose of investigating the charges against the President, “*summon and examine any witnesses or otherwise exercise all the powers of the Supreme Court*” [**Section 54 of the Constitution of Seychelles**].

There is in Mauritius neither any constitutional nor any legal provisions to regulate the procedure of the Tribunal in particular as regards any of its powers to secure evidence. There is also no basis for invoking any inherent powers in respect of the practice and procedure of such an *ad hoc* Tribunal since the **Interpretation and General Clauses Act 1974** would not apply to the Constitution.

There is no doubt that the Tribunal is, by the very nature of its constitutional mandate, required:

- (i) to be fully empowered to obtain, subject to the necessary countervailing safeguards by way of rules of evidence, all the evidence which is relevant and material in order to carry out an effective and holistic investigation, without which it would barely be possible for the Tribunal to make any valid or meaningful recommendation to the Assembly; and
- (ii) to act swiftly. There is no need to expatiate upon the importance to the sound functioning of the democratic institutions of the State, of a timely determination of the fate of the Head of State who is the subject of proceedings for his removal. The timely determination of such proceedings is crucial also to avert any temptation to resort to any tactical attempt to get rid, albeit temporarily, of a President.

The time limits imposed under **section 30(3)(f) of the Constitution** for bringing the motion to the Assembly following a recommendation for removal of the President by the Tribunal again highlights the importance of the time-factor and the need to act with celerity.

There is a *dire* need therefore to have in place well defined and efficient procedures which would help to do away with any unnecessary legal hiccups or obstacles which are likely to hinder or unduly prolong the investigation and hearing process of the Tribunal. Nor should the procedural mechanism for such an important exercise as the removal of the President be tainted with any uncertainty or confusion. The judgment of the South African Constitutional Court in **Economic Freedom Fighters and Others v Speaker of the National Assembly and Another [2017] ZACC 47** has brought to light how the lack of appropriate and efficient procedural rules had clogged the timely application of the Constitutional provisions [**Section 89 of the South African Constitution**] for the removal of the South African President by the National Assembly.

We hardly need to stress that for the Tribunal to be able to make an appropriate and meaningful final recommendation with regard to the removal of the President, it should be in a position to retrieve and obtain all the material evidence and information in the course of its investigations before submitting its written report and recommendation to the Assembly.

Apart from being empowered to examine witnesses and call for the production of evidence, the Tribunal must also be able to regulate its practice and procedure for the conduct and management of its proceedings and for the exercise of its functions under the Constitution.

We cannot therefore be left to surmise as to the legally enforceable mechanism available to the Tribunal to ensure, that it may, for the purposes of its investigation and notwithstanding any other enactment:

- (a) summon any person to attend a sitting of the Tribunal for the purpose of being examined orally.
- (b) order any person to produce to the Tribunal any book, document, record, or article.
- (c) order that information stored in any computer or by any mechanical or electronic device be communicated to the Tribunal.
- (d) require any bank or financial institution to make a full disclosure of any information relevant to the investigation.
- (e) require the communication of any bank account or transaction or any other relevant and material information within the custody of a bank or financial institution.
- (f) search or cause to be searched the premises of any person.
- (g) carry out or arrange for the examination of any books, documents or articles belonging to any person.

There are several important issues which have to be regulated by legislation in order to ensure the effective functioning of the Tribunal. These must include provisions as to the protection from any liability of the Chairperson and members of the Tribunal, as well as for the protection of witnesses. There is also the need to deal with the law of evidence which would be applicable in relation to the hearing and admissibility of evidence and in particular the examination of witnesses.

The Tribunal must be able to have unhindered access not only to all material and relevant evidence but also evidence of a reliable nature. For that purpose, in order to encourage witnesses to come forward without any apprehension or hesitation it is advisable that the law should provide that no evidence given before the Tribunal shall give rise to any civil or criminal proceedings or be admissible against any person in any civil or criminal proceedings. Such provisions would, for instance, preclude witnesses from refusing to testify on grounds of privilege or protection against self-incrimination. Any witness should not be under the



apprehension that his testimony may expose him to any civil claim or criminal prosecutions which would seriously cripple the Tribunal's access to reliable evidence.

Furthermore, there is a need for the enactment of criminal offences to deal with any person who refuses to attend a sitting of the Tribunal following a summons served upon him; or who refuses without sufficient cause to give or produce evidence as required by the Tribunal; or who wilfully gives false evidence.

### **10.8 Delay – Absence of Timeframes and Time Limits**

As already pointed out it is of utmost importance that there is in place a procedural mechanism that would ensure that the constitutional process for the removal of the President is not clogged or unduly delayed at any of its stages.

There are at different stages several institutions and persons who are involved not only in the decision-making process but also for the purpose of communicating decisions and submitting reports. The timely implementation of all the various steps in the procedural mechanism is indispensable in order to prevent that the process be stalled at any stage. Their timely implementation is also essential in order to ensure that there is no inordinate delay which may seriously jeopardise the effectiveness of the process prescribed under Chapter IV of the Constitution for the removal of the President.

But there are no existing provisions to ensure a prompt hearing by the Tribunal and also to ensure that the process is not clogged at any stage along the way by any of the institution or person concerned with the implementation of the process.

**Section 30(3)(f) of the Constitution** are the only provisions which prescribe a time limit for prompt action. This however applies only to the second

leg of the process after the Tribunal has, following its investigation, submitted a report to the Assembly with a recommendation for a removal of the President by the National Assembly.

It is vital, as has been done in several other jurisdictions, for instance in **Zambia [section 107 of the Constitution]**, in **Kenya [section 145 of the Constitution]** or in **Ghana [section 69 of the Constitution]**, that there are prescribed time frames to ensure that the different stages in the process are effectively implemented within a reasonable time and without any undue delay.

It is important for that purpose to address the time-frame concerns for each stage of the process for the removal of the President under Chapter IV of the Constitution.

#### **10.8.1 Priority of motions before Assembly**

It hardly needs stressing therefore that there is a strong case for the Assembly to consider from the outset, as a matter of priority, any of the 2 motions which has to be made pursuant to section 30 of the Constitution for the removal of the President. A good comparison is provided by the constitutional provisions which require the immediate consideration by the Assembly of a motion for the removal of the Speaker under **section 32(8) of the Constitution**. There are no less compelling reasons that both motions, which may be presented by the Prime Minister pursuant to **section 30(3)(a) or(e) of the Constitution** for the removal of the President, should:

- (i) form part of the business of the Assembly when it first sits after presentation of the motion; and
- (ii) have priority over all other business of the Assembly.

### **10.8.2 Setting up of Tribunal**

The need to avoid any unnecessary delay in the setting of the Tribunal would require that:

- (i) The speaker transmits the original of the first resolution, adopted by the Assembly pursuant to **section 30(3)(c) of the Constitution**, to the Chief Justice without delay or within a specified time which is prescribed by Rules or by law.
- (ii) The Chief Justice constitutes and appoints the Tribunal without delay or within a specified time prescribed by Rules or by law.

### **10.8.3 Time limit for Hearing**

It is no less important that there is no inordinate delay in the conduct of the investigation and the communication of the report to the Assembly by the Tribunal. This would also require the prescription of a time-limit for the Tribunal to submit its written report to the Speaker.

## **10.9 Composition of Tribunal**

By virtue of **section 30(8) of the Constitution**, the Chief Justice appoints a Tribunal consisting of a Chairperson and 2 or 4 other members from amongst persons who hold or have held office as a Judge of a Court of the highest jurisdiction in some part of the Commonwealth. Section 30(8) uses a formula for the composition of a Constitutional Tribunal which had been commonly adopted by the framers of various Commonwealth Constitutions at the time of the making of our Constitution in 1968. There are identical provisions under **section 78(4) of our Constitution** as regards the appointment of the Tribunal for investigating the removal of a Judge.

Such a method of appointment has no doubt all the attributes to ensure the setting up of an independent and impartial Tribunal.

But it would not be realistic to assume that the setting up of a Tribunal which requires the enlisting of several commonwealth judges of the designated status can be done promptly. There are also logistic considerations and practical exigencies which the involvement of several commonwealth Judges would entail both with regard to the investigation and hearing of the charges and the drawing up of the final report by the Tribunal. These are no doubt of a nature which would add to the difficulty of a prompt dispatch of its business by the Tribunal.

There are indeed several Commonwealth Jurisdictions which now have recourse to the Judges of their own Supreme Court or Constitutional Court (**Singapore, Trinidad and Tobago, Ghana, Zambia**) in order to constitute the ad-hoc Tribunal.

It cannot also be overlooked in that connection that:

- (i) the need to have recourse to Commonwealth Judges was prescribed in Mauritius at a time when there were very few judges at the Supreme Court; and
- (ii) the wording of section 30(8) of the Constitution does not appear to preclude the Chief Justice from considering the appointment of Judges of the Supreme Court of Mauritius to form part of the Tribunal, as long as Mauritius is still part of the Commonwealth.

On the other hand, there is an added advantage for vesting the Supreme Court itself with the investigation as is the case for instance in Sri Lanka and Cyprus. The Supreme Court would be in a position to exercise all its inherent powers to carry out the investigation without the need for the enactment of any further or supplementary legal provisions as would be required in the case of an *ad hoc* Tribunal.

There is, however, an argument against a referral to the Supreme Court instead of a Tribunal. If the charges for removal are heard by the Supreme Court and are found to be unsubstantiated and there is no recommendation for the President's removal, there would be a difficulty for the Supreme Court to be seized anew subsequently with any civil or criminal process against the President after he has left office. It might not be appropriate for the Supreme Court to deal anew with the facts of a case, either by way of appeal or trial, in connection with which the Supreme Court has already pronounced itself, albeit in a different context by virtue of section 30(8) of the Constitution.

### **10.10 Judicial Scrutiny**

There are several jurisdictions which provide that the decision to impeach or remove the President shall be final and conclusive and shall not be challenged or called in question in any Court on any ground. This is so, for instance, in **Malaysia** where any decision of the 'Special Court', which is vested with the power to try any criminal or civil action against the President, is final and conclusive **[Section 181 of the Constitution of Malaysia]**.

In Mauritius both the resolutions to initiate the process for removal and to ultimately remove the President lie with the National Assembly. It has been held by the Supreme Court that the Courts will abstain from interfering with the internal business of the National Assembly, except where an infringement of a Constitutional principle is involved or where the Supreme Court is specifically mandated by the Constitution to do so **[Berenger v Jeewoolall (1999) MR 172]**. The question which may arise however is whether the decision of the Tribunal, which sits independently of the Assembly, but whose recommendation to the Assembly is a decisive step in the decision-making process for the removal of the President, is amenable to constitutional or judicial review by the Supreme Court.

## 10.11 Grounds for removal

The grounds which may be invoked for the removal of the President include:

### 10.11.1 Violation of Constitution

There should be no difficulty in interpreting what is meant by '*violation of the Constitution*'. This would apply with regard to the breach of any of the provisions of the Constitution. But it would also import all the obligations imposed upon the President by virtue of **section 28(1)(b) of the Constitution** and the **Presidential Oath (*supra*)**. The President would thus commit a violation of the Constitution if he fails to uphold and defend the Constitution or where he fails to ensure that the institutions of democracy and the rule of law are protected or the fundamental rights of all citizens are respected. The term '*violation of the Constitution*' would encompass any act which is inconsistent with or opposed to the spirit of the Constitution as is made explicit in the following passage from **Indian Constitutional Law, 7<sup>th</sup> edition Vol. I, M.P Jain**, at p 177:

*"There is no difficulty in ... .. interpreting the phrase" 'violation of the Constitution' in a wider sense and regard a violation of the conventions, usages and spirit of the Constitution as violation of the Constitution. When forms are maintained and the spirit is sapped away the Constitution is violated."*

### 10.11.2 Any serious act of misconduct

Whilst the first ground would relate essentially to the official acts of the President in the exercise of his functions, this second ground would extend to all the personal acts of the President.

The President is immune from any criminal prosecution during his term of office but an act of misconduct on his part, whether it constitutes a criminal offence or not, may lead to his removal from office. However, it is not any act of misconduct

which would expose him to removal. It must be serious enough to warrant his removal. There is no definition of the term '*serious*'. What would for the purposes of his removal amount to a 'serious' act of misconduct, is eminently a matter which is left to the appreciation of:

- (1) the members of the Assembly when they are confronted with the decision to vote for a referral to the Tribunal for investigation or ultimately for his removal following a recommendation by the Tribunal; and
- (2) the Tribunal when it has to decide upon the recommendation to be made to the Assembly following its investigations.

In **France**, the misconduct must be such that it would be manifestly incompatible with the exercise of the functions of a President. In **Israel**, the President is liable to be removed where the conduct is unbecoming to his status as President of the State or where the President is guilty of corruption 'involving the abuse of the powers of his office'. In **Singapore**, misconduct includes 'any offence involving fraud, dishonesty or moral turpitude'.

In **Gambia**, the President is liable to be removed for misconduct if he has conducted himself or herself "*in a manner that has brought or is likely to bring the office of President into contempt or disrepute*" [**Section 108 of the Constitution of Gambia**].

### **10.11.3 Inability to perform his functions whether arising from infirmity of mind or body or from any other cause.**

This ground is not limited to the President being incapacitated as a result of physical disability or mental impairment. It is indeed very wide as it extends to the inability to perform the presidential functions arising from 'any other cause'.

However, an investigation for removal on the ground of physical or mental incapacity would invariably entail the need for medical examination and opinion.

Thus. in several jurisdictions like in **Ghana [section 69 of the Constitution]**, **Gambia [section 107 of the Constitution]**, **Zambia [section 107 of the Constitution]**, **Kenya [section 144 of the Constitution]**, instead of appointing a Tribunal, as would be the case for the investigation into any 'violation of the Constitution' or 'serious act of misconduct', the Constitution provides for the setting up of a Medical Board for an examination and assessment of the President's state of health.

The Medical Board consists in most cases of medical practitioners, appointed by the Chief Justice, following consultation with the head of the health services or body responsible for regulating health practitioners and the practice of medicine in the Country.

The better view however, is to maintain the referral to a Tribunal consisting of judicial officers appointed in conformity with section 30(8) of the Constitution. There are some compelling reasons for the question of physical or mental incapacity to be determined by a Tribunal, instead of a Medical Board consisting of medical Specialists:

- (i) The Tribunal by its composition would offer the stronger guarantee of a quasi-judicial, independent and impartial body insulated from any pressure from the executive.
- (ii) The Tribunal would be better equipped to deal with the many complex legal issues which may crop up in the course of such an investigation. The President may for instance refuse to submit to medical examination or the President may wish to call witnesses and should be in a position to adduce any contradictory expert evidence with which a Medical Board may or may not agree.



The Tribunal would thus be in a better position, even when dealing with medical issues, to ensure not only that the process is independent and impartial but that the President is afforded a fair hearing which would include an adequate opportunity, to question by way of cross-examination any medical opinion or evidence which may be adverse to his interest, to call witnesses or to produce evidence to counter or rebut any medical opinion or evidence.

The Tribunal however should, for the purpose of determining whether the President is unable to perform his functions for health reasons, be empowered to appoint medical specialists and other qualified persons who may assist the Tribunal in reaching a considered decision. The Tribunal should also be empowered, notwithstanding any other enactment, to call for production of medical reports or records which may be relevant and necessary for the purpose of its investigation and recommendation.

## **10.12 Consequences of removal**

The provisions under Chapter IV of the Constitution relating to the removal of the President are remedial rather than punitive in nature, the only remedy available to the National Assembly is limited to a removal from office of the President.

There are several jurisdictions however where the removal from office of the President may entail other sanctions or consequences.

In **South Africa**, for instance, **section 89(2) of the Constitution** provides that *“Anyone who has been removed from the office of President in terms of subsection (1)(a) (for a serious violation of the Constitution) or (b) (for serious misconduct) may not receive any benefits of that office, and may not serve in any public office”*.

The above provisions do not apply where the President is removed from office due to his physical or mental inability to perform the functions of President.

**Section 46A of the Constitution of Tanzania** provides that *“In the event the President ceases to hold the office of President by reason of the charges against him being proved he shall not be entitled to receive any payment by way of pension or to receive any benefits or other privileges which he has under the Constitution or any other law enacted by Parliament”*.

In **Malawi, section 86 of the Constitution** expressly provides that the *“conviction by way of impeachment”* which leads to the removal of the President *“shall not act as a bar to legal proceedings”*.

In **Mauritius**, the President is by virtue of **section 30A(3)(b) of the Constitution** entitled *“to such emoluments, allowances and privileges, exempt from any tax thereon, as may be prescribed”*. Parliament has for that purpose enacted the President’s Emoluments and Pensions Act.

The evidence and conclusions already set out in **Chapters 3 to 9** of this report have highlighted Mrs Gurib-Fakim’s violation of the Constitution and potential breaches of the law by her unlawful and abusive use of the Office of President.

These would have no doubt been relevant and material in determining whether she had committed “any violation of the Constitution or any other serious act of misconduct” for the purpose of her removal as President pursuant to section 30 of the Constitution.

But, since Mrs Gurib-Fakim had resigned as President with effect from 23 March 2018, the question of her removal in accordance with the procedure laid down under section 30 of the Constitution did not arise. Her resignation has thus

obliterated the need for resorting to any procedure for her removal pursuant to section 30 of the Constitution. There has as a result been no hearing by a Tribunal set up pursuant to section 30(8) to investigate into any alleged violation of the Constitution or any serious act of misconduct.

This has a significant practical consequence in the sense that had she been removed for violation of the Constitution or for any serious act of misconduct pursuant to the procedure laid down under the Constitution, she would not have been entitled to the pension and all the other benefits and privileges prescribed under the **President's Emoluments and Pensions Act**. By virtue of section 4(1) of the Act, it is only a "*retiring President*" who is entitled to a pension for the remainder of life. And a "*retiring President*", under section 2 of the Act is defined as "*a person who ceases to hold office as President by the expiry of his term of office or by his resignation*". It appears therefore that a President who is removed from office following a resolution for his or her removal pursuant to section 30 of the Constitution would not be entitled to the payment of any pension or benefits.

As it has been seen the proceedings under Chapter IV of the Constitution are remedial rather than punitive in nature as the only remedial action is the removal from office by the National Assembly. Because the process is not punitive, there is no bar to the President being subjected, following his removal or resignation from office, to any criminal prosecution or civil proceedings, in respect of any acts and doings which do not fall within the purview of the presidential immunity under section 30A of the Constitution.

The question which inevitably arises is whether it is legitimate and acceptable that the law should allow for the President's continued entitlement to pension and retirement benefits if, following his resignation, he is subsequently charged and convicted for a criminal offence committed whilst in office as President. The more so, where the criminal offence may entail a violation of the

Constitution or elements of fraud, dishonesty, corruption or moral turpitude which may well constitute “*a serious act of misconduct*”.

## **10.13 RECOMMENDATIONS**

Section 30 of the Constitution and the other provisions under Chapter IV of the Constitution have laid the foundation for the process which is to be adopted for the removal of the President. They include the setting up of a Tribunal to investigate and report on the grounds for removal embodied in the resolution of the Assembly. Chapter IV of the Constitution does not spell out all the details for the efficient and proper functioning of the Tribunal as well as for the timely disposal of its assignment. The Constitution has thus left a number of matters which have to, and may, appropriately be taken care of by the enactment of legislation and Rules made in conformity with the founding provisions of the Constitution.

### **10.13.1 Powers, Practice and Procedure of Tribunal**

#### **Recommendation 1**

The Commission recommends that the requisite legislation and regulatory framework be put in place setting out the powers and the practice and procedure of a Tribunal set up under Section 30(8) of the Constitution.

#### **Recommendation 2**

The Commission recommends that the Chief Justice may make Rules for such supplementary or ancillary matters, as may appear necessary or expedient for the conduct of investigations and proceedings by the Tribunal.

### **Recommendation 3**

The Commission recommends that the Chairperson and members of the Tribunal shall, before assuming their functions, be required to subscribe an Oath in a prescribed form before the Chief Justice or a Judge of the Supreme Court.

### **Recommendation 4**

The Commission recommends the adoption of the necessary legal framework for the powers, protection, immunities and privileges of the Chairperson and members of the Tribunal and its staff in the exercise of their functions, with respect to any investigation, proceedings or report by the Tribunal.

It is recommended that no civil or criminal action should lie against the Tribunal or any member or officer of the Tribunal in respect of any act or omission relating to the exercise of its or his functions.

### **Recommendation 5**

The Commission recommends that the proceedings and hearing of evidence before the Tribunal be held in public. The Tribunal may exclude from its proceedings, persons other than the President and his legal representatives, to such an extent that the Tribunal may consider necessary in circumstances where publicity would be prejudicial to the proceedings, or in the interests of public morality, defence, public safety or public order or for the security or protection of privacy of any person involved in the proceedings. The Tribunal must also be able to make such orders as it may deem necessary to prohibit the publication in whole or in part of any information or evidence relating to its proceedings or investigation.

## **10.13.2 Evidence**

### **Recommendation 1**

The Commission recommends that the requisite legislation and regulatory framework be enacted to put in place the necessary processes and mechanisms for the conduct of an investigation and the holding of a hearing by the Tribunal, including provisions with regard to: -

- (i) the hearing of evidence;
- (ii) the production and admissibility of evidence;
- (iii) affording a reasonable opportunity to any interested party to bring, produce or communicate any evidence which may be relevant to the investigation;  
and
- (iv) the protection of witnesses.

### **Recommendation 2**

The Tribunal recommends that no evidence given before the Tribunal shall give rise to any civil or criminal proceedings or be admissible against any person in any civil or criminal proceedings.

### **Recommendation 3**

The Commission recommends the adoption of the requisite legislation and legal framework to enable the Tribunal, notwithstanding any other enactment, to:

- (i) summon any person to attend a sitting of the Tribunal for the purpose of being examined orally;
- (ii) order any person to produce to the Tribunal any book, document, record, data or article;
- (iii) order that information stored in any computer or by any mechanical or electronic device be communicated to the Tribunal;

- (iv) require any bank or financial institution or any telecommunication and/or telephone operators, to make a full disclosure of any information relevant to the investigation;
- (v) require the communication or production of any bank account, record, document or transaction or any other relevant and material information within the custody of a bank or financial institution;
- (vi) conduct searches or cause to be searched the premises of any person; and
- (vii) carry out or arrange for the examination of any books, documents, equipment or articles belonging to any person.

### **10.13.3 Witnesses**

#### **Recommendation 1**

The Commission recommends the adoption of the necessary legislation and Rules for the examination and cross-examination on oath of witnesses and for the administration of oaths, affirmations or declarations as the case may be, by the Chairperson of the Tribunal or by any person designated by the Chairperson.

#### **Recommendation 2**

The Commission recommends that witnesses be entitled to payment of such expenses as may be ordered by the Tribunal in accordance with a prescribed scale.

### **10.13.4 Offences**

#### **Recommendation**

The Commission recommends that it should be an offence for any person:

- (i) to refuse or fail, without any reasonable cause, to attend a sitting of the Tribunal at the time and place specified in the Summons;

- (ii) to refuse to depone or to answer fully to the best of his knowledge all questions put to him by the Tribunal;
- (iii) to refuse, without any valid reason, to produce any information or document which is in his possession or under his control;
- (iv) to refuse to be sworn, or to make an affirmation or declaration, as the case may be;
- (v) to wilfully give or communicate false evidence to the Tribunal;
- (vi) to insult the Chairperson or any member of the Tribunal;
- (vii) to interfere or tamper in any manner whatsoever with any evidence relevant to the conduct or outcome of the investigation by the Tribunal.

### **10.13.5 Timeframes**

#### **Recommendation 1**

The Commission recommends that any motion presented by the Prime Minister, pursuant to section 30(3)(a) and/or section 30(3)(e) of the Constitution for the removal of the President:

- (i) forms part of the business of the Assembly when it first sits after presentation of the motion; and
- (ii) has priority over all other business of the Assembly.

#### **Recommendation 2**

The Commission recommends that the requisite legislation and regulatory framework be put in place, including where appropriate the making of Rules, in order to set reasonable time frames and time limits for every stage of the process for the removal of the President pursuant to Chapter IV of the Constitution in particular, with regard to:

- (i) The communication by the Speaker to the Chief Justice of a resolution passed by the Assembly pursuant to section 30(3)(c) of the Constitution;



- (ii) The setting up of a Tribunal by the Chief Justice pursuant to section 30(8) of the Constitution; and
- (iii) The hearing by the Tribunal and the submission of its report to the Assembly pursuant to section 30(3)(d) of the Constitution.

### **10.13.6 Recommendation for investigation under section 30(8) of the Constitution**

At present, the Tribunal is set up under section 30(8) of the Constitution by the Chief Justice who appoints 2 or 4 Judges of the highest jurisdiction from a Commonwealth State.

#### **Recommendation**

The Commission recommends the holding of the necessary consultations with all interested parties in order to determine whether it is advisable or not to amend section 30 of the Constitution and adopt the requisite legal framework:

- (a) with a view to introducing one of the 2 following options in lieu of the Tribunal as constituted under section 30(8) of the Constitution:
  - (i) that the investigation and recommendation to the Assembly be made by the Supreme Court consisting of the Chief Justice as Chairperson and the required number of judges appointed by the Chief Justice; or
  - (ii) that the investigation and recommendation to the Assembly be made by a Tribunal consisting of the Chief Justice and the required number of Judges of the Supreme Court appointed by the Chief Justice.
  
- (b) in order to provide that the proceedings for removal of the President be final and conclusive and be, as in the case of the Ombudsman, precluded from being called in question in any court of law.

### **10.13.7 Entitlement to benefits and privileges**

The Commission recommends a review of the existing constitutional and legal framework such that the President shall not, following his or her resignation or termination of the term of office, be entitled:

- (i) to receive any pension or any other benefits or privileges; and
- (ii) to hold any public office,

in the event that he or she is found guilty of a criminal offence involving fraud, dishonesty, moral depravity or any offence against the State committed whilst in office as President.

## **CHAPTER 11**

### **ITEM 3 OF THE TERMS OF REFERENCE**

#### **IMMUNITY**

***“3. To make recommendations, as appropriate, with regard to the immunity from legal proceedings against the President or the Vice-President with a view to reinforcing the rule of law, the concept of separation of powers and consolidating the democratic principles enshrined in the Constitution”.***

There are provisions in our Constitution which grant immunity to the President and which explicitly shield him from compulsory judicial process whilst in office.

Section 30A of the Constitution provides the following in that connection:

***“30A. Privileges and immunities***

*(1) Subject to section 64(5), no civil or criminal proceedings shall lie against the President or the Vice-President in respect of the performance by him of the functions of his office or in respect of any act done or purported to be done by him in the performance of those functions.*

*(2) Subject to section 64(5), no process, warrant or summons shall be issued or executed against the President or the Vice-President during his term of office.”*

By virtue of **section 30A(1) of the Constitution** the President is immune from any civil or criminal action in respect of *“any act done or purported to be done by him”* in the performance of his functions. The President therefore has absolute immunity and is not answerable to any Court in respect of the exercise of the powers and duties of his office.

**Section 30A(2) of the Constitution** extends the immunity against any process, warrant or summons such that the President cannot be subjected to any judicial scrutiny whether in respect of his functions or any other acts during his term of office.

In **Dayal v President of the Republic and Ors [1998] MR 4** the Supreme Court, on examining the provisions of section 30A of the Constitution, held that the presidential immunity extends to constitutional and judicial review proceedings. The Court held that:

*“(a) civil proceedings include constitutional proceedings”;*  
*(b) if civil proceedings include constitutional proceedings, ... .., they must surely also include judicial review applications on questions as to the interpretation of the Constitution.”*

The ambit of the immunity is quite extensive. No court can review any decision of the President. No court can compel the President to exercise or not to exercise any power or to perform or not to perform any act or duty. Since the President cannot be reached by any process, no court can compel him to put an appearance, to take a stand or defend an action. Nor may a judicial or quasi-judicial institution make any order, issue any writ or give any direction to the President.

The wording of section 30A(2) of the Constitution is indeed very wide in scope as it precludes the issue or execution of *‘any process, warrant or summons’*

emanating from any source. The President, whilst in office, is not only immune from court proceedings but cannot also be subjected to any search, arrest, detention, or inquiry. The President cannot, for instance, be questioned or summoned to give evidence by a Commission of Inquiry or by any other institution vested with investigative powers. Such immunity would presumably extend to the private property, residential and official premises, as well as the correspondence, documents and other personal belongings of the President.

**Section 64(5) of the Constitution** provides the only exceptional situation in which the President becomes amenable to judicial proceedings whilst in office. **Section 64(5) (b) and (c) of the Constitution** empowers the Supreme Court to enquire, following a motion by the Prime Minister, whether the President has dissolved Parliament otherwise than under the proviso to section 57 of the Constitution. Upon hearing the motion, the Supreme Court has to determine whether the decision of the President to dissolve Parliament is valid or not in the light of the provisions of sections 57 and 64 of the Constitution. This is the only instance where the President may be subjected to judicial proceedings whilst he is still in office.

## **11.1 Scope of Immunity**

As the only expression of immunity in the Constitution, section 30A provides 2 distinct types of immunity – one is temporary and the other is permanent and absolute.

There are essentially 2 considerations which would determine whether the immunity is absolute and permanent or whether it is only temporary. They relate to the nature of the duties performed by the President. Immunity would be absolute and permanent in respect of his acts which are of an official nature. On the other hand, there would only be temporary immunity during his term of office in respect

of his acts which are essentially of a personal or private nature and which are not related to the discharge of his official functions.

## **11.2 Absolute Immunity for Official Acts**

The official acts of the President which would attract absolute immunity are not limited to “*any act done*” by the President but would also, by virtue of section 30A(1) of the Constitution, extend to “*any act done or purported to be done by him in the performance of those functions*”.

The inclusion of the words “*purported to be done*” by the President in the performance of the functions of his office enlarges the scope of the immunity. They may very well extend the immunity to acts or omissions which are incidental or collateral to the exercise of the powers and duties of his office. The President is protected so long as the act relates to the exercise of any of the duties which he has to perform pursuant to the ‘Constitution or any other law’.

The President is thus afforded a full exemption from both civil and criminal liability for actions taken in the broad exercise of his official duties. He is absolutely immune from any such action regardless of bad faith or malicious intent.

Such immunity is not only absolute but also permanent. The President is protected from any judicial action brought against him in respect of any official act even after he ceases to be President.

## **11.3 Temporary Immunity during term of Office**

By virtue of section 30A(2) of the Constitution, an absolute immunity from the process of the court is granted to the President whilst in office. But as has been seen the absolute immunity is permanent only as regards the official acts relating to the functions of his office.

The situation is different as regards liability which may arise as a result of his personal acts performed in a private capacity and which do not fall within the scope of any of his official acts as President under the Constitution or any other law.

As regards those acts which do not form part of any of the functions of his office, his 'immunity' expires as soon as he ceases to hold office.

The President therefore enjoys temporary immunity whilst in office against any court action, process, warrant or summons in respect of any private act including any act which may have been committed by him prior to his assuming office as President. In **Ramgoolam v Jugnauth and Ors [2006] MR 127**, the plaintiff had sued the first defendant for defamation which was said to have taken place in March 2001. The first defendant was appointed President of the Republic in 2003. The court held:

- (1) *"That the President and the Vice-President have absolute immunity for criminal and civil proceedings arising out of the performance of the functions of their office is just beyond doubt by section 30A(1).*
- (2) *Pursuant to section 30A(2), the President is immune from "process, warrant or summons" during the term of his office. Accordingly, any proceedings civil or criminal arising from the performance of his official duties or otherwise should be stayed until the end of his term of office".*

There is therefore an absolute bar against any court action in respect of his official acts during his term of office and only a partial bar, in respect of his personal private acts, which may however be lifted as soon as he leaves office.

In view of the immunity provisions contained in the Constitution which effectively shield a sitting President from any legal proceedings and from any compulsory process, the only possible sanction against the President for any violation of the Constitution or serious misconduct is by way of the removal process

laid down in section 30 of the Constitution [**See Chapter 10**]. This constitutes the only possible form of recourse against the President in office to the exclusion of any judicial process.

## **11.4 The Rationale**

The granting of Presidential immunity from judicial proceedings is common to many countries. This concept of immunity is not new. One of the earliest concepts, which was in the form of 'sovereign immunity', provided absolute immunity to the Monarch in the United Kingdom on the assumption that "*the king can do no wrong*". As a result, the monarch was above the law and could not be judged guilty of any crime. A notable exception however is the case of King Charles 1 who was convicted for High treason by the House of Commons and beheaded in 1649 despite his claim that as king '*whose power was given by God*' he could not be tried by any '*earthly power*'.

The Supreme Court in **Dayal v Republic of Mauritius [1997] MR 223** explains the introduction of the immunity provisions contained in section 30A of our Constitution when it was amended to make Mauritius a Republic:

*"It may be recalled that this section was introduced in our Constitution in 1991 when the supreme law of the land was amended to make Mauritius a Republic [Act No. 48 of 1991]. Presumably Parliament thought this necessary because the predecessor of the President was the Governor-General and was himself the representative of their Majesty the Queen in Mauritius and, as such, was considered as representative of the Crown. In the United Kingdom it is settled law that no order, summons or process, can issue against the Crown.*



*.... And it can be assumed that section 30A was enacted in order to confer an immunity akin to that enjoyed by the Crown on the President and Vice-President.”*

In **France**, there has also been in existence a deeply rooted concept of immunity inherited from the days of the monarchy, namely that *“le roi ne peut mal faire”*. The French President enjoys absolute immunity *“pour les actes accomplis en qualité de chef de l’État”*.

*“Il ne peut, durant son mandat et devant aucune juridiction ou autorité administrative française, être requis de témoigner non plus faire l’objet d’une action, d’un acte d’information, d’instruction ou de poursuite”*. The French President may only become answerable *“pour des faits commis en dehors de ses fonctions présidentielles”* one month after the end of his tenure of office as President [**Article 67** of the **‘Constitution de la Cinquième République Française’**].

There are, in the Constitution of the **United States**, no express provisions for the immunity of the President. The U.S Supreme Court, however, carved out an exception of presidential immunity in **Nixon v Fitzgerald (1982 457 U.S 731)** which was the first case in which the Court had to consider the issue of presidential immunity. The Court held that the President of the United States is entitled to absolute immunity from a civil action arising out of an official act. The Court said that the absolute immunity was a requirement mandated by the President’s unique constitutional status in the exercise of his executive functions and that the separation of powers doctrine provides further support for granting absolute immunity.

The Court observed that Presidential immunity rests on the idea that the constitutional orientation of a President’s responsibilities requires him to take vital decisions concerning the State, and those actions should be as unencumbered as

possible. Having to continuously review his actions in light of potential liability will simply slow a President down and inhibit his ability to perform his duties. Absolute immunity frees the President and provides the maximum space to operate without fear of liability.

The Court also stressed that the President deals with matters likely to arouse the most intense feelings. Given the sensitive and far-reaching nature of the authority vested in the office, the President is an easily identifiable target for civil suits. The visibility of the office and the effects of presidential actions on countless people therefore necessitate absolute immunity because “*the execution of presidential duties must be unencumbered from fear of lawsuits*”.

The Court, however, placed some limitations as it stated that absolute immunity was not to be a magical incantation that would mechanically bar any lawsuit. The absolute immunity would only apply to official duties of the President and may extend to those acts which the Court described as the “outer perimeter” of his official duties. But absolute immunity of the President should be limited only to those acts which relate to the particular functions of his office.

The issue of immunity again received the consideration of the US Supreme Court in the case of **Clinton v Jones (1997) 520 US, 681, 692**. The Court reiterated its commitment to absolute Presidential immunity for official acts because of its liberating effect on the President. The Court stated that “*the immunity serves the public interest in enabling such officials to perform their designated functions effectively without fear that a particular decision may give rise to personal liability*”. The Court added that the public good is served when a President is free to take action in his official capacity without the constant threat of liability for his decisions. But that the President’s absolute immunity “*does not extend to those acts unrelated to the particular functions of his office*”.

It is the same rationale which has prompted the inclusion of Presidential immunity protection in the constitutions of many other states with a Presidential régime. Presidential immunity in fact represents a doctrine in constitutional theory which is recognised in most democracies. The President enjoys immunity during his tenure which insulates him from any judicial proceedings. It is generally considered in these jurisdictions that the dignity of the high office of the President as Head of State would be adversely affected if he were to be dragged into court litigations whilst serving as President. The overriding principle is that it is imperative that the President be freed from any form of harassment, hindrance or distraction so that he may be able to effectively attend to the performance of his important official duties and functions as Head of State.

An absolute immunity from the process of the Court is given to the President during his term of office in respect of the performance of his official acts. In most cases however the President may, after he ceases to hold office, be subjected to criminal or civil proceedings in respect of any private act which is not related to the functions of his office.

### **11.5 Limitations of Immunity**

There are also some jurisdictions whose constitutions provide for a lifting of the immunity whilst the President is still in office such that a sitting President may, in certain circumstances, be amenable to judicial proceedings without the need to have recourse to the process for his removal by Parliament or otherwise.

In **Zambia, section 98 of the Constitution** sets out the procedure for the lifting of the Presidential immunity under the Constitution. A Select Committee of the National Assembly first determines whether there is a *prima facie* case for a criminal offence which warrants the removal of the immunity. Where the Select Committee recommends the removal of the immunity, the National Assembly may

remove the President's immunity from being prosecuted for the criminal offence by a resolution supported by at least two-thirds of the members of Parliament.

In **Cyprus**, the President may, despite the constitutional immunity, be prosecuted for *“an offence involving dishonesty or moral turpitude upon a charge preferred by the Attorney-General and the Deputy Attorney General before the High Court with the leave of the President of the High Court”* **[Article 45 of the Constitution of Cyprus]**.

In **Malaysia**, proceedings, civil or criminal, may be instituted before a Special Court with the consent of the Attorney-General against the Yang-Di Pertuan Agong in respect of any personal acts committed by him **[sections 182 and 183 of the Constitution of Malaysia]**.

In **Turkey**, there is a special procedure in Parliament for the criminal prosecution of the President. There must first be a motion tabled by the majority of all the members of the Grand National Assembly of Turkey. This must be followed by a resolution to launch an investigation supported by a three-fifth's majority in secret ballot. The investigation is carried out by a Committee of 15 members which submits its report to the Speaker. The Grand National Assembly may in the light of the recommendation of the Committee of Investigation resolve to refer the case for trial before the Supreme Court. The resolution must be supported by a two-third majority of all members voting through secret ballot **[Article 105 of the Constitution of Turkey]**.

In **Namibia**, the President may be subjected to civil or criminal proceedings in respect of acts committed whilst holding office as President, if:

- (i) Parliament by resolution has removed the President on any of the grounds specified in the Constitution; and

- (ii) A resolution is adopted by Parliament to the effect that criminal or civil proceedings are justified in the public interest [**Article 31 of the Constitution of Namibia**].

In **Moldavia**, the immunity of the President is removed where Parliament decides to indict the President for a criminal offence before the Supreme Court. The motion must be supported by a majority of at least two-thirds of the votes cast. [**Article 81 of the Constitution of Moldavia**].

In **Finland**, the President may be criminally prosecuted only for offences of “*treason, or high treason, or a crime against humanity*” if Parliament, by three-fourths of the votes cast, decides that charges are to be brought against the President in the High Court [**Section 133 of the Constitution of Finland**].

On the other hand, in some countries, such as **Kazakhstan, Kyrgyzstan** and **Turkmenistan**, Presidents at all times enjoy absolute immunity for any acts committed during office, including after leaving office.

The main argument for granting absolute immunity to a President in office for acts committed in his or her personal capacity rests essentially on the premises that any prosecution or action would unduly interfere with the President’s ability to carry out his or her important official duties. Criminal or civil proceedings against a President in office could result in a serious interference with the President’s performance of his official duties and may thus be obtrusive of the constitutional structure.

There are however some compelling arguments against the granting of absolute immunity to the President whilst he is still in office in respect of any act for which he may subsequently be amenable to court action after he leaves office. The temporary immunity in respect of personal acts only result in the delay and not the forbearance of any criminal prosecution.

The postponing or delaying of investigation and prosecution until the expiry of the term of office of the President may adversely affect the securing of evidence which may disappear and weaken the prosecution's case with passage of time. Witnesses may no longer be available and it will become increasingly difficult to comply with the reasonable time guarantee for a fair hearing.

The ability of a President in office to assert immunity privileges may significantly impede the conduct of any investigation into any alleged offence against him whilst he still remains in office.

Any criminal or civil action may become time-barred in consequence of any law with respect to the limitation of actions.

It is in order to counter the prejudicial consequences of unchecked immunity that many of the jurisdictions, as already mentioned, have provided for a constitutional mechanism to remove the immunity from prosecution and court action whilst the President is still in office.

As for the argument that proceedings against a President should only be brought after seeking his removal by Parliament, this may not in all circumstances be practical. It may not always be possible to obtain the impeachment or removal of a President even where there exists a valid ground for his removal. This would be the case, for instance, where Parliament is numerically dominated by the President's supporters who may decline to initiate any action for his removal or where the motion in the Assembly may not receive the support of the required majority. The President would thus continue to remain in office and would not be answerable to any process in spite of his suspected involvement in a serious crime which would make of him an unfit person to remain in office as President.

## **11.6 Analysis**

There are no doubt compelling public policy considerations in importing presidential immunity provisions in a Constitution. Although the President under the Mauritian Constitution is not personally vested with a vast array of official executive powers as would be the case for an 'executive' President, the President is vested with important constitutional functions which it is incumbent upon him to perform independently whilst acting 'in his own deliberate judgment' or following 'consultation' with other persons or bodies.

It is beyond dispute that presidential immunity is important to ensure that the Head of State is not distracted from his official duties by being unduly subjected to judicial process.

The question which arises is whether the existing constitutional mechanism provides sufficient safeguards against the consequences of any violation of the Constitution by the President. In view of the absolute immunity during his term of office, the President is not amenable to any judicial intervention and the only constitutional remedy presently available against a President in office is solely by way of the removal process by the Assembly.

The best way to analyse such a question is by examining the practical implications which certain hypothetical decisions by a President, acting or purporting to act in the exercise of his constitutional or official functions, may entail.

## **11.7 CATCH-22 situations:**

The following hypothetical situations provide, for the sake of the discussion, some illustrative scenarios of how the immunity provisions may wreak constitutional havoc. They are by no means exhaustive:

- (1) Following a general election, the President does not issue any Proclamation for an opening session of the Assembly and its first sitting as he is enjoined to do by section 56 of the Constitution. Since there would be as yet no sitting of the National Assembly, no procedure for his removal or suspension for violating the Constitution can be initiated nor can there be any judicial remedy since the President is not amenable to any court orders or process in view of the immunity provided under section 30A of the Constitution.
  
- (2) Following a general election, the President does not appoint a Prime Minister in conformity with section 60 of the Constitution despite the fact that the outgoing Prime Minister has not been elected as a member of the Assembly and his party no longer commands a majority of the members of the Assembly. There is as a result no Prime Minister to present a motion for his suspension or removal in the Assembly even though the President may be acting in violation of the Constitution. There may again be no recourse to any judicial or legal action against the President in view of the immunity provisions under section 30A of the Constitution.
  
- (3) The President refuses to appoint Ministers and the Attorney-General in accordance with the advice of the Prime Minister as laid down in section 59(2) of the Constitution. He stays mute. The Prime Minister does not have the numerical support of two-thirds of all the members of the National Assembly in order to proceed with the suspension or removal of the President; nor can he invoke the intervention of the Supreme Court in view of the immunity provisions.



In addition to the immunity provisions under 30A which block all judicial process, **section 64(5)(a) of the Constitution** further excludes any judicial intervention:

*“64(5)(a) Subject to paragraphs (b) and (c) [N.B: which deal only with the dissolution of Parliament], where the President is required by the Constitution to act in accordance with the advice of or after consultation with any person or authority, the question whether in fact he has so acted shall not be called in question in any court of law.”*

(4) There are several opposition parties and the office of the leader of opposition is vacant. The President does not appoint any leader of the opposition as required by section 73 of the Constitution.

There is no motion for his removal which, in any event, cannot in the circumstances receive the support of at least 2/3 of all the members of the Assembly. For the reasons already stated above, there is, in view of the immunity provisions, no judicial remedy despite a violation of the Constitution by the President.

(5) The President suspends the Chief Justice for alleged misconduct and appoints as Chief Justice a ‘rogue’ barrister known for his partisan affiliation. The President claims that by virtue of the constitutional powers vested in him pursuant to section 77 and section 78 of the Constitution he may appoint any barrister which has been practising before the Supreme Court for more than 5 years. The question which arises is whether there is any solution against the decision of the President despite the fact that it may seriously impinge upon the existence of an independent and impartial judiciary which is vital for upholding the Rule of law and sustaining a democratic system.

(6) Following the dissolution of Parliament at the expiry of its term of 5 years, the President does not issue any writ of election as required by section 56(4) of the Constitution and section 41 of the Representation of People Act for the holding of elections. There cannot be any motion for his removal since Parliament has been dissolved. The President is further immune from any judicial process.

All the above examples, however unrealistic they may sound, serve to highlight the systemic shortcomings inherent to the present constitutional structure as a result of the existing immunity provisions. In view of the absolute immunity provisions, any relief through the courts against a sitting President does not seem to be possible even in the face of a serious violation of the Constitution which saps the very foundation of a democratic state. The utter dependence upon the removal process of the President as the only remedy to tackle any violation of the Constitution may potentially yield disastrous consequences resulting into a total breakdown of the Rule of Law and the functioning of a democratic State.

The implementation of the Rule of law and the democratic principles enshrined in the Constitution cannot be allowed to depend on the wishful presumption that all the vital constitutional decisions which are indispensable for the functioning of Mauritius as a democratic State would be taken by the President.

The present Commission of Inquiry has indeed provided a vivid illustration of how a person, who had at the outset apparently ticked all the boxes to become a President, violated in several respects the Constitution.

We hardly need to point out that any distortion of the working of the Constitution in respect of the functioning of the core democratic institutions cannot be put, even theoretically, at risk. This is wholly beyond contemplation and any such distortion should be easily and promptly remediable.

It is no doubt a valid public policy consideration that the President should be immune from judicial proceedings such that he is free to carry out in an unimpeded manner his important constitutional functions. That the President should be absolutely immune from civil or criminal proceedings during his term of office do not cause any great difficulty.

But that same public policy consideration cannot serve to provide absolute immunity to a President who embarks into any subversive distortion of his constitutional functions. There would indeed be compelling higher public interest considerations for the immunity to be waived in order to ensure that there is no violation of the Constitution or of any of the democratic principles which the President promises to observe by subscribing to the Presidential Oath.

There is no reason as to why judicial intervention should not be contemplated as a credible and accessible safeguard against any subversion of the Constitution and the Rule of law by the President in the exercise of his functions.

## **11.8 Constitutional Checks and Balances**

Neither the doctrine of separation of powers nor the need to carry out presidential functions in an unimpeded or confidential manner would sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances.

None of the other institutions or body created under the Constitution is granted any such unqualified or absolute immunity in respect of the exercise of its constitutional functions or powers.

Parliament has been created by the Constitution which provides Parliament with sovereign powers to make laws but it can only exercise such powers “*subject to the Constitution*”.

This is what section 45 of the Constitution provides:

**“45. Power to make laws**

- (i) *Subject to this Constitution, Parliament may make laws for the peace, order and good government of Mauritius*”.

The Constitution has thus conferred upon Parliament the sovereign power to make laws, but such laws however must not be contrary to the Constitution. This is subject to judicial control by the Supreme Court which is vested with the jurisdiction to control that any law made by Parliament does not violate the Constitution. Any law enacted by Parliament shall, to the extent of its inconsistency with any constitutional provisions, be declared void by the Supreme Court **[Section 2 and Section 76 of the Constitution]**.

But the President is not, in the exercise of his functions, subjected to compliance with the Constitution in the same manner as for instance Parliament and the Judiciary are. The provisions of both sections 30A(1) and 30A(2) grant the President immunity only “*subject to section 64(5)*” but not “*subject to the Constitution*” as prescribed in the case of the law-making powers of Parliament under Section 45 of the Constitution (*Supra*).

Likewise, the Constitution has created the Supreme Court by expressly stating that it would have “*such jurisdiction and powers as may be conferred upon it by the Constitution or any other law*” **[section 76 of the Constitution]**. The Supreme Court has unlimited constitutional jurisdiction to ensure compliance with the provisions of the Constitution and to provide effective remedies where there is any breach or violation of the Constitution **[sections 17,37,76,82,83,84 and 119**

**of the Constitution]**. All the arms of the Executive, except the President, are thus amenable to Constitutional and Judicial review in the exercise of their executive functions. Judicial decisions as well are subject to review and control as a result of the appellate structure entrenched in the Constitution with an ultimate right of appeal, including an appeal as of right '*on questions as to the interpretation of the Constitution*', to the Judicial Committee of the Privy Council.

There is indeed Parliamentary immunity in respect of all that is said or done within the walls of the National Assembly and Judicial immunity which affords protection to Judges and Magistrates in the discharge of their judicial functions. But none of these institutions are shielded by absolute immunity from the judicial process as in the case of the President. Both Parliament in the exercise of its law-making powers and the Judiciary in the exercise of its judicial powers are subject to further judicial scrutiny in the manner, and to the extent, imposed by the Constitution.

Furthermore, the observations made by the Judicial Committee of the Privy Council in **State v Khoyratty [2006] MR 210** have brought into sharp focus the importance of judicial control by an independent judiciary in ensuring the observance of the fundamental democratic principles within the meaning of a democratic State as laid down under section 1 of the Constitution. The Judicial Committee considered that a law amending the Constitution with a majority of three-quarters of all the members of the Assembly, but which sought to remove from the Judges the power and duty to decide on matters of bail, would in the light of the protection afforded by section 1 of the Constitution, infringe one of the essential components of a democratic State. The amending law would to that extent be inconsistent with the Constitution and accordingly void. The Judicial Committee added that such an amendment could only be done "*by legislation passed in accordance with the (intentionally) ultra-strict requirements of section 47(3), involving a referendum and a unanimous vote of all the members of the Assembly*". The Judicial Committee quoted with approval the following statement

of Lord Bingham in **A v Secretary of State for the Home Department [2005] 2 AC 68** at para. 42:

*“... It is also of course true ... that Parliament, the executive and the courts have different functions. But the function of independent judges charged to interpret and apply the law is universally recognised as a cardinal feature of the modern democratic state, a cornerstone of the rule of law itself”*

Constitutional control by the Judiciary forms an integral part of our constitutional structure and constitutes one of the core features which ensures the practical working of a democratic system founded on the ‘Rule of law’, the separation of powers and constitutional review by an independent judiciary.

That the President should be absolutely immune from civil or criminal proceedings during his term of office do not constitute a threat to the democratic set up of Mauritius as a State. But his unqualified and absolute immunity which blocks any judicial remedy to any violation of the Constitution may seriously put at risk the very existence of Mauritius as a democratic State in case of a violation which is of a nature to jeopardise the fundamental structure of a democratic State as contemplated by section 1 of the Constitution. It has been seen that the only political recourse which is available through the National Assembly may not always prove to be an adequate remedy.

There are therefore compelling public policy reasons for the safeguard of the Rule of Law and the democratic principles enshrined in the Constitution which by far outweigh the public policy consideration which may justify the absolute immunity granted to the President in office under section 30A of the Constitution.

There is no doubt, however, that any recourse to judicial process for constitutional remedies should in such a case be sparingly used in order to avoid a flurry of unnecessary or abusive applications against the President.

There is an imperative need for that purpose that judicial actions against the President be controlled both as to their substance and procedure. This is essential in order to limit judicial intervention only to the interested parties or institutions which have no other alternative than to seek judicial remedies (i) where there is an actual or apprehended violation of the Constitution which may directly or irremediably affect the functioning of a democratic institution or process; or (ii) where immediate judicial intervention is required for upholding and defending the Constitution, the protection of fundamental human rights or the Rule of law.

### **11.9 Alternative solution – A Deeming Clause**

Apart from judicial intervention, there may be remedial action by way of a constitutional device or mechanism which does not exist in our Constitution but which may however deserve consideration in appropriate situations. This is done by way of a deeming clause which provides that in certain given situations, where the President fails to take or signify his decision within a specified period, the President is deemed to have at the end of the period, given the assent or approval as the case may be.

A good illustration of such a deeming mechanism is provided by section 21A of the Constitution of Singapore. **Section 21A (1) of the Constitution of Singapore** provides for a specified time limit within which the President has to signify his decision where his '*assent, concurrence, approval or confirmation*' is required in respect of any act prescribed by the Constitution of Singapore.

**Section 21A(5)** goes on to provide that, subject to certain conditions which are applicable under the Singaporean Constitution, "*If in any particular case the*

*President fails to signify his decision within the specified period the President is deemed to have, at the end of that period .... given the assent, concurrence, approval or confirmation”.*

Such a deeming clause would dispense the need to have recourse to judicial intervention and would help in the prompt implementation of a constitutional decision or obligation, in particular where time is of the essence. It would thus help to avoid the application of the immunity provisions laid down under section 30A of the Constitution since the question of judicial process or intervention would not arise. There would also for example be no need to have recourse to the removal of the President by the National Assembly in a case where the President fails to give his assent to a Bill in breach of section 46 of the Constitution.

Such a deeming clause may generally operate without any difficulty where the President is constitutionally bound to act in accordance with the advice of a person or body but omits to do so. It cannot be invariably invoked or made to apply, where it is incumbent upon the President to exercise his discretion to act in his own deliberate judgment, or after consultation with any other person or body, in order to take a decision or to make an appointment; or where the decision is of such a nature that it may give rise to a judicial hearing or determination.

### **Recommendation 1**

The Commission recommends a review of the existing immunity provisions under section 30A of the Constitution in order to provide for appropriate judicial remedies where there has been a violation of, or a failure to comply with, the provisions of the Constitution by the President.

### **Recommendation 2**

The Commission recommends a review of the existing constitutional and legal provisions in order to consider the adoption of an appropriate constitutional



and legal mechanism which may provide for the lifting of immunity and the instituting of criminal proceedings against a President whilst in office.

### **Recommendation 3**

Although such reviews may be warranted in order to ensure the proper and uninterrupted functioning of the democratic institutions and to reinforce the Rule of law by providing timely remedies to any violation of the law or the Constitution, the Commission recommends that any such review gives due consideration to procedural and other safeguards needed to prevent any abusive use of any action through the Courts against the President.

### **Recommendation 4**

The Commission recommends a review of the existing constitutional and legal framework in order to consider the introduction, with regard to the exercise of the constitutional functions by the President, of any deeming mechanism or clause which may be necessary to safeguard the Rule of Law and to ensure the uninterrupted functioning of the democratic process.

## **11.10 Conclusion**

The Commission has examined, in conformity with its mandate, the legal and practical implications of the constitutional issues to which the existing constitutional provisions dealing with Presidential immunity and the removal of the President may give rise.

The analysis and recommendations have been made in that respect with a view to reinforcing the Rule of law, the concept of separation of powers and for consolidating the democratic principles enshrined in the Constitution.

But the legal aspect is only one side of the coin. Any amendment or change to the Constitution may affect in material respects the fundamental rights of the people of Mauritius and the machinery of government to which the people is subjected. Any purported change therefore warrants the taking into consideration of overriding considerations of public policy and public interest which may go beyond purely technical and legal considerations. This requisite is even more pronounced where the exercise of the constitutional functions by the President may impact upon the fundamental structure of a democratic state and the system of checks and balances structuring the concept of separation of powers which underpins the working of our Constitution.

**Asraf Caunhye, G.O.S.K**  
**Chairperson**

**Mrs Nirmala Devat**  
**Member**

**Mrs Gaitree Jugessur-Manna**  
**Member**

**2 September 2022**

# **ANNEXES**

# ANNEX A

## INDEX TO TRANSCRIPTS

No.	DATE	TESTIMONY OF
1	06.08.2018	Mr Motichand Seebah, Permanent Secretary assigned duties of Secretary to the President
2	06.08.2018	Mr Satydanand Aujeet, Deputy Permanent Secretary, PMO
3	09.08.18	Mr. Sunil Dutt Ramdeen, Acting Accountant General
4	09.08.18	Mr. Vivekanand Ramburun, Director of Customs
5	14.08.18	Mrs. Ameenah Gurib-Fakim, former President
6	21.08.18	Mr. Jaysen Nundoosingh, Banker
7	21.08.18	Mrs. Ameenah Gurib-Fakim, former President
8	23.08.18	Mr. Yousuf Abdul Razack Mohamed, Senior Counsel
9	27.08.18	Mr. Jaysen Nundoosingh, Banker
10	27.08.18	Mr. Marie Gerard Gilbert Noel, Attorney at Law
11	30.08.18	Mr. Nadeem Ahmadkhan Hyderkhan, Barrister
12	30.08.18	Mr. Sunil Dutt Ramdeen, Acting Accountant General
13	06.09.18	Mr. Jaysen Nundoosingh, Banker
14	06.09.18	Sir Abdool Hamid Moollan, Q.C
15	06.09.18	Mr. Vivekanand Ramburun, Director of Customs

16	06.09.18	Mr Motichand Seebah, Permanent Secretary assigned duties of Secretary to the President
17	13.09.18	Mr Motichand Seebah, Permanent Secretary assigned duties of Secretary to the President
18	29.09.18	Mr Motichand Seebah, Permanent Secretary assigned duties of Secretary to the President
19	04.10.18	Mrs Sumeetra Sooriah, Asst. Manager Financial Operations
20	04.10.18	Mrs Bibi Ameenah Heenaye, Manager Financial Operations
21	04.10.18	Mr Motichand Seebah, Permanent Secretary assigned duties of Secretary to the President
22	04.10.18	Mr. Tamanah Appadu, Permanent Secretary at P.M.O
23	11.10.18	Mr. Tamanah Appadu, Permanent Secretary at P.M.O
24	11.10.18	Mr Satydanand Aujeet, Deputy Permanent Secretary, PMO
25	11.10.18	Mrs Naseem Banu Auckbarally, Asst. Registrar of Companies
26	11.10.18	Paramhans Aleear, Acting Director of Investigation at ICAC
27	25.10.18	Mrs Usha Shalini Devi Kissoon, Confidential Secretary at the State House
28	25.10.18	Mr Motichand Seebah, Permanent Secretary assigned duties of Secretary to the President
29	25.10.18	Mr Nizamuddin Khodabux
30	25.10.18	Iswar Govind, Assistant Management Procurement Supply Officer
31	25.10.18	Mrs. Ameenah Gurib-Fakim, former President
32	01.11.18	Mrs Pratima Surowan, Office Management Assistant

33	01.11.18	Mr Dooman Kumar Ramma, Office Management Executive
34	01.11.18	Mrs Nirmala Bheenick, Permanent Secretary
35	15.11.18	Mrs Priya Darshinee Jeeanah, Word Processing Officer
36	15.11.18	Mr Dooman Kumar Ramma, Office Management Executive
37	15.11.18	Mrs Taslimah Codadeen, Assistant Permanent Secretary
38	15.11.18	Mrs Moneshree Modee Chooromoney, Office Management Executive
39	15.11.18	Mrs Preetee Guirdharry, Human Resource Executive
40	05.12.18	Deodass Kalisetty Appadu, Permanent Secretary, Ministry of Civil Service and Administrative Reforms
41	17.01.19	Deodass Kalisetty Appadu, Permanent Secretary, Ministry of Civil Service and Administrative Reforms
42	06.02.19	Deodass Kalisetty Appadu, Permanent Secretary, Ministry of Civil Service and Administrative Reforms
43	11.02.19	Mrs Preetee Guirdharry, Human Resource Executive
44	11.02.19	Mrs. Ameenah Gurib-Fakim, former President
45	24.07.19	Mrs. Ameenah Gurib-Fakim, former President
46	06.08.19-	Premhans Jhugroo, former Secretary for Home Affairs, now retired
47	06.08.19	Hans Bruno Mariette, Senior Officer at BS Travel Management (Rogers Aviation)
48	06.08.19	Mrs. Ameenah Gurib-Fakim, former President
49	30.01.20	Mrs. Ameenah Gurib-Fakim, former President

DOCUMENTS  
EXCLUSIVE

PLANET EARTH INSTITUTE

# Les folles dépenses de Mme la présidente

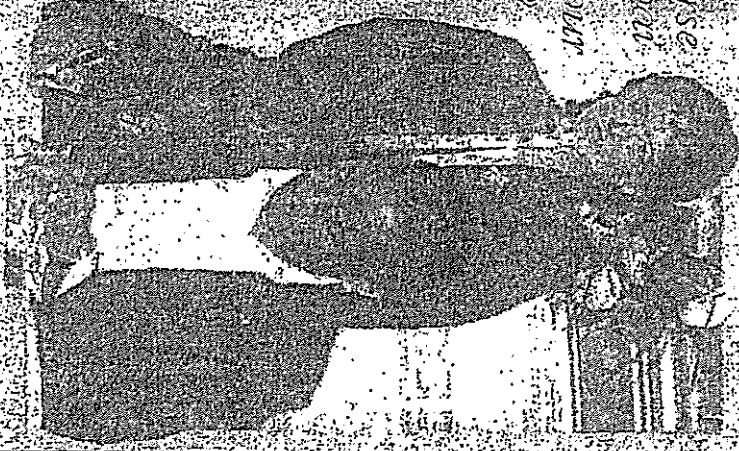
• En octobre 2016, elle débourse  
Rs 510 056 au Duty Free de Dubai

• Quelques semaines plus tard, elle achète pour  
Rs 480 000 de bijoux chez «Shru Jewels Impex»

• S'ensuivent d'autres dépenses, notamment chez  
le grand couturier Roberto Naldi à Rome

«L'express» est en présence des relevés bancaires de la «Platinum Card» allouée à Anjeenah Gurb-Fakhm par le Planet Earth Institute (PEI). Ces documents démontrent que la présidente de la République, même si elle a affirmé n'avoir jamais touché de «remunération», a grandement profité de la générosité d'Alvaro Sobrinho par **PAGES**

Alvaro Sobrinho a signé pour que la présidente de la République ait accès à une carte de crédit avec une limite de Rs 1 million.



CERTIFIED TRUE COPY

22.08.2018

OFFICE OF THE PRESIDENT  
State House, Le Reelit

Une carte de crédit d'une limite de... Rs 1 million. Alors que cet argent devait servir dans un cadre professionnel, la présidente l'aurait utilisé à d'autres fins.

AFFAIRE SOBRINHO

# Les folles dépenses de Madame la présidente

EN mai 2016, *in lieu of holding a meeting*, une résolution écrite au nom des membres du conseil de la fondation Planet Earth Institute est signée par le Dr Alvaro de Oliveira Madaleno Sobrinho, le *Chairman*, et M. Mauricio Fernandes, un membre de la fondation.

Cette résolution, sub-séquentiellement déposée à la Barclays Bank Mauritius, à Ebène, ouvre un 3<sup>e</sup> compte en dollars, intitulé *PEI Foundation SA Account*. Le but de ce compte, agréementé de deux cartes de crédit en faveur du Dr Bibi Ameenah Firdaus Gurib-Fakim, *Vice-Chairman* de l'institut, et du Dr Alvaro de Oliveira Madaleno Sobrinho, est de *promote the HE Ameenah Gurib-Fakim, PEI-Bill and ... Gates Foundation PhD Programme*. L'appellation de cette fondation, du moins dans cette résolution, est textuelle : le nom de l'épouse de Bill Gates, Melinda, a disparu et personne ne semble s'en être trop soucier.

Chaque carte de crédit a, alors, une limite de Rs 1 million. Jusque-là, pas de problème apparent, le programme de financement de PhD scientifique, avec la bénédiction de la Gates Foundation, étant a priori louable.

La rédaction de *L'Express* est cependant, maintenant

MRS. MRS. AMEENAH FIRDAUS GURIB FAKIM  
100 SAINT CLAIR ROAD  
QUARTIER BOBILES

BARCLAYS PLATINUM

Account Opening Balance: 455,019  
A/c Current: 1,545,136  
A/cs Rmstrd: 0  
A/cs Closing Balance: 2,000,144

Statement Date: 10 Nov 2016  
Account Summary: 10100011204  
Card Number: 432151\*\*\*\*5946  
Credit Limit: 1,000,000.00

Previous Balance: 318,452.06  
Payment Received: 1,689,100.00  
Payment Due Date: 30 Nov 2016  
Minimum Payment: 109,149.26

Transaction Date	Posting Date	Transaction Details	Amount A/R	
24 Oct 16	24 Oct 16	GILBERTS BUNNAGE	318,452.06	CA
06 Nov 16	06 Nov 16	Payment received from Barclays etc	318,452.06	
11 Oct 16	12 Oct 16	NOVA LLC DUBAI AE	242.25	
		NET 3042.00	39,956.29	
12 Oct 16	13 Oct 16	SHIV JEWELS DUBAI AE	7,975.30	
12 Oct 16	13 Oct 16	COACH SP OF AL TARIQ DUBAI AE	110,516.91	
12 Oct 16	13 Oct 16	ASB 1000.00		
12 Oct 16	13 Oct 16	SHIV JEWELS DUBAI AE	2,001.33	
12 Oct 16	13 Oct 16	ASB 7706.76		
16 Oct 16	17 Oct 16	DUBAI DUTY FREE DUBAI AE	79,719.06	
15 Oct 16	17 Oct 16	DUBAI DUTY FREE DUBAI AE	125,741.19	
15 Oct 16	17 Oct 16	DUBAI DUTY FREE DUBAI AE	304,636.66	
19 Oct 16	21 Oct 16	AIR JAWELRY DUTY FREE MEXICO	4,249.75	
		450 118.00		
20 Oct 16	01 Nov 16	SHIV JEWELS DUBAI AE	289,000.00	
03 Nov 16	04 Nov 16	SHIV JEWELS DUBAI AE	100,000.00	
03 Nov 16	04 Nov 16	SHIV JEWELS DUBAI AE	100,000.00	

Fac-similé des comptes de la «Platinum Card» de Madame la présidente pour les mois de septembre, octobre, novembre et décembre 2016.

en possession des copies des comptes de la *Platinum Card* de Madame la présidente (numéro de carte 432151\*\*\*\*5946) pour les mois de septembre, octobre, novembre et décembre 2016, qui suggèrent, au moins, certaines dépenses plutôt incongrues pour la promotion d'une fondation qui va allouer des bourses pour des programmes de PhD.

En septembre, outre des factures plutôt prévisibles d'hôtel à Uppsala, en Suède, et à Canterbury, en Angleterre, un achat à *The Apple Store* de Washington D. C. pour Rs 43 811,11, intrigue. Un laptop spécialement pour cette mission particulière ?

En octobre, cela devient plus embarrassant. Le 12 du mois, Rs 5 895,56 sont débitées en faveur de Dubayy et

Rs 8 001,17 sont consacrées au *Shoe Plaza LLC* d'Abu Dhabi. Au *duty free* de Dubayy, le 15 octobre, trois items de dépenses pour un total de ... Rs 510 056,80 !

Comme si cela ne suffisait pas, le 28 octobre, la même carte de crédit est utilisée à *Shiv Jewels Impex* pour Rs 280 000, probablement lors d'une transaction *duty free*, et le 3 novembre, toujours à *Shiv Jewels Impex*, deux autres débits de Rs 100 000 chacun.

En novembre, des dépenses modestes se font à Lucknow les 22 et 23, et à Budapest le 30 novembre et le 1<sup>er</sup> décembre. Au retour, à l'arrêt de Dubayy, le 2<sup>e</sup> décembre, une virée au *Duty Free* mène à un débit de Rs 207 951,87.

En décembre 2016, la carte de crédit de Madame

Gurib-Fakim est utilisée pour plus de Rs 90 000 chez le grand couturier *Roberto Naldi* et pour plus de Rs 10 000 au *département* sans bien connu qu'est *La Résistance* - tous deux à Rome. Le lendemain de Noël, soit le 26 décembre, la carte de crédit est débitée en faveur de *BS Travel Management* pour ce qui pourrait être d'autres billets d'avion parfaitement légitimes, pour presque Rs 93 000 de plus.

Nous avons contacté Madame la présidente qui n'a pas répondu à nos appels. Nous avons aussi sollicité la Bill and Melinda Gates Foundation pour établir si leurs noms sont toujours associés à PEI et si oui, comment, et si non, pourquoi. Aucune réponse ne nous est parvenue.

La Rédaction

AMEENAH GURIB-FAKIM : JE N'AI JAMAIS REÇU DE RÉMUNÉRATION DE PLANET-EARTH-INSTITUTE

La présidente de la République l'avait clamé haut et fort dans une déclaration publique, le 18 mars 2017. Elle n'a jamais reçu de rémunération de Planet Earth Institute. D'ailleurs, à chapitre IV de la Constitution il est clairement dit que celui qui occupe le poste de celle qui occupe le poste de présidente ne peut exercer «any profession calling or engage in any trade or business».

CERTIFIED TRUE COPY

Broussau - 22.08.2018

OFFICE OF THE PRESIDENT  
State House, Le Réduit



# ANNEX C

Tab 8

Annex 1

CREDIT CARD TRANSACTIONS DETAILS - 4321511306235946 (OCTOBER 2016 TO APRIL 2017)	LIMIT	MUR 1,000,000
	OPEN DATE	May 16
	CLOSE DATE	Apr 17
	REPAYMENT A/C NO	07/2020499

4321511306235946 STATEMENT JUNE 2016 Opening Balance: Nil				
DATE	Transaction details	Merchant Category	Transaction Type	Transaction amount
12-Jun-16	Annual Fee	BANK CHARGES	DEBIT	1500
12-Jun-16	VAT	BANK CHARGES	DEBIT	225

4321511306235946 STATEMENT JULY 2016 Opening Balance: MUR 1725				
DATE	Transaction details	Merchant Category	Transaction Type	Transaction amount
16-Jul-16	FEE WAIVER	REFUND	CREDIT	1500

IT IS NOTED THAT MRS AGF DID NOT USE THE PEJ CREDIT CARD UNTIL SEPTEMBER 2017 AS PER BELOW

4321511306235946 STATEMENT OCTOBER 2016 Opening Balance: Nil				
DATE	Transaction details	Merchant Category	Transaction Type	Transaction amount
09-Sep-16	HOTEL VILLA ANNA UPPSALA SE	HOTELS	DEBIT	28,562.90
08-Sep-16	SALLUHALL RESTAURANGERN UPPSALA SE	RESTAURANTS	DEBIT	3,410.18
12-Sep-16	EBURY HOTEL CANTERBURY GB	HOTELS	DEBIT	77,309.17
12-Sep-16	ABOBE CANTERBURY CANTERBURY GB	HOTELS	DEBIT	5,858.97
16-Sep-16	MACY'S EAST 0095 ARLINGTON VA	DEPARTMENT STORES	DEBIT	49,938.45
17-Sep-16	APPLE STORE R287 WASHINGTON DC	ELECTRONIC STORES	DEBIT	43,811.11
18-Sep-16	AUTOGRAPH MAYFLOWER F& WASHINGTON DC	HOTELS	DEBIT	91,425.53
20-Sep-16	OLIVE GROVE KINGSTON GB	RESTAURANTS	DEBIT	8,135.82
22-Sep-16	CAFÉ DES AMIS CANTERBURY CT-GB	RESTAURANTS	DEBIT	11,033.31
23-Sep-16	EBURY HOTEL CANTERBURY GB	HOTELS	DEBIT	1,887.31
19-Sep-16	AUTOGRAPH MAYFLOWER F& WASHINGTON DC	HOTELS	CREDIT*	-2,520.69

\* Credit Amount of MUR 2520.69 represent refund from Merchant Autograph Mayflower & Washington DC

4321511306235946 STATEMENT NOVEMBER 2016 Opening Balance: MUR 318,852.06				
DATE	TRANSACTION DETAILS	Merchant Category	Transaction Type	AMOUNT (MUR)
11-Oct-16	NOUL LLC DUBAI	DEPARTMENT STORES	DEBIT	39,856.29
12-Oct-16	APPARELS 52999 DUBAI	DEPARTMENT STORES	DEBIT	5,895.56
12-Oct-16	COACH BR OF AL TAYER I DUBAI	DEPARTMENT STORES	DEBIT	10,514.94
12-Oct-16	SHOE PLAZA LLC ABU DHABI	DEPARTMENT STORES	DEBIT	8,001.17
15-Oct-16	DUBAI DUTY FREE DUBAI	DUTY FREE STORES	DEBIT	79,719.95
15-Oct-16	DUBAI DUTY FREE DUBAI	DUTY FREE STORES	DEBIT	125,731.19
15-Oct-16	DUBAI DUTY FREE DUBAI	DUTY FREE STORES	DEBIT	304,605.68
19-Oct-16	AIR MAURITIUS DUTY FREE	AIRLINES DUTY FREE	DEBIT	4,249.75
28-Oct-16	SHIV JEWELS IMPEX PORT-LOUIS	JEWELRY SHOP	DEBIT	280,000.00
01-Nov-16	SHIV JEWELS IMPEX CO.L PORT-LOUIS	JEWELRY SHOP	DEBIT	100,000.00
03-Nov-16	SHIV JEWELS IMPEX CO.L PORT-LOUIS	JEWELRY SHOP	DEBIT	100,000.00
05-Nov-16	OVER LIMIT FEES	BANK CHARGES	DEBIT	585.75
24-Oct-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	318,852.06

4321511306235946 STATEMENT DECEMBER 2016 Opening Balance: MUR 1,059,160.26				
DATE	Transaction Details	Merchant Category	Transaction Type	Transaction Amount
22-Nov-16	SHOPPERS STOP LTD IN	DEPARTMENT STORES	DEBIT	4,444.41
22-Nov-16	M/S LUCKNOW CHIKAN IND LUCKNOW IN	GENERAL MERCHANDISE	DEBIT	18,224.25
23-Nov-16	M/S LUCKNOW CHIKAN IND LUCKNOW IN	GENERAL MERCHANDISE	DEBIT	7,679.39
30-Nov-16	TULIPAN FOLKLO'R BUDAPEST HU	GIFT STORES	DEBIT	11,023.19
30-Nov-16	POSZATA FOLKLOR BUDAPEST HU	FABRIC STORES	DEBIT	25,202.29
30-Nov-16	POSZATA FOLKLOR BUDAPEST HU	FABRIC STORES	DEBIT	11,581.47
01-Dec-16	LERØY BISTRO BUDAPEST	RESTAURANTS	DEBIT	3,561.30
02-Dec-16	DUBAI DUTY FREE DUBAI	DUTY FREE STORES	DEBIT	207,951.87
13-Nov-16	OVER LIMIT FEES	BANK CHARGES	DEBIT	591.60
23-Nov-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	1,059,160.26

4321511306235946 STATEMENT JANUARY 2017 Opening Balance: MUR 290,259.77				
DATE	Transaction Details	Merchant Category	Transaction Type	Transaction Amount
13-Dec-16	SUPERDRUG STORES PLC LONDON GB	DRUGS STORES	DEBIT	1,876.79

13-Dec-16	GEOX RETAIL SRL LONDON GB	DEPARTMENT STORES	DEBIT	4,451.74
14-Dec-16	ALDO ROMA IT	DEPARTMENT STORES	DEBIT	8,345.30
14-Dec-16	LA RINASCENTE ROMA GAL ROMA IT	DEPARTMENT STORES	DEBIT	2,570.83
14-Dec-16	LA RINASCENTE ROMA GAL ROMA IT	DEPARTMENT STORES	DEBIT	17,556.22
14-Dec-16	MANGO ROMAVIA DEL CORS ROMA IT	DEPARTMENT STORES	DEBIT	6,564.69
15-Dec-16	GEOX ROMA IT	DEPARTMENT STORES	DEBIT	4,294.33
15-Dec-16	BATA ROMA IT	DEPARTMENT STORES	DEBIT	8,947.76
14-Dec-16	DA SABATINO ROMA IT	RESTAURANTS	DEBIT	12,972.87
16-Dec-16	VANS CASTEL ROMANO ROMA IT	DEPARTMENT STORES	DEBIT	818.5
18-Dec-16	CORSO ROMA IT	DEPARTMENT STORES	DEBIT	4,248.40
15-Dec-16	RISTORANTE PIERLUIGI ROMA IT	RESTAURANTS	DEBIT	11,692.84
18-Dec-16	ROBERTO NALDI COLLECT ROMA IT	HOTELS	DEBIT	90,210.21
18-Dec-16	LA RINASCENTE ROMA FI ROMA IT	DEPARTMENT STORES	DEBIT	10,133.79
17-Dec-16	RISTORANTE DA OTTAVIO ROMA IT	RESTAURANTS	DEBIT	22,216.38
18-Dec-16	ALTARIVA ROMA IT	DEPARTMENT STORES	DEBIT	19,635.24
26-Dec-16	BS TRAVEL MGT LTD EBEN EBENE MU	TRAVEL AGENCIES	DEBIT	71,080.00
26-Dec-16	BS TRAVEL MGT LTD EBEN EBENE MU	TRAVEL AGENCIES	DEBIT	21,974.00
29-Dec-16	SUGAR BEACH HOTEL WOLMAR MU	HOTELS	DEBIT	20,442.00
23-Dec-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-290,259.77

4321511306235946 STATEMENT FEBRUARY 2017 Opening: 340,431.89				
DATE	Transaction details	Merchant Category	Transaction Type	Transaction amount
19-Jan-17	SWISS ALP FANTASY AG DAVOS PLATZ CH	DEPARTMENT STORES	DEBIT	27,041.14
19-Jan-17	SCHNEIDER'S DAVOS AG DAVOS PLATZ CH	BAKERIES STORES	DEBIT	2,029.84
19-Jan-17	MIGROS M' RATIA DAVOS PLATZ CH	GROCERY STORES	DEBIT	2,714.45
20-Jan-17	302 GRIEDER LES-BOUTIQ ZURICH CH	DEPARTMENT STORES	DEBIT	17,636.18
20-Jan-17	FABRIC FRONTLINE ZURI ZURICH CH	DEPARTMENT STORES	DEBIT	5,903.32
19-Jan-17	SUNSTAR ALPINE HOTELS DAVOS PLATZ CH	HOTELS	DEBIT	15,201.05
28-Jan-17	EMIRATES 0900343933628 DUBAI AE	AIRLINES	DEBIT	10,097.93
23-Jan-17	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-340,431.89

4321511306235946 STATEMENT MARCH 2017 Opening: 80,623.91				
DATE	Transaction details	Merchant Category	Transaction Type	Transaction amount
14-Feb-17	SHOP IN SHOP SRL ROMA IT	DEPARTMENT STORES	DEBIT	1,941.79
14-Feb-17	MAC ROMA IT	COSMETIC STORES	DEBIT	5,559.05
13-Feb-17	ALTARIVA ROMA IT	DEPARTMENT STORES	DEBIT	9,951.88
13-Feb-17	PIZZA CIRO ROMA IT	RESTAURANTS	DEBIT	1,943.72
13-Feb-17	SORE ROMA IT	DEPARTMENT STORES	DEBIT	4,276.20
14-Feb-17	CAESAR ROMA IT	DEPARTMENT STORES	DEBIT	5,184.18
23-Feb-17	SHIV JEWELS IMPEX CO.L PORT-LOUIS	JEWELRY SHOP	DEBIT	135,000.00
23-Feb-17	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	+80,623.91

4321511306235946 STATEMENT APRIL 2017 Opening: 163,856.82				
DATE	Transaction details	Merchant Category	Transaction Type	Transaction amount
23-Mar-17	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-163,856.82

DETAILS CREDIT CARD TRANSACTIONS- 4547393017987562 (MAY 2016-MARCH 2017)	LIMIT	MUR 20,000
	OPEN DATE	Mar-15
	CLOSE DATE	Still Active
	REPAYMENT A/C NO.	25/1023700

4547393017987562-STATEMENT MAY 2016-Opening-MUR 172.50				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
08-May-16	AMZ Amazon.com Pymnts Amazon.com	ONLINE SITE	DEBIT	1,214.53
02-May-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-172.50

4547393017987562-STATEMENT JUNE 2016-Opening-MUR 1214.53				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
19-May-16	PAYPAL CARDDDELIVER 8002577220 LU	ONLINE SITE	DEBIT	1,018.97
25-May-16	INTERFORUM 258355.IVRY02583558/	ONLINE SITE	DEBIT	270.48
04-Jun-16	PAYPAL CARDDDELIVER 8002577220 LU	ONLINE SITE	DEBIT	1,071.30
05-Jun-16	Amazon Services-Kindle 866-321-8851 WA	ONLINE SITE	DEBIT	478.07
07-Jun-16	EUROSTAR INTERNET LONDON	ONLINE SITE	DEBIT	5,643.06
31-May-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-1,214.53
07-Jun-16	NORMAL PAYMENT*	CARD REPAYMENT	CREDIT	-8,579.31

\*Normal Payment refers to manual payment effected further to instruction from Mrs AGF (Debited on Mrs AGF Bank account)

4547393017987562-STATEMENT JULY 2016-Opening-MUR 97.43 CR				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
16-Jun-16	PAYPAL CARDDDELIVER 8002577220 LU	ONLINE SITE	DEBIT	1,064.69
03-Jul-16	WWW.BLOCHOTELS.COM INTERNET	ONLINE SITE	DEBIT	4,459.48
06-Jul-16	PAYPAL CARDDDELIVER 8002577220 LU	ONLINE SITE	DEBIT	1,061.68

4547393017987562-STATEMENT AUGUST 2016-Opening-MUR 6,488.42				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
13-Jul-16	BF MACYS 2122993550 NY	ONLINE SITE	DEBIT	9,251.19
01-Aug-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-6,488.42

4547393017987562-STATEMENT SEPTEMBER 2016-Opening-MUR 9,251.19				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
10-Aug-16	PAYPAL CARDDDELIVER 4029357733 TX	ONLINE SITE	DEBIT	1,060.78
04-Sep-16	AMAZON SERVICES-KINDLE 866-216-1072 WA	ONLINE SITE	DEBIT	402.86
04-Sep-16	Amazon Services-Kindle 866-321-8851 WA	ONLINE SITE	DEBIT	915.43
04-Sep-16	UNI KENT STORE INTERNET GB	ONLINE SITE	DEBIT	3,840.56
31-Aug-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-9,251.19
01-Sep-16	NORMAL PAYMENT	CARD REPAYMENT	CREDIT	-2,375.91

\*Normal Payment refers to manual payment effected further to instruction from Mrs AGF (Debited on Mrs AGF Bank account)

4547393017987562-STATEMENT OCTOBER 2016-Opening-MUR 3,843.72				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
11-Sep-16	TESCO DIRECT CHESHUNT GB	ONLINE SITE	DEBIT	4,270.68
28-Sep-16	AMAZON SERVICES-KINDLE 866-216-1072 WA	ONLINE SITE	DEBIT	291.67
01-Oct-16	AMZ Amazon.uk Payments Amazon.co.uk LU	ONLINE SITE	DEBIT	2,942.40
05-Oct-16	NEW YORK TIMES DIGITAL 800-698-4637 NY	ONLINE SITE	DEBIT	36.20
18-Sep-16	UNI KENT STORE INTERNET GB*	ONLINE REFUND	CREDIT	-1,756.30
30-Sep-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-3,843.72

\* REFERS TO REFUND OF MUR 1756.30 RECEIVED FROM ONLINE MERCHANT

4547393017987562-STATEMENT NOVEMBER 2016-Opening-MUR 5,784.65				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
13-Oct-16	Amazon.co.uk Payments Amazon.co.uk LU	ONLINE SITE	DEBIT	1,214.57
21-Oct-16	PAYPAL AMNESTYINTE 35314369001 GB	ONLINE SITE	DEBIT	969.34
27-Oct-16	WWW.LINNEAN.ORG 0207 4344479 GB	ONLINE SITE	DEBIT	2,279.86
30-Oct-16	NEW YORK TIMES DIGITAL 800-698-4637 NY	ONLINE SITE	DEBIT	464.03
31-Oct-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-5,784.65

4547393017987562-STATEMENT DECEMBER 2016- Opening -MUR 4,927.80				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
27-Nov-16	NEW YORK TIMES DIGITAL 800-698-4637 NY	ONLINE SITE	DEBIT	462.36
30-Nov-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-4,927.80

4547393017987562-STATEMENT JANUARY 2017- Opening -MUR 462.36				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
24-Dec-16	Amazon Services-Kindle 866-321-8851 WA	ONLINE SITE	DEBIT	149.04
25-Dec-16	NEW YORK TIMES DIGITAL 800-698-4637 NY	ONLINE SITE	DEBIT	466.91
26-Dec-16	PAYPAL CARDDDELIVER 4029357733 TX	ONLINE SITE	DEBIT	4,098.79
30-Dec-16	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-462.36

4547393017987562-STATEMENT FEBRUARY 2017- Opening -MUR 4714.74				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
22-Jan-17	NEW YORK TIMES DIGITAL 800-698-4637 NY	ONLINE SITE	DEBIT	461.66
31-Jan-17	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-4714.74

4547393017987562-STATEMENT MARCH 2017- Opening -MUR 461.66				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
19-Feb-17	NEW YORK TIMES DIGITAL 800-698-4637 NY	ONLINE SITE	DEBIT	459.69
28-Feb-17	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-461.66

4547393017987562-STATEMENT APRIL 2017- Opening -MUR 459.69				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
19-Mar-17	NEW YORK TIMES DIGITAL 800-698-4637 NY	ONLINE SITE	DEBIT	456.02
26-Mar-17	GUARDIAN NEWS MEDIA 8778877815 GB	ONLINE SITE	DEBIT	1,145.55
06-Apr-17	AMAZON MKTPLACE PMTS AMAZON.COM WA	ONLINE SITE	DEBIT	865.84
10-Apr-17	ANNUAL FEE	BANK CHARGES	DEBIT	150.00
10-Apr-17	VAT	CHARGES	DEBIT	22.50
31-Mar-17	Payment Received from Barclays A/C	CARD REPAYMENT	CREDIT	-459.69

# ANNEX E

Tab 6

CREDIT CARD TRANSACTIONS DETAILS- 4321511356735027 (MAY-OCTOBER 2016)	LIMIT	MUR 500,000
	OPEN DATE	Mar-15
	CLOSE DATE	Sep-16
	REPAYMENT A/C NO	25/1023700

4321511356735027 -STATEMENT MAY 2016- Opening - MUR 71,207.64				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
20-Apr-16	ALMAS COLLECTION JEW KARACHI PK	JEWELLRY	DEBIT	43,707.93
23-Apr-16	SOFITEL NEW YORK NEW YORK NY	HOTEL	DEBIT	62,249.72
24-Apr-16	DUBAI DUTY FREE DUBAI AE	DUTY FREE SHOPS	DEBIT	9,647.09
24-Apr-16	DUBAI DUTY FREE DUBAI AE	DUTY FREE SHOPS	DEBIT	17,906.83
30-Apr-16	BAGATELLE DISTRIBUTION BAGATELLE MU	GROCERY STORES	DEBIT	2,822.75
30-Apr-16	FOOD LOVERS BAGATELLE MU	DUTY FREE SHOPS	DEBIT	1,335.05
05-May-16	MAURITIUS DUTY FREE PA PLAISANCE MU	DUTY FREE SHOPS	DEBIT	4,125.04
04-May-16	RESTAURANT BUKHARA-HAI CAPE TOWN ZA	RESTAURANTS	DEBIT	6,123.78
02-May-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-71,207.64

4321511356735027 -STATEMENT JUNE 2016- Opening - MUR 147,918.19				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
23-May-16	DUBAI DUTY FREE- CA FA DUBAI AE	DUTY FREE SHOPS	DEBIT	5,907.99
20-May-16	CD SUNGLASSES DUBAI AE	DEPARTMENT STORES	DEBIT	40,667.32
21-May-16	QATAR MUSEUMS AUTHORITY DOHA	ART AND GALERIES	DEBIT	9,651.72
20-May-16	MONACO ACCESSORIES DOHA	DEPARTMENT STORES	DEBIT	13,402.38
23-May-16	DUBAI DUTY FREE DUBAI	DUTY FREE SHOPS	DEBIT	8,489.78
29-May-16	DOMAINE ANNA FLIC EN FLAC MU	RESTAURANT	DEBIT	9,500.00
31-May-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-147,918.19

4321511356735027 -STATEMENT JULY 2016- Opening - MUR 87,619.19				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
16-Jun-16	MANO(024) WOLUVE BRUXELLES BE	DEPARTMENT STORES	DEBIT	4120.03
16-Jun-16	PLANET PARFUM 2015 WO WOLUVE ST LAM	DEPARTMENT STORES	DEBIT	2056.92
17-Jun-16	HILTON GRAND PLACE BRUXELLES	HOTEL	DEBIT	54399.18
17-Jun-16	MARCOLINI GALERIES DE BRUXELLES	CONFECTIONARY STORES	DEBIT	1736.03
17-Jun-16	NEUHAUS GALERIE REINE BRUXELLES BE	CONFECTIONARY STORES	DEBIT	1986.47
17-Jun-16	ATOMIUM BRUXELLES/BRU BE	DEPARTMENT STORES	DEBIT	1,059.06
17-Jun-16	GOBELINS ART BRUXELLES BE	DEPARTMENT STORES	DEBIT	830.63
18-Jun-16	DUBAI DUTY FREE	DUTY FREE STORES	DEBIT	58753.4
18-Jun-16	DUBAI DUTY FREE	DUTY FREE STORES	DEBIT	7975.06
30-Jun-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-87,619.19

4321511356735027 -STATEMENT AUGUST 2016- Opening -MUR 132,916.78				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
19-Jul-16	MODA LUGGAGE AND LEA KEMPTON PARK ZA	DEPARTMENT STORES	DEBIT	5,660.04
19-Jul-16	BIG FIVE DUTY FREE JOHANNESBURG ZA	DUTY FREE STORES	DEBIT	6,438.49
20-Jul-16	SOMAGS LTEE PHOENIX	GROCERY STORES	DEBIT	4,516.75
30-Jul-16	CTL RETAIL LTD FLOREAL	DEPARTMENT STORES	DEBIT	1,400.00
01-Aug-16	HM PASSPORT OFFICE DURHAM GB	GOVERNMENT SERVICES	DEBIT	5,376.93
02-Aug-16	EXPEDIA*1142462583218 EXPEDIA.COM WA	TRAVEL AGENCIES	DEBIT	31,622.98
02-Aug-16	EXPEDIA*1142462764743 EXPEDIA.COM WA	TRAVEL AGENCIES	DEBIT	31,622.98
02-Aug-16	EXPEDIA*1142462836284 EXPEDIA.COM WA	TRAVEL AGENCIES	DEBIT	31,622.98
05-Aug-16	UKVISAFEEGWFO41182029 LONDON GB	GOVERNMENT SERVICES	DEBIT	21,505.83
05-Aug-16	IMM HEALTH SURCHARGE I LONDON GB	GOVERNMENT SERVICES	DEBIT	29,479.28
01-Aug-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-132,916.78

4321511356735027 -STATEMENT SEPTEMBER 2016- Opening -MUR 169,246.26				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
13-Aug-16	INTERMART EBENE EBENE MU	GROCERY STORES	DEBIT	2,917.10
21-Aug-16	DOMAINE ANNA FLIC EN FLAC MU	RESTAURANTS	DEBIT	10,000.00
24-Aug-16	EXPEDIA EXPEDIA.COM WA	TRAVEL AGENCIES	DEBIT	1,267.45
24-Aug-16	BRITISH A1257899516237 800-2479297 NY	AIRLINES	DEBIT	16,591.29
24-Aug-16	EMIRATES 1762152969341 MAURITIUS MU	AIRLINES	DEBIT	15,300.00
24-Aug-16	EMIRATES 1762152969197 MAURITIUS MU	AIRLINES	DEBIT	46,133.00
24-Aug-16	EMIRATES SA2/24AUG2016 MAURITIUS MU	AIRLINES	DEBIT	3,353.00
08-Sep-16	GUNILLA HEMINRED UPPSALA SE	HOME EQUIPEMENT	DEBIT	3,907.71
08-Sep-16	MILES CASH BACK*	BONUS MILES REDEMPTION	CREDIT	-51,728.00
31-Aug-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-169,246.26

NOTE: \* MILES CASH BACK REFERS TO REDEMPTION OF ACCRUED BONUS REWARD POINTS. AMOUNT IS CREDITED ON THE CARD A/C UPON REQUEST BY MRS AGF

4321511356735027-STATEMENT OCTOBER 2016 UNBILLED- Opening -MUR 47,741.55				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
24/09/2016	MAURITIUS DUTY FREE PA PLAISANCE MU	DUTY FREE	DEBIT	1,072.97
22/09/2016	MARKS&SPENCER PLC CANTERBURY GB	DEPARTMENT STORES	DEBIT	4367.76
21/09/2016	UKC-SPORTS CENTRE CANTERBURY GB	UNIVERSITY	DEBIT	11033.31
13/09/2016	MONSOON/ACCZ LTD MARBLE AR1206 GB	DEPARTMENT STORES	DEBIT	8153.74
08/09/2016	H M 423 UPPSALA UPPSALA SE	DEPARTMENT STORES	DEBIT	1168.14
29/09/2016	TO CARD -4321511310207980-(NEW CARD)	OUTSTANDING BALANCE TRANSFERED TO NEW CREDIT CARD	CREDIT	-25,795.92
30/09/2016	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-47,741.55

# ANNEX F Tab 7

CREDIT CARD TRANSACTIONS DETAILS- 4321511310207980 (OCTOBER 2016-MARCH 2017) NEW CREDIT CARD 4321511310207980- ISSUED IN REPLACEMENT OF EX CARD 4321511356735027	LIMIT	MUR 500,000
	OPEN DATE	Sep-16
	CLOSE DATE	Still Active
	REPAYMENT A/C NO	25/1023700

4321511310207980 -STATEMENT OCTOBER 2016-				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
29-Sep-16	FROM CARD 10100004038 (4321511356735027)*	BALANCE B/P	DEBIT	25,795.92
10-Oct-16	Annual Fee	BANK FEES	DEBIT	1,500.00
10-Oct-16	VAT	BANK FEES	DEBIT	225.00

\*refers to balance brought forward from close card 4321511356735027

4321511310207980 -STATEMENT NOVEMBER 2016- Opening- MUR 27,520.92				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
13-Oct-16	FEE WAIVER	BANK FEES-REFUND	CREDIT	-1,725.00
03-Nov-16	SHIV JEWELS IMPEX CO.L PORT LOUIS MU	JEWELLRY	DEBIT	158,000.00
05-Nov-16	FABRIC INDIA MTIUS LTD TRIANON	DEPARTMENT STORES	DEBIT	6,715.00
31-Oct-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-25,795.92

\* refers to bank fees refund of Annual fees amounting to MUR1725

4321511310207980 -STATEMENT DECEMBER 2016- Opening- MUR 164,715.00				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
19-Nov-16	KUMARAN SILKS GHENNAI IN	DEPARTMENT STORES	DEBIT	547.74
3-Nov-16	JUGAL KISHORE THE JEWEL LUCKNOW IN	JEWELLRY	DEBIT	130,729.63
24-Nov-16	COLORBAR COSMETICS PVT LUCKNOW IN	DEPARTMENT STORES	DEBIT	3,292.01
24-Nov-16	METRO SHOES LIMITED LUCKNOW	DEPARTMENT STORES	DEBIT	2,952.99
30-Nov-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-164,715.00

4321511310207980 -STATEMENT JANUARY 2017- Opening- MUR 137,522.37				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
19-Dec-16	DUBAI DUTY FREE DUBAI AE	DUTY FREE STORES	DEBIT	4,819.98
25-Dec-16	FOOD FORMULA LTD FLIC EN FLAC MU	RESTAURANT	DEBIT	3,500.00
29-Dec-16	CT ZONE LTD PHOENIX MU	ELECTRONIC	DEBIT	3,800.00
02-Jan-17	HAPPY RANI LTD PHOENIX MU	RESTAURANT	DEBIT	3,500.00
08-Jan-17	SUGAR BEACH HOTEL WOLMAR MU	HOTEL	DEBIT	38,972.00
30-Dec-16	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-137,522.37

4321511310207980 -STATEMENT FEBRUARY 2017- Opening- MUR 54,591.98				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
11-Jan-17	OPIUM RESTAURANT REDUIT MU	RESTAURANT	DEBIT	4,080.61
16-Jan-17	DUBAI DUTY FREE DUBAI AE	DUTY FREE STORES	DEBIT	18,269.42
21-Jan-17	DUBAI DUTY FREE DUBAI AE	DUTY FREE STORES	DEBIT	5,201.81
31-Jan-17	DUBAI DUTY FREE DUBAI AE	DUTY FREE STORES	DEBIT	44,109.32
21-Jan-17	DUBAI DUTY FREE DUBAI AE	DUTY FREE STORES	DEBIT	3,176.64
31-Jan-17	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-54,591.98

4321511310207980 -STATEMENT MARCH 2017- Opening- MUR 24,837.80				
DATE	DETAILS	MERCHANT CATEGORY	TRANSACTION TYPE	TRANSACTION AMOUNT
11-Feb-17	INTERMART HYPER EBENE MU	GROCERY STORES	DEBIT	3,574.18
19-Feb-17	FRANCOIS LEGUAT LTD ANSE QUITON MU	PARK & ATTRACTION	DEBIT	2,483.63
23-Feb-17	SHIV JEWELS IMPEX CO.L PORT LOUIS MU	JEWELLRY	DEBIT	119,000.00
25-Feb-17	INTERMART HYPER EBENE MU	GROCERY STORES	DEBIT	5,288.60
20-Feb-17	from card 10100004038 (4321511356735027)*	FUND TRANSFERED	CREDIT	-7,502.05
28-Feb-17	PAYMENT RECEIVED	CARD REPAYMENT	CREDIT	-67,335.75

\*refers to amount refunded from Tax authorities as describe overleaf

DATE	DETAILS	CATEGORY	AMOUNT(MUR)
18/11/2016	PREMIERTAXFREE GBP14.7 RATE	VAT TAX REFUND	622.63
18/11/2016	PREMIERTAXFREE GBP6.70 RATE 42.3497 IE	VAT TAX REFUND	283.83
18/11/2016	PREMIERTAXFREE GBP23.4 RATE	VAT TAX REFUND	991.16
07/11/2016	GLOBAL BLUE TAX FREE UNITED KINGDO SE	VAT TAX REFUND	438.82
07/11/2016	GLOBAL BLUE TAX FREE UNITED KINGDO SE	VAT TAX REFUND	785.49
07/11/2016	GLOBAL BLUE TAX FREE UNITED KINGDO SE	VAT TAX REFUND	614.35
04/11/2016	PREMIERTAXFREEGBP7.500 RATE 43.27774 IE	VAT TAX REFUND	324.58
28/10/2016	PREMIERTAXFREE GBP8.00 RATE 41.115 IE	VAT TAX REFUND	328.92
28/10/2016	PREMIERTAXFREE GBP22.4 RATE 41.115 IE	VAT TAX REFUND	921.15
28/10/2016	GLOBAL BLUE TAX FREE UNITED KINGDO SE	VAT TAX REFUND	1,019.22
28/10/2016	GLOBAL BLUE TAX FREE UNITED KINGDO SE	VAT TAX REFUND	401.18
18/10/2018	GLOBAL BLUE TAX FREE UNITED KINGDO SE	VAT TAX REFUND	770.72
TOTAL			7502.05



24

ANNEX G

P1

Acct. F. 232 (R)  
ORIGINAL

REPUBLIC OF MAURITIUS

Co 35

Other Charges

Ministry/Department ..... OFFICE OF THE PRESIDENT

Ministry/Cost Centre [0] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

Programme/Sub Prog [D] [P] [R] [ ] [1] [ ] [ ] [ ] [ ] [ ]

Economic Classification [8] [2] [5] [4] [9] [0] [0] [0] [1] Desc: ... PR1-PEI ACTIVITIES & MISSION

ID Code [0] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

Analysis [0] [0] [0] [1] [ ] [ ] [ ] [ ] [ ] [ ] Desc: ... SUNDIRES

Activity/Project [0] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

Misc [0] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] Output [0] R.E [0]

Treasury Voucher No. 101090104  
101090102

Supplier's Name STATE COMMERCIAL BANK Supplier's BR/ID Number BK000

Factor/Other\* Bank\*\*

Address\*\* Account Number\*\*

Date	Detailed Description	Rate		Amount	
		Rs	Cs	Rs	Cs
21.09.16	Being refund of subsistence allowance payable to Her Excellency and others to mission to London and USA from 12 to 22 Sept 2016. Note: (Cost borne by PEI) AF400 (Rev 13) NO. 4285,4286,4287 & 4288 OP/CF/241/1/3 Vol. 2 F(130)			953,049	35
Authority: G.W 2016-2017			Total	953,049	35

CERTIFIED CORRECT

DATE 28/09/16

Prepared by [Signature] Examined Name: S. Soorian (M.A.) Entered in Treasury Accounting System

21.09.16 Date Signature Date Sig. of Dept Examiner Date Signature

I certify that under FMM 20.4 PARA 8 the above account is correct and was incurred under the authority quoted and that funds are available

Gross amount payable : Rupees .. NINE HUNDRED AND FIFTY THREE THOUSAND AND FORTY NINE AND CENTS THIRTY FIVE ONLY.

Tax Deduction at source : Rupees ..... NIL

Net amount payable : Rupees ..... AS ABOVE

Date .. 22.09.16 Signature .. [Signature] Title & [Signature]

SECRETARY TO THE PRESIDENT

Verified with checklist EXAMINED AND PASSED FOR PAYMENT

Name: N. [Signature] Gross Amt Rupees [Nine hundred & fifty three thousand forty nine and cts thirty five only]

Signature: [Signature] Net Amt Rupees [forty nine and cts thirty five only]

Date: 28.09.16 Date 28/09/16

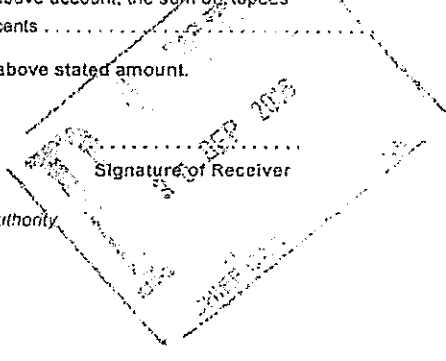
[953,049] [35] Signature of Examiner [Signature]

Received this .. day of .. in payment of the above account, the sum of Rupees .. and cents ..

I certify that the payee is personally known to me and that he has received in my presence the above stated amount.

Signature of Witness .. Cheque no ..

Signature of Receiver ..



THE TREASURY PORT LOUIS

31

# ANNEX H

P2  
Co  
306  
2008/18

## BATCH CONTROL

Alpha Code

PRI

MINISTRY/DEPARTMENT:

DEPT: OFFICE OF THE PRESIDENT

--	--	--

Batch Name: PRI\_ 121016\_2

Invoice Count: 1

Gross Amount: 1,410,100

Deduction: -

Net Amount: 1,410,100

Voucher No: From 101100026 to

- I certify that
- (1) the above information tallies with what appears in the system.
  - (2) Payment can be made according to the Sup. Num. Name, Address, Bank, and Bank Accounts appearing in the invoices.
  - (3) That funds are available under the GL Accounts from which above payments will be made.
  - (4) The invoice check list has been checked and found correct according to the invoices of the above batch.

Signature: *[Signature]*

Name: Y. Mukoz

Status: M80

Date: 13/10/16

THE TREASURY  
PORT LOUIS

14 OCT 2016

13/10/16

10

ANNEX I

R2

# SBM BANK (MURITIUS) LTD

CO 37  
20-05-18

JRN: C07002193

## CREDIT CUSTOMER ACCOUNT ADVICE

Date : 14-10-2016

ACCOUNTANT GENERAL (GENERAL PO ACC NO 2)

C/O ACCOUNTANT GENERAL

RABADIA BUILDING

38 MERE BARTHELEMY STREET

PORT LOUIS

Credit Regarding : INWARD REMITTANCE - Realize  
 Our Reference : 651FIR161014191  
 Your Cheque / Invoice Ref : PLANET EARTH INSTITUTE FOUNDATION  
 Contract Amount : USD 54,677.33

We have Credited your Account 61030100002515

with us in the amount of MUR 1,929,629.68

This amount includes	Ex Rate	DR/CR	Amount	Currency
651FIR161014191:REALISE	35.29122	G	1,929,629.68	MUR

THE TREASURY  
PORT LOUIS

Serial No.:

This is a computer generated advice. Needs no authentication

Other Charges

ANNEX J

Ministry/Department ..... OFFICE OF THE PRESIDENT

Ministry/Cost Centre [0] [ ] [ ] [ ] [ ] [ ]

Programme/Sub Prog [D] [P] [R] [1] [ ] [ ]

Economic Classification [8] [2] [5] [4] [9] [0] [0] [1] Desc: ... PR1-PEI ACTIVITIES & MISSION

ID Code [0] [ ] [ ]

Analysis [0] [ ] [ ] [ ] [ ] [ ] Desc: .....

Activity/Project [0] [ ] [ ] [ ] [ ] [ ]

Misc [0] [ ] [ ] [ ] [ ] [ ] Output [0] R.E [0]

Treasury Voucher No.  
10160078  
10160081

(USE BLOCK LETTERS)

Supplier's Name STATE COMMERCIAL BANK

Factor/Other\*

Address\*\*

Supplier's BR/ID Number BK000

Bank\*\*

Account Number\*\*

Date	Detailed Description	Rate		Amount	
		Rs	Cs	Rs	Cs
24.10.16	Being amount payable to the abovenamed for subsistence allowance H.E Dr (Mrs) Gurib-Fakim and her delegation i.c.w mission to IOWA from 13 - 14 October 2016 and 18-20 Oct 2016 as per attached invoices. ABF400 (Rev 13) No. 4295,4297,4300 & 7151 OP/CF/241/1/31 F(79a-d)			317,263	24
Authority: G.W 2016-2017		Total		317,263	24

**CERTIFIED CORRECT**

Agome 25/10/16

Prepared by [Signature] Examined Name: S. Soorian (Mrs) Entered in Treasury Accounting System [Signature]

24.10.16 [Signature] Date 24/10/16 Date 25/10/16 Date [Signature]

Date Signature Date Sig. of Dept Examiner Date Signature

I certify that under FMM 20.4 PARA 8 the above account is correct and was incurred under the authority quoted and that funds are available.

Gross amount payable : Rupees .. THREE HUNDRED AND SEVENTEEN THOUSAND TWO HUNDRED AND SIXTY THREE AND CENTS TWENTY FOUR ONLY.

Tax Deduction at source : Rupees ..... NIL

Net amount payable : Rupees ..... AS ABOVE

Date 24/10/16 Signature [Signature] Title [Signature]

**SECRETARY TO THE PRESIDENT**

Verified with checklist

Name: [Signature] Gross Amt Rupees Three hundred and seventeen Thousand two hundred and sixty-three and cents twenty four

Signature: [Signature] Net Amt Rupees

Date: 26/10/16

Rs 317,263 Cs 24

Date 25/10/16 Signature of Examiner [Signature]

Received this ..... day of ..... In payment of the above account, the sum of Rupees ..... and cents .....

I certify that the payee is personally known to me and that he has received in my presence the above stated amount.

Signature of Witness ..... Cheque no ..... Signature of Receiver .....

\* Where payment is made to a factor authorised by the supplier or to any other person under legal authority  
\*\* in respect of Payee

**THE TREASURY**

Other Charges

42

Co 39  
20/11/18 P4

Ministry/Department ..... OFFICE OF THE PRESIDENT Treasury Voucher No.  
10110003

Ministry/Cost Centre

Programme/Sub Prog

Economic Classification  Desc: ... PR1-PEI ACTIVITIES & MISSION

ID Code

Analysis  Desc: .....

Activity/Project

Misc  Output:  R.E.

(USE BLOCK LETTERS)

Supplier's Name  Supplier's BR/ID Number

Factor/Other\*  Bank\*\*

Address\*\*  Account Number\*\*

Date	Detailed Description	Rate		Amount	
		Rs	Cs	Rs	Cs
01.11.16	Being amount payable to the abovenamed for air tickets for Hon. Mrs Gurib-Fakim and others i.c.w mission to Cape Town, South Africa from 18 to 20 Oct 2016 as per invoices. INV No. 802457 INV No. 802458 INV No. 802459 OP/CF/241/1/31 F(82) & Min (83) <b>CERTIFIED CORRECT</b> Agreed 1 Nov 2016			138,786	00
Authority: G.W 2016-2017		Total:		138,786	00

Prepared by  Examined Name:  Entered in Treasury Accounting System

01.11.16 Date  Signature  Date  Signature

I certify that under FMM 20.4 PARA 2 the above account is correct and was incurred under the authority quoted and that funds are available.

Gross amount payable : Rupees .. ONE HUNDRED AND THIRTY EIGHT THOUSAND SEVEN HUNDRED AND EIGHTY SIX ONLY

Tax Deduction at source : Rupees ..... NIL

Net amount payable : Rupees ..... AS ABOVE

Date: 01/11/16 Signature:  Title: **SECRETARY TO THE PRESIDENT**

verified with checklist  
Name:  Gross Amt Rupees   
Signature:  Net Amt Rupees .....  
Date: 01/11/16  Date 3.11.2016 Signature of Examiner

Received this ..... day of ..... in payment of the above account, the sum of Rupees ..... and cents .....

I certify that the payee is personally known to me and that he has received in my presence the above stated amount.

Signature of Witness ..... Cheque no : ..... Signature of Receiver .....

\* Where payment is made to a factor authorised by the supplier or to any other person under legal authority  
\*\* in respect of Payee

THE TREASURY  
PORT LOUIS

**Other Charges**

Ministry/Department ..... OFFICE OF THE PRESIDENT  
 Treasury Voucher No. 1011100666  
 101110067  
 Ministry/Cost Centre 0  
 Programme/Sub Prog D P R 1  
 Economic Classification 8 2 5 4 9 0 0 1 Desc: ... PR1-PEI ACTIVITIES & MISSION  
 ID Code 0  
 Analysis 0 0 0 1 Desc: .....  
 Activity/Project 0  
 Misc 0  
 R.E 0

(USE BLOCK LETTERS)  
 Supplier's Name STATE COMMERCIAL BANK  
 Supplier's BR/ID Number BK000  
 Factor/Other\*  
 Bank\*\*  
 Address\*\*  
 Account Number\*\*

Date	Detailed Description	Rate		Amount	
		Rs	Cs	Rs	Cs
16.11.16	allowance H.E Dr (Mrs) Gurib-Fakim and her delegation i.c.w mission to IOWA from 13 - 14 October 2016 and 18-20 Oct 2016 as per attached invoices. ABF400 (Rev 13) No. 4298 & 4299 USD 331.33 @ Rs 36.68 = Rs 12,153.18 USD 331.33 @ Rs 36.27 = Rs 12,153.27 OP/CF/241/1/34 F(119a-119b) 68 &	12,153	18	24,306	45
Authority: G.W 2016-2017		Total		24,306	45

Prepared by [Signature] Examined Name: S. Scaria (M.A.) Entered in Treasury Accounting System  
 Date: 17/11/16 Date: 17/11/16  
 Signature: [Signature] Sig. of Dept Examiner: [Signature] Date: 17/11/16 Signature: [Signature]

I certify that under FMM 20.4 PARA 8 the above account is correct and was incurred under the authority quoted and that funds are available.  
 Gross amount payable: Rupees TWENTY FOUR THOUSAND THREE HUNDRED AND SIX AND CENTS FORTY FIVE ONLY.  
 Tax Deduction at source: Rupees NIL  
 Net amount payable: Rupees AS ABOVE  
 Date: 17/11/16 Signature: [Signature] Title: SECRETARY TO THE PRESIDENT

Verified with checklist  
 Name: Ditesha Dulleh Gross Amt Rupees Twenty-four thousand three hundred and six and cents forty five only  
 Signature: [Signature] Net Amt Rupees  
 Date: 17/11/16 Rs 24306 Cs 45  
 Date: 17/11/16 Signature of Examiner: [Signature]

Received this ... day of ... in payment of the above account, the sum of Rupees ... and cents ...  
 I certify that the payee is personally known to me and that he has received in my presence the above stated amount.  
 Signature of Witness Cheque no: Signature of Receiver

\* Where payment is made to a factor authorised by the supplier or to any other person under legal authority  
 \*\* in respect of Payee

THE TREASURY FOR LGJS

ANNEX M Co 41  
2018/11

@ 35.2993

7027

1 / 6,600.00 R09199413887/202

/CODTYPTR/001  
//ORDER WD  
FISHING CO LTD BOMMMUPL  
//DE YI 16, DE YI  
6

- MACSS  
Suspense  
account USD 202

Rs 232,975.38

RECUSD02  
109956904

7028

2 / 7,367.32 R10199470952/202

/CODTYPTR/001  
//PLANET EARTH  
INSTITUTO LTD BOMMMUPL  
//PE1  
ALLOWANCES  
FOR BOARD  
//MEETING

03H10021089  
- MACSS  
Suspense  
account USD 202

Rs 260,061.24

RECUSD03  
109957528

7029

3 / 17,500.00 R11199533252/202

/CODTYPTR/001  
//ORDER WD  
FISHING CO LTD BOMMMUPL  
//DE HAI 16,66  
12, 3  
//FENG KUO 668

03H10021089  
- MACSS  
Suspense  
account USD 202

Rs 617,737.75

337120213

4 / 164,631.00 P29364646/1

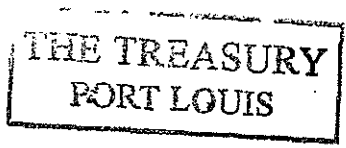
NONREF BOMMMUPL

03401000038  
- USD -  
CTAX/APS 20

Rs 5,811,359.06

Number of records: 12

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15

ANNEX N

Acct. F. 226 (B)

GOVERNMENT OF MAURITIUS

Credit Note

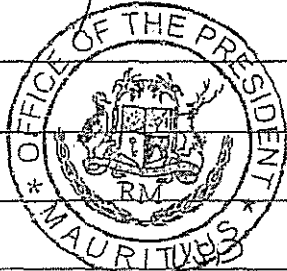
CO 42  
20-02-18

Treasury Voucher No.

To Chief Cashier Treasury

Please receive the sum of <sup>USD</sup> ~~Rupees~~ Seven Thousand Three Hundred And Sixty Seven and cents Thirty Two Only being refund of Funds on behalf of P.E.I. for Mission to London and Italy from 11 to 18 Dec. 16 as detailed hereunder.

	ITEM CODE (TAS)	PARTICULARS	AMOUNT	
			Rs	Cs
1	0. DPRI. 82549001 0. 0001.0.0.	PR1 - PEI Activities	USD	
2		& Mission	7,367	32
3				
4				
5				
Total Paid in ...			7 367	32



Name of Payer Miss Anckelah Hiteesha D

Date 19.12.16 Signature of Remitter [Signature]

Ministry/Department Office of the President



16

ANNEX O

R4

# SBM BANK (MAURITIUS) LTD

Co 44  
29  
30-08-16

RN: C07602193

## CREDIT CUSTOMER ACCOUNT ADVICE

Date : 01-03-2017

ACCOUNTANT GENERAL (GENERAL PO ACC NO 2)

C/O ACCOUNTANT GENERAL

RABADIA BUILDING

38 MERE BARTHELEMY STREET

PORT LOUIS

MAURITIUS

Credit Regarding : INWARD REMITTANCE - Realize  
 Our Reference : 651FIR170301084  
 Remitter : PLANET EARTH INSTITUTE FOUNDATION  
 Contract Amount : USD 5,150.00  
 Remittance Info : ALOWANCEGHANA DAVOS

We have credited your Account 61030100002515  
with us in the amount of MUR 181,698.64

This amount includes	Ex Rate	DR/CR	Amount	Currency
651FIR170301084:REALISE	35.28129	G	181,698.64	MUR

THE TREASURY  
PORT LOUIS

Serial No.:

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CO 45 (a) 86  
[Handwritten signature]

Credit Note

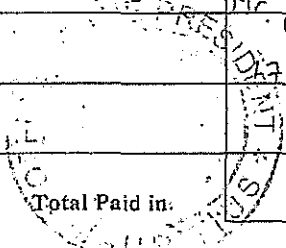
Treasury Voucher No.

32503407

To Chief Cashier Treasury

Please receive the sum of Rupees Fifty Five Thousand And Ninety Six and cents Eighty Three Only being refund of funds on behalf of Mr Jettou K. i.e. w Mission to Ghana and Switzerland from 12 to 20 January 2017 as detailed hereunder.

	ITEM CODE (TAS)	PARTICULARS	AMOUNT	
			Rs	cs
1	0.DPRI.82549001. 0.0001.0.0	PRI - P&I Achived		
2		& Mission		
3		Mr Jettou K. dated	55,096	83
4		17/03/17		
5				
Total Paid in.			55,096	83



Name of Payer

Miss Annette Nit...

Date 21.6.17

Signature of Remitter

[Handwritten signature]

Ministry/Department

Office of the President

22

Co 48(b)  
89

Credit Note

ANNEX Q

Treasury Voucher No.

32503493

To Chief Cashier Treasury

Please receive the sum of Rupees Fifty Five Thousand And Ninety Six and cents Eighty Three Only being refund of funds on behalf of Mr. Salabee R. i.c.w Mission to Ghana and Switzerland from 12 to 20 January 17 as detailed hereunder.

	ITEM CODE (TAS)	PARTICULARS	AMOUNT	
			Rs	CS
1	0.0PR1-82549001. 0.0001.0.0	PR1-PE1 Activities		
2		Mission		
3		Mr. Salabee R.	55,096	83
4		dated 20/03/17		
5				
Total Paid in ...			55,096	83

Name of Payer

Miss Anclahn Niteesha D.

Date 21/03/17

Signature of Remitter

[Signature]

Ministry/Department

Office of the President

DocuSign Envelope ID: 7E4EE665-AA49-430A-AD0A-A5C12E98C8D6

DocuSign Envelope ID: 7E4EE665-AA49-430A-AD0A-A5C12E98C8D6

**BILL & MELINDA GATES foundation**

GRANT AGREEMENT  
Investment ID OPP F134745

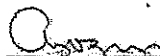
**AGREEMENT SUMMARY & SIGNATURE PAGE**

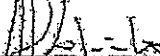
GRANTEE INFORMATION	
Name:	Planet Earth Institute Foundation
Tax Status:	Not exempt from federal income tax under U.S. IRC § 501(c)(3) You confirm that the above information is correct and agree to notify the Foundation immediately of any change.
Expenditure Responsibility:	This Agreement is subject to "expenditure responsibility" requirements under the U.S. Internal Revenue Code.
Mailing Address:	1st Floor Marsya Tower Cybarchy Ebene MAURITIUS
Primary Contact:	Mauro de Farias, Chief Executive Officer, mauro@planetearthinstitute.org.uk
FOUNDATION INFORMATION	
Mailing Address:	P. O. Box 23350, Seattle, WA 98102, U.S.A.
Primary Contact:	Kecast Tesfagiorgis, Program Officer, Grand Challenges Partnership, Advocacy and Communications, Kecast.Tesfagiorgis@gatesfoundation.org
AGREEMENT INFORMATION	
Title:	Advocacy to Mobilize Resources for African Resilience and Development
"Charitable Purpose":	To mobilize local, national, and global support for increased R&D investment in Africa, and to foster country-level discussion on national policies, strategies, and initiatives to support increased R&D investment in Africa.
"Start Date":	Date of last signature.
"End Date":	November 30, 2019
This Agreement includes and incorporates by this reference:	This Agreement Summary & Signature Page and: <ul style="list-style-type: none"> <li>Grant Amount and Reporting &amp; Payment Schedule (Attachment A)</li> <li>Terms and Conditions (Attachment B)</li> <li>Proposal Narrative (date submitted October 20, 2016)</li> <li>Results Framework and Tracker (date submitted October 22, 2016)</li> <li>Budget (date submitted October 26, 2016)</li> </ul>

THIS AGREEMENT is between Planet Earth Institute Foundation ("You" or "Grantee") and the Bill & Melinda Gates Foundation ("Foundation"), and is effective as of the date of last signature. Each party to this Agreement may be referred to individually as a "Party" and together as the "Parties." As a condition of this grant, the Parties enter into this Agreement by having their authorized representatives sign below.

**BILL & MELINDA GATES FOUNDATION**

**PLANET EARTH INSTITUTE FOUNDATION**

  
 BY: Ayo Ayegbe  
 Title: Director, Global Policy & Advocacy, Africa  
 Date: Nov 16, 2016

  
 BY: Alvaro Sobrinho  
 Title: CHAIRMAN  
 Date: Nov 17, 2016

5

DocuSign Envelope ID: 7E4EEEF5-AA49-430A-AD0A-AS012E9E08DB

DocuSign Envelope ID: 7E4EEEF5-AA49-430A-AD0A-AS012E9E08DB

GRANT AGREEMENT  
Investment ID: OPP1154745

ATTACHMENT A  
GRANT AMOUNT AND REPORTING & PAYMENT SCHEDULE

GRANT AMOUNT

The Foundation will pay You up to the total grant amount specified in the Reporting & Payment Schedule below. The Foundation's Primary Contact must approve in writing any Budget, cost category change of more than 10%.

REPORTING & PAYMENT SCHEDULE

Payments are subject to Your compliance with this Agreement, including Your achievement, and the Foundation's approval, of any applicable targets, milestones, and reporting deliverables required under this Agreement. The Foundation may, in its reasonable discretion, modify payment dates or amounts and will notify You of any such changes in writing.

REPORTING

You will submit reports according to the Reporting & Payment Schedule, using the Foundation's templates or forms, which the Foundation will make available to You and which may be modified from time to time. For a progress or final report to be considered satisfactory, it must demonstrate meaningful progress against the targets or milestones for that investment period. If meaningful progress has not been made, the report should explain why not and what adjustments You are making to get back on track. Please notify the Foundation's Primary Contact if You need to add or modify any targets or milestones. The Foundation must approve any such changes in writing. You agree to submit other reports the Foundation may reasonably request.

Investment Period	Target, Milestone, or Reporting Deliverable	Due By	Payment Date	Payment Amount (USD)
	Countersigned Agreement	November 28, 2016	Within 15 days after receipt of countersigned Agreement	\$150,000.00
Start Date to November 30, 2017	Annual Progress Report	January 31, 2018	February 2018	\$150,000.00
December 1, 2017 to November 30, 2018	Annual Progress Report	January 31, 2019	February 2019	\$100,000.00
Start Date to End Date	Final Report	Within 90 days of End Date		
Total Grant Amount				\$400,000.00

ASA

AP/

6

DocuSign Envelope ID: 7E4EEEB5-AA49-470A-AD0A-A50126650606

DocuSign Envelope ID: 7E4EEEB5-AA49-470A-AD0A-A50126650606

**GRANT AGREEMENT**  
Investment ID: OIP1154748

**ATTACHMENT B**  
**TERMS & CONDITIONS**

This Agreement is subject to the following terms and conditions:

**PROJECT SUPPORT**

**PROJECT DESCRIPTION AND CHARITABLE PURPOSE**

The Foundation is awarding You this grant to carry out the project described in the Proposal Narrative and Results Framework and Tracker (collectively, "Project") in order to further the Charitable Purpose.

**MANAGEMENT OF FUNDS**

**USE OF FUNDS**

You may not use funds provided under this Agreement ("Grant Funds") for any purpose other than the Project. You may not use Grant Funds to reimburse any expenses You incurred prior to the Start Date.

**INVESTMENT OF FUNDS**

You must invest Grant Funds in highly liquid investments with the primary objective of preservation of principal (e.g., interest-bearing bank accounts or a registered money market mutual fund) so that the Grant Funds are available for the Project. Together with any proceeds of that reports required under this Agreement, You must report the amount of any currency conversion gains (or losses) and the amount of any interest, or other income generated by the Grant Funds (collectively, "Income"). Any Income must be used for the Project.

**SEGREGATION OF FUNDS**

You must maintain Grant Funds in a physically separate bank account dedicated to the Project.

**GLOBAL ACCESS**

**GLOBAL ACCESS COMMITMENT**

You will conduct and manage the Project and the Funded Developments in a manner that ensures Global Access. Your Global Access commitments will survive the term of this Agreement. "Funded Developments" means the products, services, processes, technologies, materials, software, data, other innovations, and intellectual property resulting from the Project (including methodologies, experiments, and other developments to background technology). "Development Technology" means any and all products, services, processes, technologies, materials, software, data, or other innovations, and intellectual property created by You or a third party prior to or outside of the Project used as part of the Project. "Global Access" means: (a) the knowledge and information gained from the Project will be promptly and broadly disseminated; and (b) the Funded Developments will be made available and accessible at an affordable price (i) to people in need within developing countries, or (ii) in support of the U.S. educational system and public libraries, as applicable to the Project.

**PUBLICATION**

For the purpose of achieving Global Access, You will seek prompt publication of any Funded Developments consisting of data and results in a peer-reviewed journal, treatise, or trade publication, as applicable. Publication may be delayed for a reasonable period for the sole purpose of seeking patent protection, provided the patent application is drafted, filed, and managed in a manner that best furthers the Charitable Purpose. You will also use good faith efforts to ensure that Your subcontractors, and subcontractors, agents, and affiliates, as applicable, likewise seek prompt publication of any Funded Developments consisting of data and results.

**PUBLICATION IN PEER-REVIEWED JOURNALS**

If You seek publication of Funded Developments in a peer-reviewed journal, such publication shall be under "open access" terms and conditions consistent with the Foundation's Open Access Policy available.

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at [www.gatesfoundation.org/How-We-Work/General-Information/Open-Access-Policy](http://www.gatesfoundation.org/How-We-Work/General-Information/Open-Access-Policy), which may be modified from time to time.

**INTELLECTUAL PROPERTY REPORTING**

During the term of this Agreement and for 6 years after, You will submit upon request annual intellectual property reports related to the Funded Developments, Background Technology, and any related agreements using the Foundation's completed forms, which the Foundation may modify from time to time:

**SUBGRANTS AND SUBCONTRACTS**

**SUBGRANTS AND SUBCONTRACTS**

You may not make subgrants under this Agreement. You have the exclusive right to select subcontractors to assist with the Project.

**RESPONSIBILITY FOR OTHERS**

You are responsible for (a) all acts and omissions of any of Your faculty, directors, officers, employees, subcontractors, contingent workers, agents, and affiliates assisting with the Project, and (b) ensuring their compliance with the terms of this Agreement.

**PROHIBITED ACTIVITIES**

**ANTI-TERRORISM**

You will not use funds provided under this Agreement, directly or indirectly, in support of activities (a) prohibited by U.S. laws related to combating terrorism (b) with persons on the List of Specially Designated Nationals ([www.treasury.gov/sdn](http://www.treasury.gov/sdn)) or entities owned or controlled by such persons or (c) in or with countries or territories against which the U.S. maintains comprehensive sanctions (currently Cuba, Iran, (North) Sudan, Syria, North Korea, and the Crimea Region of Ukraine), including paying or reimbursing the expenses of persons from such countries or territories, unless such activities are fully authorized by the U.S. Government under applicable law and specifically approved by the Foundation in its sole discretion.

**ANTI-CORRUPTION; ANTI-BRIBERY**

You will not offer or provide money, gifts, or any other things of value directly or indirectly to anyone in order to improperly influence any act or decision relating to the Foundation or the Project, including by assisting any party to secure an improper advantage. Training and information on compliance with these requirements are available at [www.integrityfoundationlaw.org](http://www.integrityfoundationlaw.org).

**POLITICAL ACTIVITY AND ADVOCACY**

You may not use Grant Funds to influence the outcome of any election for public office or to carry on any voter registration drive. You may not use Grant Funds to support lobbying activity or to otherwise support attempts to influence local, state, federal, or foreign legislation. Your strategies and activities, and any materials produced with Grant Funds, must comply with applicable local, state, federal, or foreign lobbying law. You agree to comply with lobbying, gift, and ethics rules applicable to the Project.

**PUBLICITY**

**PUBLICITY BY THE FOUNDATION**

The Foundation may include information about the award of the grant, including Your name, in its periodic public reports and may make such information available on its website and as part of press releases, public reports, speeches, newsletters, fax reports, and other public disclosures.

**PUBLICITY BY YOU**

You must obtain the Foundation's prior written approval before: (a) issuing a press release or other public announcement regarding the grant; and (b) any other public use of the Foundation's name or logo. Please email Your request to: [grants@comms@gatesfoundation.org](mailto:grants@comms@gatesfoundation.org) two weeks in advance to provide the Foundation an opportunity to review and comment. Detailed guidelines are available at: [www.gatesfoundation.org/grants/seeker/documents/guidelines\\_communications\\_for\\_grantpress.doc](http://www.gatesfoundation.org/grants/seeker/documents/guidelines_communications_for_grantpress.doc).

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**PUBLICITY BY OTHERS**

You and Your subgrantees, subcontractors, contingent workers, agents, or affiliates may not state or otherwise imply to third parties that the Foundation directly funds or otherwise sponsors their activities.

**OTHER**

**COMPLIANCE WITH LAWS**

In carrying out the Project, You will comply with all applicable laws, regulations, and rules and will not infringe, misappropriate, or violate the intellectual property, privacy, or publicity rights of any third party.

**COMPLIANCE WITH REQUIREMENTS**

You will conduct, control, manage, and monitor the Project's compliance with all applicable ethical, legal, regulatory, and safety requirements, including applicable international, national, local, and institutional standards ("Requirements"). You will obtain and maintain all necessary approvals, consents, and reviews before conducting the applicable activity. As a part of Your annual progress report to the Foundation, You must report whether the Project activities were conducted in compliance with all Requirements.

**Human Subjects**

a. any protected information (including personally identifiable, protected health, or third-party confidential). You will not disclose this information to the Foundation without obtaining the Foundation's prior written approval and all necessary consents to disclose such information;

b. children or vulnerable subjects. You will obtain any necessary consents and approvals unique to these subjects; and/or

c. any trial involving human subjects. You will adhere to current Good Clinical Practice as defined by the International Council on Harmonization (ICH) E-6 standards (or local regulations, if more stringent), and will obtain applicable trial insurance;

Any activities by the Foundation in reviewing documents and providing input or funding does not modify Your responsibility for determining and complying with all Requirements for the Project.

**RELIANCE**

You acknowledge that the Foundation is relying on the information You provide in reports and during the course of any due diligence conducted prior to the Start Date and during the term of this Agreement. You represent that the Foundation may continue to rely on this information and on any additional information You provide regarding activities, progress, and financial developments.

**INDEMNIFICATION**

If the Project involves clinical trials, trials involving human subjects, post-appraisal studies, field trials involving genetically modified organisms, experimental medicine, or the provision of medical health services ("Indemnified Activities"), You will indemnify, defend, and hold harmless the Foundation and its trustees, employees, and agents ("Indemnified Parties") from and against any and all damages, claims, actions, suits, losses, damages (including property damage, bodily injury, and wrongful death), arbitration and legal proceedings, judgments, settlements, or costs or expenses (including reasonable attorney's fees and expenses) (collectively, "Claims") arising out of or relating to the acts or omissions, actual or alleged, of You or Your employees, subgrantees, subcontractors, contingent workers, agents, and affiliates with respect to the Indemnified Activities. You agree that any activities by the Foundation in cooperation with the Project, such as its review or proposal of suggested modifications to the Project, will not modify or waive the Foundation's rights under this paragraph. An Indemnified Party may, at its own expense, employ separate counsel to monitor and participate in the defense of any Claim. Your indemnification obligations are limited to the extent permitted or precluded under applicable federal, state or local laws, including federal or state tort claims acts, the Federal Anti-Dolegency Act, state governmental immunity acts, or state constitutions. Nothing in this Agreement will constitute an express or implied waiver of Your governmental and sovereign immunities, if any.

**INSURANCE**

You will maintain insurance coverage sufficient to cover the activities, risks, and potential omissions of the Project in accordance with generally accepted industry standards and as required by law. You will ensure Your subgrantees and subcontractors maintain insurance coverage consistent with this section.

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**TERMINATION**

**TERM**

This Agreement commences on the Start Date and continues until the End Date, unless terminated earlier as provided in this Agreement.

**TERMINATION**

The Foundation may modify, suspend, or discontinue any payment of Grant Funds or terminate this Agreement if (a) the Foundation is not reasonably satisfied with Your progress on the Project; (b) there are significant changes to Your leadership or other factors that the Foundation reasonably believes may threaten the Project's success; (c) there is a change in Your control; (d) there is a change in Your tax status; or (e) You fail to comply with this Agreement.

**RETURN OF FUNDS**

Any Grant Funds, plus any income, that have not been used for, or committed to, the Project upon expiration or termination of this Agreement, must be returned promptly to the Foundation.

**RECORD KEEPING**

You will maintain adequate accounting records and copies of any reports submitted to the Foundation related to the Project. You will retain such reports and records for 5 years after Grant Funds are fully spent and will make such records and reports available to enable the Foundation to monitor and evaluate how Grant Funds have been used.

**SURVIVAL**

A Party's obligations under this Agreement will be continuous and survive expiration or termination of this Agreement as expressly provided in this Agreement or otherwise required by law or intended by their nature.

**GENERAL**

**ENTIRE AGREEMENT AND AMENDMENTS**

This Agreement contains the entire agreement of the Parties and supersedes all prior and contemporaneous agreements concerning its subject matter. Except as specifically permitted in this Agreement, no modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by authorized representatives of both Parties.

**NOTICES AND APPROVALS**

Written notices, requests, and approvals under this Agreement must be delivered by email or mail to the other Party's primary contact specified on the Agreement Summary & Signature Page, or as otherwise directed by the other Party.

**SEVERABILITY**

Each provision of this Agreement must be interpreted in a way that is enforceable under applicable law. If any provision is held unenforceable, the rest of the Agreement will remain in effect.

**ASSIGNMENT**

You may not assign, or transfer by operation of law or court order, any of Your rights or obligations under this Agreement without the Foundation's prior written approval. This Agreement will bind and benefit any permitted successors and assigns.

**COUNTERPARTS AND ELECTRONIC SIGNATURES**

Except as may be prohibited by applicable law or regulation, this Agreement and any amendments may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.

Handwritten initials/signature

Handwritten initials/signature

CERTIFIED TRUE COPY

M. Seebach - 21/03/2018

OFFICE OF THE PRESIDENT  
State House, Le ReduitOffice of The President  
STATE HOUSE, MAURITIUSH.E. Mrs Ameenah Garib-Fakim, President of the Republic of Mauritius.  
Comments on recent allegations

After several weeks of unsubstantiated attacks and false allegations against her, Her Excellency Mrs. Ameenah Garib-Fakim wishes to speak to restore the facts and protect her honour and reputation.

A respected and recognized scientist, H.E. Mrs. Ameenah Garib-Fakim has often been invited to provide support to various institutions and foundations. In November 2015, she joined the board of the Planet Earth Institute (PEI) on a pro-bono basis to lead a sensitization campaign to develop science capabilities on the African continent. As part of her duties in May 2016, she received a payment card to cover travels and other logistical expenses related to her mission.

Her Mrs. Ameenah Garib-Fakim was already had an identical bank card issued by the same bank. She inadvertently used the PEI card for out-of-pocket expenses for a total amount of around \$ 27,600. She herself immediately informed the PEI and requested a detailed statement. She rigorously and immediately reimbursed by bank transfer these specific expenses, but also all other expenses incurred by the PEI for her mission. This was confirmed by the PEI in a statement posted on their website (<http://planetearthinstitute.org.uk/>).

As a result, H.E. Mrs. Ameenah Garib-Fakim never received any gifts, favours, salaries, emoluments or fees from the PEI, nor did she benefit from undue advantages. Her mission ended on March 29, 2017.

Given these facts, Her Excellency Mrs. Ameenah Garib-Fakim was surprised to be subject to such violent and fierce attacks, a year later, especially as unsavory methods, such as the illegal dissemination of bank statements, were used with a malicious intent. However, and out of a commitment to transparency, she is willing to swear any affidavit that she has not benefited from any material gains during her term as President of Mauritius to date.

Having nothing to reproach herself with, and being able to bring corroborating evidence, Her Excellency Mrs. Ameenah Garib-Fakim rejects any prospect of resignation. She is also now ready to take legal action to defend herself against the slanderous accusations that would target her.

Received in CE on 14/03/18

14/03/18

P. Leird Barry  
@MA

Chronology

June 2015

Ameenah Gurib-Fakim becomes President of the Republic of Mauritius.

November 2015

Ameenah Gurib-Fakim joins the Planet Earth Institute (PEI) as Vice-Chairman. Her mission is clearly defined and *pro-verbis* it consists in conducting an awareness campaign for the protection of science in Africa and to promote the development of scientific talent in Mauritius.

Feb. 2016: Workshop to encourage young children in science - Le Ecocage International School in Mauritius - June 2016.

Organize the Mauritius Women Forum on Climate Change in the Islands.

September 2016: Lecture given at the Royal Academy of Engineering, London.

September 2016: Agreement with the Bill & Melinda Gates Foundation for strengthening scientific capacities in Africa.

November 2015: Workshop with young children at Northfields School with the eminent scientist Dr. M. Adem-Pocock.

May 2016

Her Excellency Mrs. Ameenah Gurib-Fakim is proposed to use a payment card cover her travel and logistical expenses as part of her mission within the PEI.

March 2017

On the basis of the statement of expenses sent to her, Her Excellency Mrs. Ameenah Gurib-Fakim refunds from her personal funds the totality of the expenses incurred on the payment card including logistics and travels for the advocacy programme.

Her Excellency Mrs. Ameenah Gurib-Fakim can therefore testify that she has never benefited from any in-kind or financial advantage related to her duties with the PEI, thus strictly acting *pro-verbis*.

Effective on March 20<sup>th</sup>, H.E. Ameenah Gurib-Fakim has resigned from any position at PEI.

February 2018

The bank statements of the card used by Her Excellency Mrs. Ameenah Gurib-Fakim are transmitted to a Mauritian daily, which makes them public and *pro-verbis* without proof that she has made significant personal purchases using funds made available by the PEI.

March 2018

March 9: The Mauritian press echoes a draft of a vote of no confidence intended to prevent Her Excellency Ameenah Gurib-Fakim from remaining in office.

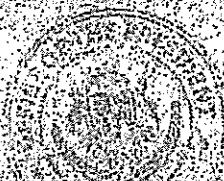
March 12: The Planet Earth Institute issues an official statement denying any wrongdoing from Her Excellency Mrs. Ameenah Gurib-Fakim and confirming that she refunded all expenses made with the payment card made available to her.

March 14: Her Excellency Ameenah Gurib-Fakim releases a statement factual elements in hope to put an end to the accusations against her. She reiterates that she is ready to make any declaration of assets to the competent authorities.

Thank you

Office of the President  
State House  
Le Reduit

14 March 2018



# ANNEX T

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## WRITTEN STATEMENT

- 1) I Bibi Ameenah Firdaus Gurib-Fakim, Former President of the Republic of Mauritius, have prepared this statement with a view to assisting this Commission of Inquiry in obtaining my version of facts relating to events and issues which have been alluded to or raised since I first gave oral evidence before this Commission.
- 2) This written statement consists of 36 pages.
- 3) I intend to produce the same together with another document entitled "Chronology of Events" to which I referred when giving evidence orally.
- 4) I declare that everything I have stated is true to the best of my knowledge and belief and I have made the statement knowing that if it were tendered in evidence, I could be liable for prosecution if I willfully stated in it anything which I knew to be false or did not believe to be true.
- 5) I have done my best to address the issues fully and satisfactorily to the best of my knowledge, belief and recollection.

### I. My appointment as President of Republic

- 6) In September 2014, when I returned to Mauritius after giving a TED talk, a female journalist from L' Express newspaper phoned me and informed me that my name was being proposed as the future President of the Republic. I told her that she must be mistaken as I had no political ambitions.
- 7) She asked me to state this in an interview which she published on the following Monday with the following title "Ameenah Gurib-Fakim pour la présidence?"



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- 8) This became a sounding board and subsequent to this, Ivan Collendavalloo contacted me and told me that they were looking to nominate a candidate for the post of President and they were looking for someone from the Muslim community, a woman preferably, and that I had the right profile. He also mentioned that I was politically untainted.
- 9) My role was never discussed but, in my mind, in addition to the high constitutional responsibilities vested in the President, I wanted to do things for my country with focus on the advancement of women and sciences which I felt needed to be pushed to the forefront.
- 10) In the wake of the announcement of the 2014 General election, Ivan Collendavelloo called me on my mobile phone and said that Sir Anerood Jugnauth ("SAJ") was asking for my permission to mention my name and to which I agreed.
- 11) On the 11<sup>th</sup> December 2014, the MSM-ML-PMSD won the election and it was in June 2015 that I was sworn in as President of the Republic after the sudden resignation of President Purryag.
- 12) After the elections, I met the then Prime Minister, SAJ only once before June 2015 and this was at the launch of his biography.

II. Interaction with Former and Current Prime Minister

- 13) My relationship with SAJ as Prime Minister was cordial and almost friendly. I shared with him my vision and we would frequently discuss ideas and projects which I thought could be useful for the country.
- 14) In November 2015 and in December 2015, I was asked by Government to represent Mauritius at three major conferences: COP21 Climate Conference in Paris, FOCAC meeting in Johannesburg and an Official visit to India.

- 15) In January 2016, the Prime Minister also asked me to attend the Heads of the State and Head of Government meeting of the African Union. I believed wholeheartedly in the African Union strategy which Mauritius signed up to in 2016, which is to encourage philanthropists, government and private sector to work together and create jobs for young people.
- 16) The Government had also approved the following visits and activities: State Visit to Pakistan in April; appointment as Co-Chair for the United Nation Sustainable Development Goal 6 (Water with President of Mexico) and where I would be expected to be present in New York in April 2016 for the launch; also, as one of the African Heads of states to looking into the Higher Education landscape with the AU framework of Agenda 2016.
- 17) SAJ was very positive about my activities; I would inform him of outcomes after all my missions overseas and he was aware of the *raison d'être* of my trips even before I would travel. SAJ was always kept apprised of all my activities and which have always received his blessings.
- 18) He would be briefed every Thursday on what I was doing and it appeared to me that I had his full support for what I was hoping to achieve as President. At times he would not agree and he would tell me so; One such instance was when I was briefing him on the Bordeaux DNA Laboratory project; which I thought interesting. He told me that he had looked into it; and did not wish to pursue this project. That was the end of it.
- 19) Occasionally he would ask me to send him letters on the content of our discussions held on Thursday mornings due to his '*failing memory*'. In fact, this was the reason he would evoke when he decided to step down from Prime Ministership in January 2017 and when he also mentioned that '*his failing memory was dangerous for the country*'.
- 20) The former Prime Minister would also inform me of any reservation expressed by members of his cabinet. One such instance was when Minister



Lutchmeenaraidoo complained about the fact that I had been asked to sign a few documents at the European Development Days in Brussels in June 2016. In fact, Minister Lutchmeenaraidoo also objected to my signing the Paris agreement in New York. In fact, to my dismay, I had to leave the room to allow the Ambassador to sign on behalf of Mauritius.

- 21) I open a parenthesis here to explain my frame of mind when I was sworn in as President: I did not consider the Presidency as a post for ribbon-cutting or for dishing out platitudes but one where the incumbent was engaged to further advance the interests of the country and highlight its achievements and development progress on the world stage. I was greatly influenced by those countries that have prioritized Science, Technology and Innovation like South Korea which moved from an under developed status to an industrialized economy within a span of 50 years. The South Korean government, working very closely with the full spectrum of private sector stakeholders and philanthropists, has rightly prioritized people-centered investments and focused on developing its knowledge economy as it has no natural resources.
- 22) Investments were made in science parks where academics, entrepreneurs and those who had an idea could come and develop it. As such these budding entrepreneurs would become job creators. These places or 'incubators' are coming up across the African continent and in Mauritius I did set up one such Incubator at the CIDP, Biopark in Phoenix.
- 23) I left the UoM because I felt I had reached the end of the road career-wise. I had applied to become VC, three times and was unsuccessful. I had also applied to become the Director of the Tertiary Education Commission and this was also turned down.
- 24) I then met with Mr. JL Roule, a philanthropist, who became my partner for the creation of the 'Centre for Phytotherapy Research Ltd – CEPHYR Ltd' which later got branded CIPD Research and Innovation. I was then already employing 7 graduates and was offering space for young undergraduates to

gain valuable research experience and improve their CV for work experience for better prospects.

25) I came to the State House with a vision to work for my country and to use whatever experience I had gained to further advance its sustainable developmental agenda.

26) The relationship with the current Prime Minister (Pravind Kumar Jugnauth) was always civil.

27) However, he became more aloof and distant after I disagreed with him on some of the appointments that needed input from the President especially constitutionally-mandated ones: There was his recommendation that I appoint a Deputy Permanent Secretary who was still in service as Chair of the Public Service Commission and also when he suggested that I appoint Mrs Oree on the Electoral Supervisory Commission.

28) In spite of these differences, he remained civil with me during our Thursday meetings.

29) After the publication of the press articles about my credit card expenses on the 28<sup>th</sup> of February 2018, he appeared to have accepted my explanations. However, I saw a totally different person, on 6<sup>th</sup> March 2018, when he and Ivan Collendavalloo visited me to ask that I leave office.

30) Furthermore, I was shocked when he announced publicly that I had agreed to do so and had even given him a date for my departure.

31) After the Council of Ministers had resolved to appoint a Tribunal to remove me, it was the former Prime Minister who came to warn me to 'go away quietly' and not face the tribunal as '*people would say all sorts of things on me at a tribunal*'. I responded and told him to go ahead with the Tribunal as I felt strongly that I had done nothing wrong:





III. My interaction with the Secretaries to President assigned to me

5<sup>th</sup> June 2015 to 3<sup>rd</sup> November 2016 - Mr. Dass Appadu

- 32) I was sworn in on 5<sup>th</sup> June 2015, and came in office on 8<sup>th</sup> June 2015 with my background of scientist and entrepreneur. I had no idea what the 'JOB' would be like and I recall meeting a Chinese delegation on 6<sup>th</sup> June not knowing how to address them. There was no brief from the Ministry of Foreign Affairs. I never received any 'induction' on what I was supposed to do and had to rely on the Secretary to President for advice as he was the sole person who I could turn to for advice.
- 33) Mr. Dass Appadu was known to me since the days I was working as a clerk at the Ministry of Health in 1978-1979. I had taken the post of Clerk after my HSC exams prior to leaving for University in September 1979. At that time, Mr. Appadu was my senior. Our professional relationship was cordial.
- 34) When I reached the State House, Mr. D. Appadu was already Secretary to the President. Upon my arrival at the State House, there was no formal meeting with staff members except for an informal gathering with all staff members.
- 35) I did not know anything about the procedures involved in choosing the Secretary to the President. At that time, I did not even consider the issue of transfer as to me the Secretary to President was '*the institutional memory*' of that office.
- 36) However, Dass Appadu did mention to me much later that he had already packed his personal belongings in the event he would be transferred and I would appoint a loyalist.

37)When I reached the State House, there was no handing over of any files from the past president. Dass Appadu told me that the Office of the President functions like any other Government department, that everyone working on the premises was accountable to him as Accounting Officer, that he was responsible for the running of the State House and that he would also be the primary interface between all institutions and the Office of the President.

38)He had been in that post for 3 years by the time I joined the State House. I recall him giving me a copy of the constitution; he would easily quote sections, giving the impression that he was well versed on all matters pertaining to the constitution and also all rules and regulations of the Civil service

39)Dass Appadu would normally start working early in the morning and often till late in the afternoon/evening. He would run the State house and attend meetings with the Secretary to Cabinet and Head of the Civil service – his reporting line. He would write some of my speeches and made himself available even on weekends should his services be required.

40)Gradually he worked himself towards becoming indispensable.

41)I relied on his advice for decision-making in the activities to be held at the State House, missions abroad, staffing and security issues amongst others. He would occasionally brag that he was the best Permanent Secretary in the public service.

42)At least twice a week (unless there was an urgency), he would bring all the letters/invitations received and which he would have gone through in as much as all correspondences land at the Open registry. I also expressly requested to be kept abreast of the functioning of the office and this was done through 'filmsies' from the Open Registry on a monthly basis.

43)Mr. Appadu would organise everything and accompany me on most, overseas trips (state or official visits as well as meetings where I get invited in



my capacity as Scientist/President) and was fully aware of all discussions taking place. On the rare occasions, that Dass Appadu could not come, he would be replaced by the Assistant Permanent Secretary. I would normally also be accompanied by 2 bodyguards as per established protocols, as advised by Mr Dass Appadu.

44) During the missions Mr Dass Appadu would attend all meetings and take notes.

45) All paper works relating to missions overseas were classified as confidential; I did not have access those documents and I was not favoured with flimsies in that connection.

46) Mr Dass Appadu would also write to seek permission for my VIP access when I would be traveling; I am aware that he would also write for other past presidents for their VIP access including their close relatives.

47) As at June 2015, all travel expenses for the current and past presidents came under a single budget line. Mr Dass Appadu informed me in December 2015 that there would not be sufficient funds to cater for the trips requested and/or approved by Government as described above.

48) By January 2016, Former President Mr Cassam Uteem had already utilized Rs 1.2M for his traveling expenses. This is when Dass Appadu wrote to the Secretary to Cabinet to seek a budgetary top up.

49) I requested Mr Dass Appadu to see to it that for subsequent budgets starting 2016-2017, a separate budget line be brought in for the expenses of Past Presidents.

50) In October 2016, when I received the cabinet papers, I saw in the minutes that a decision had been taken to have Mr.D. Appadu transferred as he '*was not advising me properly*'. This came as a complete surprise to me.

- 51) At the next Thursday meeting, I queried the Prime Minister as to how I had been wrongly advised and the reasons for this sudden transfer. Nothing was forthcoming and he insisted that it was a Cabinet decision.
- 52) I was surprised and concerned as Mr Appadu was handling most of the initiatives I had taken such as: renovation of the State House and gardens which were in a terrible state; the scholarship programme that I was running with the Planet Earth Institute foundation etc.
- 53) I then asked Mr. D. Appadu whether he had received any communication about his imminent transfer. He answered in the negative and then he suggested that he could draft a letter to the Prime Minister that I would sign to request the Prime Minister to 'quash' that decision.
- 54) I believed that it was in order for me to send such a letter as per the advice received from Mr Appadu. I was happy with the content of the letter as I was under the impression at that time, that he was handling the running of the affairs of the State House smoothly and efficiently.
- 55) I was disturbed to hear Mr Appadu say before the Commission that I would not pay heed to his advice and that I would do whatever I want and that Planet Earth Institute was my sole concern at the State House.
- 56) It is true that at times I had to insist on reprioritizing tasks and focusing on urgent issues that had come up. For example, I insisted on organising an end of year party for underprivileged children despite the reservations of Mr Appadu who told me that '*Mauritians are ungrateful people and there was no need to help them*' and also '*What was the Value Added?*' But I never ignored Mr Appadu's advice on how the Office of the President should be run. Mr Appadu frequently reminded me that he was responsible for running the State House as Accounting Officer and as such was answerable to Audit. This was the case when Mr Issa Asgarally had asked me to launch his book at the State House. Mr Appadu flatly refused and told me that it was not in the '*national interest*'.



- 57)I collaborated effectively with Mr Appadu precisely because he was driven and very confident in his role. He was someone who made things happen and who did not accept the lame excuses that civil servants make up to say no.
- 58)I had no reason to doubt his loyalty or the soundness of his advice while he was at the State House.
- 59)It is true that I was not happy about Mr Appadu being transferred from the State House but it is not true that I was desperate as Mr Appadu would have the Commission believe or that I begged for his help.
- 60)Mr. D. Appadu officially left the State House on the 3<sup>rd</sup> November, 2016. By the time he got his letter of transfer, he had already started working on a few speeches and he suggested that he complete them for me. I was grateful as the incoming PS could not write speeches and I did not find anything wrong or inappropriate with Mr Appadu completing those speeches because they were unfinished tasks.
- 61)I wish to reiterate that I never asked him to keep coming to the State House, nor did I condone him giving orders to the Staff after his transfer.
- 62)At the Commission I was dismayed to hear Mr Appadu claim say that I forced him to take up the Job at the ASA group as he would be 'helping' me. It simply does not make any sense that Mr Appadu would let me decide on his career moves and choices.
- 63)The only time Mr Appadu asked for my help was when he asked me to introduce his daughter, a scientist, to the management of CIDP. I did so and must add that she got appointed on merit and she is still working there to the best of my knowledge.

64) I was not surprised when he told me that he was joining the organisation of Mr Alvaro Sobrinho as he had informed me sometime in the first quarter of 2016 that he was 'head hunted' by the group and that he wanted to do consultancy work for them after hours.

65) It is only after Mr Appadu left the State House that members of the Staff would start telling me things; for instance I was not aware that Mr Appadu was driving a brand-new Jaguar with a private number plate. I have never seen the car.

66) In this new capacity, he came to Davos as Planet Earth Institute staff as he had already taken a commitment to work with them after he left the State House. He also came to the Planet Earth Institute board meeting in **December 2016** as well.

67) For me, after Mr Appadu left the State House, he was operating as a staff member of the PEI. He was in touch with all overseas partners (Gates Foundation, Wellcome Trust etc..) as they were writing to him directly, he would call me to brief me on these emails.

03 November 2016 – 31<sup>st</sup> January 2017; Mrs. N. Bheenick

68) After the departure of Mr. Appadu, the Secretary to Cabinet, Mr Bhallah consulted me before sending Ms Bheenick and he mentioned that there was no other Permanent Secretary available. He also mentioned that Ms Bheenick had been transferred several times from other Ministries but as she had been at the State House as replacement in the absence of Dass Appadu, she was familiar with the running of the State House.

69) When Ms Bheenick came, I asked Mr. Appadu to come and to hand over the files to his successor.

70) Ms. Ahmed was DPS and Ms. Porimah (APS).



- 71) I was not made aware of the frequency of Mr. Appadu's visits to the State House until January 2017 when I was informed of same by Mrs. Neermala Bheenick. Ms Ahmed also complained about Mr. Appadu interfering with their work. I told both of them to write to the Secretary to Cabinet.
- 72) After the departure of Mr. Appadu, I had to rely on Toriden Chellapermal to write some of the speeches. T. Chellapermal had been recommended to me by Mr. Appadu and had been appointed Communication Director as from late 2015.
- 73) T. Chellapermal would also write or translate some of the speeches in French. He would also oversee my end of year message to the nation (25 December), the newsletters that we were preparing; supervision of the official website and Facebook accounts and was also involved in the drafting of communiqués with the final formatting being done by the Office of the President and sent out through Open registry. This has been the practice since then.
- 74) However as no one on Ms Bheenick's team could write speeches or communiqués; I asked Ms. Ahmed to see with 'Service to Mauritius' whether we could get some interns who could do desk-based research work for content as I had begun to write my own speeches.
- 75) I moved offices and I relocated to the new block as the main building was leaking badly. I had already requested the office to start the process for renovation.
- 76) The relationship with Mrs. Bheenick was fraught. It was very difficult to work with her.
- 77) Finally in January 2017, I phoned and complained to the Secretary to Cabinet on the poor performance of Ms Bheenick. I requested her transfer for the following reasons:

- (1) On one occasion she refused to settle payments out of the Redit Appeals Fund for purchases made for an end of year function (Christmas party for under privileged children) held at the State House. Payments and purchases are usually handled administratively following Civil service procurement procedures.
- (2) She was complaining that we had extended gifts to the children of labourers working at the State House and as such she was refusing to pay suppliers.
- (3) She even suggested that I transfer the Redit Appeals Funds to my own name so that I could use it '*as I had the privilege of immunity*'.
- (4) In December 2016, I gave a speech at the FAO HQ in Rome, under the Partnership between Planet Earth Institute and the BMGF. They covered the costs and Ms. Bheenick had failed to organize our transfer from airport to hotel. No secretary to president accompanied me but Ms. Hambly from Planet Earth Institute London assisted me. They organized the transfer and the invoice was sent to the embassy. As I had resigned from Planet Earth Institute, it took longer to settle the invoice. This was later the subject matter of a PQ from Leader of Opposition.

Ms. Bheenick left at the end January 2017.

#### February to April 2017 - Ms. Ghoorah

78) Ms. Ghoorah took office in February 2017.



79) Relationship with Ms. Ghoorah was professional and she only looked after administrative duties at the State House.

80) In March 2017, Ms Ghoorah informed me that Ms Vydilingum had to be transferred. Ms Vydilingum held the post of "Confidential Secretary" and had been acting as "personal secretary". She explained that when Ms Seechurn who holds the post of "personal secretary" came to the State House, Mr Dass Appadu nonetheless maintained Ms Vydilingum in her acting capacity. That meant that she was earning extra increments to which she was not entitled. Ms Ghoorah said that she would not be able to account for this in the audit report. Ms Vydilingum had to leave the State House as we had exhausted our quota for CS. She took the decision to reinstate Ms. S. Seechurn to her position of Personal Secretary. Ms Seechurn could only be posted at two offices – Prime Minister Office and President Office. I was told that she was not wanted at the PMO because she had worked with former Prime Minister Ramgoolam.


81) Mrs. Ghoorah was the one who informed me about the Planet Earth Institute Account with the Accountant General office that she was closing down after I resigned from Planet Earth Institute in March 2017. I was NOT aware of this arrangement with the Accountant General that Mr Appadu had undertaken.

82) Mr Bhallah informed me that Ms. Ghoorah had asked for her transfer as she was about to retire and could not cope with the load of work and the pace at which I was working. She left in April 2017.

83) Mr. Appadu had mentioned before the Commission that I had asked for her transfer and this is false.

As from May 2017 - Mr. M. Seebah

- 84)By the time Mr. Seebah arrived at the State House, my office had already moved to the new administrative block.
- 85)When I moved, the group of officers which Mr. Seebah coined as '*Private Office/Special Team*' (The interns, my secretary and Ms. Seenauth) had also moved to the new administrative block.
- 86)I would like to open another parenthesis to point out that these staff members expressed a lot of good will and were prepared to work long hours and to deliver on commitments unlike others who strictly adhered to the 09h00 to 16h00 schedules and proved to be lethargic, if not incompetent.
- 87)I wanted the website of the State House to be the window for Mauritius. We were congratulated by the CISD (Central Information System Division) that our website was the best in the whole of the Government.
- 88)Ms Seenauth had by that time received a training from the Computer Board, eventually she started perceiving a small allowance for managing the State House webpage and also the Facebook account.
- 89)By the time, Mr Seebah came to the State House, we had taken a commitment with under privileged children of Mauritius to organize an 'Activity week' with the 25<sup>th</sup> anniversary celebrations of the Republic of Mauritius. The event did not get the support of the higher echelons of the management. The team close to my office, Ms Seenauth, Ms Seechurn and Yovishka Venkatapillay, P. Guirdhary were the only personnel on whom I could rely on.
- 90)I received some complaints regarding his dealings with an essentially female team. Ms. Ahmed (DPS) in particular complained about the attitude and lack of interpersonal skills of Mr. Seebah. I could only advise that they take the issue up with the Head of the Civil Service. I know that Ms Ahmed went to meet Mr Bhallah – Head of the Civil Service. I do not know what happened afterwards.



91)Mr. Seebah never raised with me any of the concerns which he expressed before the Commission. We had a cordial working relationship but I realised very quickly that I could not count on Mr Seebah to go the extra mile to get things done or to work beyond his normal hours.

92)He was upfront about not being able or willing to write speeches and that he would only do administrative duties.

93)Mr Seebah would be advising me on all issues at the State House such as state or progress of the renovation; administrative issues including HR issues; he would also oversee the running of events such as laureate functions; Duke of Edinburgh award; be master of ceremony at lecture series etc.

#### IV. CIRCUMSTANCES IN WHICH I JOINED PLANET EARTH INSTITUTE

94)In July 2015, one month after coming into office, Mr Dass Appadu brought to my attention an invitation under the letterhead of the 'House of Lords' and signed by Lord Paul Boateng, sitting peer and previous British High Commissioner to South Africa:

a) The invitation was to give a keynote address at the Planet Earth Institute Conference in London in July 2015. The theme of the conference, 'scientific independence for Africa', resonated with me and we (Mr. Dass Appadu and I) agreed that this was a good conference for me to attend.

b) Mr. Appadu sought advice from the Office of the Prime Minister as is the usual practice and the trip was approved by the Office of the Prime Minister and the necessary funds were released by the Ministry of Finance.

c) The entire trip to the Planet Earth Institute Conference in London was paid for by the Government of Mauritius.

95) Once in London, I attended a number of meetings coordinated through our embassy. Mr Dass Appadu was overseeing everything. He attended every single meeting and related functions.

96) I thus met with the trustees of PEI:

1. Álvaro de Oliveira Madaleno Sobrinho
2. Professor Paul Lawrence Younger (
3. Lord Paul Boateng
4. Professor Sir Christopher Edwards
5. Sir Magdi Yacoob, Pioneer, Cardiothoracic surgeon is also serving as a Trustee.

97) That July meeting was also attended by many eminent professors and also by Minister Naledi Pandor, South African Minister for Science in 2015 and Prof. G. Mohamedbhai, former Vice Chancellor of the UoM.

98) During that trip I was informed that Planet Earth Institute is registered under the Charities commission in the UK and was incorporated on 29th October 2010. It is an independent charity which provides advice on sustainability, conservation and preservation of the planet to the public.

99) I also learnt that there were ongoing discussions with the World Bank PASET Programme (Partnership for Skills in Applied Sciences, Engineering and Technology). PASET is led by African governments and the Partnership champions a regional approach which complements individual country efforts. It functions as a convening platform by bringing together African governments, the private sector, and new partners, such as Brazil, China,



India, and Korea, to invest in Africa. Overall, PASET focuses on maximizing investment in key sectors, while increasing the capacity of universities, research centers and technical and vocational education and training (TVET) centers to generate knowledge and create skilled workforces, researchers and innovators relevant to Africa's development challenges.

- 100) In this partnership, launched by Makhtar Diop, VP of the World Bank for Africa, in Rwanda in 2013, he proposed that countries contribute to the PASET fund and matching funds would then come from Private Sector and/or Philanthropists. Ethiopia, Senegal, Rwanda had agreed in principle. The funds would have been managed by the World Bank.
- 101) During those discussions, I was invited to join as trustee of PEI and the opening a PEI branch in Mauritius was first raised; there was general consensus among the various stakeholders that if we are going to discuss 'scientific independence for Africa', it cannot be done out of London. As I was a Scientist-President, it was thought that an opening a branch in Mauritius would send a strong signal to the African continent that Science is finally being taken seriously.
- 102) I saw a big opportunity for Mauritius as I knew only too well that we do not invest enough in that space. I felt that I could bridge that research gap by my joining as trustee and help nurture partnerships and investment in that space.
- 103) I sought the advice of Mr Appadu after the conference, he told me that the Constitution is silent on this but that as it was a non-remunerative position and that as I would be advancing the cause of science, there was no problem.
- 104) Upon my return I briefed the then Prime Minister SAJ who fully endorsed the idea.

- 105) Since the Conference in July 2015 and up to the launch of Planet Earth Institute in Mauritius in November 2015, Mr. Appadu would look into ALL issues that would eventually make Planet Earth Institute a reality in Mauritius. He would liaise with the Planet Earth Institute team in London and also with the local authorities here in Mauritius.
- 106) I must point out that prior to my being approached for joining PEI, discussions were being held with the African Association of Universities (AAU) and hence the presence of G. Mohamedbhai who had served as Secretary General for that organization after his departure from the UoM. I was informed that he was then working as a consultant for the World Bank.
- 107) I was personally not keen on working with the AAU but preferred to work with the African Academy of Sciences (AAS). I had served on the Governing Council and the AAS was already working with the Bill and Melinda Gates Foundation, the Wellcome Trust, The UK Department for International Development (DFID) etc. and I felt that there was sufficient gravitas. AAU regroups many Sub Saharan Universities and many of them do not figure in the first 1000 universities worldwide.
- 108) When the officials of the World Bank visited me at the State House after the July meeting, I told them about my preference for AAS. They were not very keen.
- 109) I discussed this issue with Mr. Appadu and he advised that he would follow up with the representatives African Academy of Sciences whom he had met at the PEI conference in London.
- 110) The focus of the AAS and the Gates Foundation had been on Health issues and this new partnership with PEI and AAS would expand the remit to include Agriculture, Water, Energy issues and blue sky research.
- 111) The chosen themes are in-line with the approved UN SDGs (Sustainable Development Goals) of which Mauritius became a signatory in



September 2015. The Country will be held accountable on delivering on the SDGs in 2030. These SDGs include: SDG6 (water), SDG 8 (work) in my participation with the ILO (which Government also approved), SGD 5 (Gender issues), SDG 13 (Climate), SGD 4 (Education) and I would be focusing on these during my Presidential mandate.

112) By September 2015, Mr Appadu had followed up on all the paper work for: my joining the Planet Earth Institute as a Trustee and Vice Chair and in November 2015, the MoU between AAS and the PEI. The AAS officials attended the official launch of Planet Earth Institute in Mauritius.

113) The Planet Earth Institute was set up and launched in Mauritius with the full consent and approval of the then Prime Minister (SAJ). The event was widely covered in the national press and also on the Government website (<http://www.govmu.org/English/News/Pages/Scientific-agenda-of-Mauritius-and-Africa-crucial-in-advancing-socioeconomic-growth,-says-President-of-the-Republic.aspx>).

114) Ministers including Mr. A. Gayan and Mr. I. Collendavelloo attended.

115) By February 2017, there was a press campaign against Mr Sobrinho. In spite of the good work that was being accomplished for building a science culture locally I decided to resign from the PEI because I was being personally targeted with gratuitous insinuations about my alleged closeness with Mr Sobrinho. These unsubstantiated allegations about a purported relationship with Mr Sobrinho were causing a lot of distress to my family and I was also getting a barrage of questions from my husband on my supposed 'relationship' with Mr Sobrinho.

116) I pause here to address Mr Appadu's statement to the Commission that I would host Mr. Sobrinho at the State House and would go for walks alone, in the State House gardens with him. These are patently false assertions.

117) This is yet another distortion of the truth and I am left to wonder why Mr Appadu would want to fuel such vile gossips whilst trying to deny that he had a special employer-employee relationship with Mr Sobrinho which went well beyond his role at the State House. The fact is that it happened that I would take guests to visit the impressive gardens of the State House and but I would always be accompanied by my body guards. It is patently untrue that I escorted any guest alone.

118) In February 2017, Lord Boateng and Sir Christopher Edwards came to Mauritius to ask me reconsider my position and to serve as Patron; Lord Boateng would become the Chairman and Sir Christopher Edwards would look into the Academic affairs of the Foundation. Lord Boateng reassured me that A. Sobrinho had never been indicted and that his investment was welcome in many African, European and North American countries.

119) I explained to them my position.

120) I have also taken note that Mr Sobrinho was recently questioned by the ICAC, amidst a media frenzy, and that nothing has transpired in terms of indictment in Mauritius.

121) I believed in PEI and I still believe in the good that PEI is doing to further advance the cause of science in Africa. In 2018, the PEI had partnered with IBM Research to address the issue of Innovation to create new collar jobs in Africa; they are also addressing water and food security issues in Africa and have created 'Africa Wood Grow' which is promoting sustainable economic development in Africa. These are ALL part of the UN Sustainable Development Goals.

122) I believed that it was my role to support its many initiatives once I had agreed, with the approval of Government, to be a trustee and the Vice-Chair of PEI.





- 123) I do not wish to dissociate myself from PEI but I strenuously deny the allegations of Mr Appadu to the effect that I was somehow directly involved with securing VIP access for Mr Sobrinho and his entourage. In fact, none of the requests for granting access to the VIP lounge passed my desk.
- 124) The only time I asked Mr Appadu to organise VIP access in relation to PEI was for the launch of PEI Mauritius in November 2015. I only learnt about the number of requests in the press after the Privat Notice Question of the Leader of the Opposition in April 2017.
- 125) The first time I heard about the correspondence between the PMO and the Office of the President in that connection was at the ICAC on the same day the acting President of the Republic appointed this Commission. I learned with surprise that VIP access was requested and granted on the basis that the persons concerned were "special guests of the President".
- 126) I do not even know some of the persons who have benefited from such access like Mr. Jose Pinto, Mr Joao Martin or Jao Rodrigues
- 127) It was during the public hearings that I learned about the circumstances in which those requests were made and the meeting between Mr Appadu and Mr Ballah.
- 128) It was also through the public hearings that I was reminded that I had on one occasion asked Ms Bheenick to communicate her email address to Mr M Fernandes; It was in February 2017 when Lord Boateng and Sir Christopher Edwards came to meet me.
- 129) I am intrigued that Mr Appadu would try to make the Commission believe that he would have had nothing to do with Mr. Sobrinho and PEI but that he only acted under my direct instructions whenever he dealt with them. Nothing could be further from the truth, including the fact that he accepted employment with the ASA Group under his own volition.

130) It is only after his departure from the State House in November 2016, that staff members would come and tell me that the ICAC had visited the state house with respect to two issues: the letter sent to Secretary to Cabinet seeking approval to do the consultancy work for the ASA Group and tendering procedures for catering as there were complaints from other suppliers that only 'Sitar restaurant' was getting all the contracts.

131) Mr Appadu himself never informed me about these visits and inquiries from the ICAC.

V. Credit card issues

132) I refer to the Chronology of events which I remitted to the Commission when I first gave oral evidence.

133) I would like to point out that I have on many occasions used my credit card without having to insert my pin, I would instead be asked to sign on the Merchant copy of the transaction receipt. Apart from this precision, I can confirm that everything the representative of Barclays said about my accounts is accurate.

134) With hindsight, I must point out that:

- (a) The arrangement was known to everybody who had to deal with the overseas trips of the President, as the established practice only 1/3 of the usual per diem were paid for the concerned missions.



(b) I had also mentioned the card to the Prime Minister during our weekly Thursday meeting.

(c) Although the card was issued in May 2016 I used it for the first time in September 2016 when I was proceeding to the USA to give a keynote address at the 'Ocean conference' organized by the State Department in Washington DC.

(d) Mr Appadu was part of the delegation and was fully aware that the Card was used to book accommodation at short notice. It was clear in my mind that using a card for expenses would create a paper trail and ensure transparency if questions were raised about the expenses.

(e) At no point in time did anybody express any reservation about the arrangement.

135) I wish also to point out that because the PEI Credit Card was issued to incur expenses which would *in fine* would be paid out of the funds of the Bill and Melinda Gates Foundation as the donor fund, I knew perfectly well that every dollar spent would have to be accounted for at the end of the first year cycle.

## VI. LICENCE ISSUES

136) The only licensing issue which was of concern to me related to the PASET program. For the reasons explained above I was very keen to have the PASET funds in Mauritius.

137) Sometime in September 2015 Mr Fernandes of PEI came to Mauritius before heading to South Korea to discuss the Programme as South Korea

was one of the partner countries. He informed me that he met up with the Ministry for Financial services and hence my email to Mr. Deerpalsing to thank him for having met up with him.

138) I did not know at the time that Mr Fernandes already had contacts with the Ministry of Financial Services and that of Information Technology since April of 2015 for some other project.

139) I subsequently also learned from the press that one Mr Rudy Veeramundur, Senior Adviser and Director of Communications at the Prime Minister's Office, had affirmed an affidavit to describe a meeting held on 6 August 2015 and presided over by the then Minister of Financial Services, Good Governance, Institutional Reforms, Technology and Innovation. According to the said affidavit, which was published in the press (<https://www.google.mu/amp/s/www.lexpress.mu/amp/304485>), Mr Alvaro Sobrinho and members of his delegation made a presentation about his group and its interest to invest in Mauritius. He further explains how the Minister summoned Mr Kuriachen, then acting Chief Executive Officer of the FSC to attend the said presentation.

140) At the Commission, Mr. Appadu stated that Mr. Kuriachen, Director of the FSC was hosted at the State House for lunch. Mr. Kuriachen, like other heads of organisations, was on the list of official invitees for state lunches. Both himself and his successor, Mr. Seegoolam, would also come and brief me about the figures of government investment and strategy which I was often asked to speak about in my speeches overseas.

141) There was indeed one occasion when Mr. Kuriachen was hosted for lunch and during which I asked him about the licensing process for the PASET funds. The reason for convening Mr Mauricio Fernandes was for him to provide a detailed brief of the PASET program to Mr. Kuriachen That lunch like any other lunch was organised by Mr Appadu who attended the lunch and was present during the discussions.



142) I NEVER instructed Mr Appadu to make inquiries on my behalf about PEI's application to the FSC as he has falsely stated before the Commission.

143) I was very involved in promoting Mauritius for investment such like the PASET Funds and there was no sinister motive behind my discussions with Mr Kuriachen; I was certainly not trying to influence the FSC in granting any particular licence as a favour to anybody. The only cause I was promoting when discussing with Mr Kuriachen was positioning Mauritius as a knowledge and research hub.

144) On many occasions I was asked by organisations to enquire about the state of their investment/projects with the Prime Minister or other ministries. Some instances include:

(a) BOI for the DNA lab testing with a private Bordeaux laboratory.

(b) The Sugar Investment Trust to enquire with the President of Tanzania about the state land acquisition there. To speak to Mr. M. Dewji as to whether he would be interested in partnering with them. Mr. Dewji was hosted at the State House along with many stakeholders.

(c) On behalf of the Rodriguans for value addition to the Rodrigues lemon. I helped finalize the business plan which the Prime Minister launched in February of 2018. I had that document sent to his office and he incorporated this in the 2018-2019 budget for Rodrigues. Project should be starting early 2019.

(d) In 2016, Lord Boateng once brought a delegation of pharma representatives to the State House (because he knew me) to see whether our Ministry of Health would be interested in having our Hepatitis C pandemic associated with HIV/AIDS and drug issues looked into. I asked the then Minister of Health (A Gayan) to attend. The latter was rude to the delegation and then told the Prime Minister to ask me not to interfere in his work.

VII. The Redit Appeals Fund

- 145) Mr Appadu briefed me about the Redit Appeals Fund. He explained to me that the main objective was to provide support to charitable institutions, welfare associations and persons in distress particularly those proceeding for medical treatment abroad or victims of natural disasters.
- 146) I understood that it was mainly financed through fund-raising activities organized by the Office of the President, donations and voluntary contributions. I was not aware of any of the administrative issues relating to the Fund and I thought that it was a well-established fund.
- 147) I asked Mr Appadu to add the following to the remit of the Redit Appeals Funds: women issues and addressing the cause of science.
- 148) When I reached the State House in June 2015, I was told that there was a balance of Rs 1.057.000.26.
- 149) The major fund-raising activities during my time at the State House were:
- (a) Hosting of Ephemeral art with local artists; contribution from the European Union April 2016; the 'Women Forum' in 2016
  - (b) Activity week in May 2017, sale of painting by local artists – funds given to Autism society (Rs 250.000)
  - (c) Collaboration with the Chinese embassy and they gave Rs 1 Million (from the proceeds of the concert 'Swan Lake' in November 2017) – funds given to 2 charitable organizations for handicapped children (Rs 250.000 x 2)



150) When I learned about the manner in which the Women Forum events are sponsored internationally, it made sense to me that Mr Appadu should suggest that funds be raised through the Appeal Reduit Fund.

151) In November 2016, I asked Mr Afsar Ebrahim of the BDO firm and Mr R. Dajee of Barclays Bank whether they could audit this account pro bono.

152) Mr Ebrahim agreed and Mr Dajee said he needed to clear with his board. Subsequently Mr Dajee declined.

153) In February 2017, Mr Ebrahim team started asking for more details from the State House staff and suggested a replacement for Mr Dajee.

154) There has been NO follow up. I heard at the Commission from Mr Seebah that he has written about the Appeals Funds to the Ministry of Finance in June 2018.

155) Mr. Appadu stated before the Commission that the sole focus of my activities were the Planet Earth Institute activities, please see down below the list of activities performed during my tenure at the State House which go well beyond Planet Earth Institute activities.

156) During the near 3 - year period, I occupied that post,:

I put a lot of emphasis on Interfaith and intercultural dialogue, the cement of our multifaith society. I organized events like Divali celebration with Christians, Eid celebration at Gayasing ashram, Chinese new year at the Tamill league etc.

I would organize Children's party during the festive seasons for underprivileged children and they would be offered gifts with funds raised through the Appeals Funds. The same support would also be given to staff children at the State House.

I would raise funds for causes of Autism and other children's home who were cash strapped. The Chinese Embassy made a donation of 1M Rupees and this was shared out to these homes.

I promoted our Artists by organizing art exhibition in the State House gardens with funding from the European Union in May 2016.

I organized an Activity week, with the 'Special team' for under privileged children for one week in the Gardens of the State House with local artists in May 2017. The funds emanating from this week were given to Autism society.

I organized with Barbara Hendriks, world renowned Blues singer, to come and sing for our 25th Anniversary of the Republic. She also met up with the group Mo'zar of Roche Bois.

I promoted local talents at the State House through concerts and one young man – Brendon Jacquette was given a grant for 1 year to help him become a better singer. Funds came out of the Appeals funds.

The State House would come to help those in difficulty especially during the flooding of Flacq and Baie du Tombeau. Funds came from the Reduit Appeals funds.

A conference on 'Art and Science' was organized at the State House to engage with local scientists and international speakers in the context of our 25th anniversary celebration.

I launched the 'Mauritius Blockchain Centre of Excellence' at the State House in November 2017. This was done in partnership with the World Intellectual Property Organisation, the MIT in Boston and the Chicago Reserve Exchange. Blockchain technology is now being considered seriously by the Mauritian Government so much so that the Prime Minister gave a speech on Blockchain technology at the OECD meeting in Paris in September 2018.





A campaign was being organized to combat Drug addiction but was aborted by the Ministry of education. Contribution was received from the Ceridian Company and funds from Redit Appeals Fund were used.

A conference 'Vivre ensemble' was to be organized in May 2018 but had to be cancelled as I had left office. Key speakers from various countries had accepted to come and speak at the State House.

I had written books to be given to visiting dignitaries. One was on "Medicinal Plants at the State House". Christmas cards that showcased our local biodiversity. In 2017, I converted the drawings made by the children who came for the activity week in May 2017 into end of year greetings cards. I also upgraded the pamphlet for the State House – given to schools children and old age pensioners who visited the State House as part of the outing. I also wrote 2 books on the history of the state house (French period to Republic days) for our 25th anniversary celebrations. It would be launched a week before my resignation.

157) I upgraded the State House gardens and added new ones: Bamboo garden, Endemic plant gardens of Mauritius and to which I gave the name of 'Gabriel D'Argent Endemic Plant Gardens' in honour of a 93- year old gentleman, still living and who has contributed massively to the knowledge of our flora; the Cactus Garden with contribution from the Medine Group; the Rodrigues endemic plant garden as well as the Medicinal plant garden which I helped create back in 2006.

#### VIII. Participating in Conferences and meetings on behalf of the Government of Mauritius

158) In October 2015, I was invited to attend the Women's Forum in Deauville, France. Mr. D. Appadu accompanied me. He was party to all discussions held with Ms. Jacqueline Franjou, CEO of the Women's Forum. This Forum was very well attended with global participation. The officials of

the Forum suggested that may be one such event could be organized in Mauritius – a first for Africa. I saw the impact that it could have for our country and gave it some serious thought. Upon my return, I briefed the Prime Minister during the Thursday meeting and he was agreeable to this initiative.

159) In November 2015, at the request of Government, I attended the Climate Conference - COP21 held in Paris. I again met up with Mrs. J. Franjou and after the Paris Agreement was approved, Ms. Franjou and myself agreed to host a Women's Forum in Mauritius and it would have a 'Climate theme'. Mr. Appadu did not come to this meeting but sent Mrs. Hansa Dindoyal, Assistant Permanent Secretary. As he had already met Ms. Franjou in October 2015, he readily followed up on the discussions.

160) In January 2016, Mr. Appadu organized Ms. Franjou's visit to Mauritius and a dinner with the private sector was held at the State house during which Ms. Franjou explained the concept of the Women's Forum and why the Climate theme mattered for Small Island Development States. Mr Appadu drew up the list of the invitees and eventually they would become the sponsors.

161) Mr Appadu also wrote a letter to Cabinet about the hosting of this event in June 2016. Ministers were all aware and was itemized in Cabinet meeting.

162) In March 2016, I received an invitation for a state visit scheduled for the month of April 2016 from the Government of Pakistan. This letter came through the Ministry of Foreign Affairs and it had been approved.

163) That State visit was organized entirely by Mr Appadu. The delegation included a representative of the Ministry of Foreign Affairs, first secretary Mr. Ah Yao, Ms. Jeetah of the Board of Investment , the the Mauritius Chamber of Commerce and Industry was represented, Mr. R Jaddoo and Mr. Abdullah Ahmed representing the traders. A crew from MBC came along to cover the event.



- 164) One of the objectives of the visit was to promote trade between our countries and in the course of meetings with the Pakistani officials it was agreed that the trade related discussions should continue in Mauritius.
- 165) The Prime Minister was briefed after the State visit and throughout the following months leading up to September 2016 when the Pakistan week was held Mr. D. Appadu collaborated closely with the Chancellor of Greenwich University – Ms. Seema Mughal to organize the Pakistan week. I would keep the Prime Minister updated through the weekly meetings.
- 166) At no point in time did anybody raise any reservation, let alone any objection, with me.
- 167) During that time, Mr Appdu would keep me updated as to the Organisation of the women's forum. He had been in touch with the Women Forum team, integrated the same financial model into the one to be held in Mauritius. As I said I was agreeable to his suggestion that the funds be channeled through the Redit Appeals fund. He drafted the sponsorship letters which I signed.
- 168) I was again intrigued that Mr Appadu would have the Commission believe that I singlehandedly decided to hold the Pakistan week and somehow forced everybody else to comply with my wish. It is only at the Commission I learnt that he had a meeting with Minister Lutchmeenaraidoo, Foreign Affairs Minister and that the latter suggested that Government had been 'embarrassed'.
- 169) At no point in time did I receive any advice from Mr Appadu or anybody else about a potential diplomatic incident.

#### **IX. BUILT UP TO THE MOOLAN COMMISSION**

170) I refer to the Chronology of events which I submitted to the Commission before I gave oral evidence. In the light of what has been said before the Commission since then, I would like to comment as follows:

171) It is true that I did not consult Mr Seebah for the communique issued on the 14<sup>th</sup> March 2018. In fact, Mr Seebah has never taken care of any communique whilst I was at the State House – he had made it clear right from the start that he was unable to do so. In any case after the departure of Mr. Appadu, communiqués were drafted by Mr Toriden Chellapermal who was employed as Communication advisor.

172) For the communiqué of the 14<sup>th</sup>, Mr. Chellapermal was abroad so I turned to a friend in Ghana (Dr. E. Adzogenu) and asked for his support. I provided him with information I could gather in that short time and he asked his Communication team to draft the communiqué.

173) That communiqué was then remitted to Ms P. Guirdhary, staff member attached to Mr Seebah's office, for circulation to the press. The communiqué was my attempt to provide some explanation against the déluge of media comments and accusations.

174) When the first communiqué came out, I know that Mr Seebah had a rough time explaining to the Secretary to Cabinet that he had not been involved in the drafting of the Communique.

175) It is only because I felt completely isolated and because I realised, after the Prime Minister falsely stated during a press conference that I had given him a firm date for my resignation, that I would not get any support from the government to protect the office of the President or to clear my name that I turned to Mr Y Mohamed SC for advice.

176) At no point in time did I exclude Mr Seebah. He always had free access to me. However, once the setting up of a Tribunal for my removal had been discussed in Cabinet, I did not seek his advice.



177) Before the Commission, Me Yousuf Mohamed, stated that I had given him confidential documents to 'incriminate' other past presidents; this is not true.

178) When we met on or about the 14<sup>th</sup> March, he informed that the tribunal would look into my travels specially those have been funded by other organisations. I explained to him that this has been the practice for past presidents as well. This is when he asked for such documentary. Documents kept in the Open registry were handed over to him PRIOR to my resignation in anticipation of the Tribunal.

179) I maintain that it was Mr Gilbert Noel who initially advised me that it was the prerogative of the President to appoint a Commission of Inquiry. It is true that I was determined to clear my name and that I was convinced that appointing the Moolan Commission would achieve that.

180) However, I did not proceed with the issue the second Communiqué until I had the conversation with Mr Yousuf Mohamed SC when he told me '*No you cannot but tactically you can*' and he told me "go ahead" after I told him that I was proceeding.

181) I also maintain that I would not have proceeded to issue the Communiqué had I known that I was acting in breach of the Constitution and that only the Attorney General Office could draw up the terms of reference of a commission.

#### **X. OTHER ISSUES**

182) Mention was also made at the Commission that I had imported certain goods.

183) When I would travel, host countries and institutions would often gift me with bulky gifts like books, trophies and memorabilia that I could not necessarily travel with. Often, I would do back-to-back meetings in different countries and as such these items would to be shipped back to Mauritius. The Secretary to President would look into these shipments. Such goods included books, memorabilia like picture frames (China), sweets (from LPU India), trophies (India).

184) Furthermore, I was the Laureate for the l'Oreal-Unesco Prize for women in sciences in 2007. Since I became president and also after leaving the presidency, the l'Oreal group would send me a few cosmetic products for Christmas as a gift. As per MRA regulations, even the person receiving a gift is registered as '*Importer*' – hence the '*importation*' certificates lodged with the MRA. Request for pick up would come to my name to the registry of the State House. The officers would make all the arrangements with customs and I only learnt of the gifts when it would be brought in by the Aide de Camps.

185) In fact even for Christmas 2018, I have received one such gift.

#### Online Agenda

186) It was reported on the press that the evidence adduced before the Commission showed that I had destroyed evidence because it appears that pages have been torn from two diaries.

187) I used google calendar which was shared with the [oopmauritius@gmail.com](mailto:oopmauritius@gmail.com) account. This was created to accommodate the heavy flow of emails on [president@govmu.org](mailto:president@govmu.org) , which is the official account of the Office of the President. The latter had only 132Mb as storage capacity which would get used up quickly. Sometimes officers would not receive emails as those would bounce due to the inbox being full. Furthermore, officers had to make sure emails are quickly downloaded and printed as emails had to be deleted to make space. It was thus agreed that all emails



would bounce to a gmail account which would ensure that emails were received and could be stored for a period of time making it easier for officers to retrieve later. The following people had access to the gmail account:

- The President
- Personal Secretary to the President
- Secretary to the President
- Deputy Permanent Secretary
- Assistant Permanent Secretary
- OMEs
- OMA- Confidential Registry
- OMA- Open Registry
- Personal Secretary to the President
- Confidential Secretary to Secretary to the President
- Confidential Secretary to Deputy Secretary to the President

188) The Google calendar created on this account which was also linked to mine, recorded all my meetings and events. I could update it as well all the other users listed out above and any updates/edits were notified to all those connected. I never used a physical diary.

Made in Port Louis this 11<sup>th</sup> day of February, 2019.



Bibi Ameenah Firdaus Gurib-Fakim

# ANNEX U

original

CO 130  
29  
11.02.19

## MAIN CHRONOLOGY

- 18/02/27 @ 22:00 Received email with questions from a journalist
- 18/02/28 L'Express publishes bank statements
- I called the Attorney General to request advice as to my options; AG declined saying that he was very busy.
- I asked my Personal Secretary, Ms Sadhna Seechurn, to get message to PM that I wanted to speak to him personally.
- Around 11:00, I spoke to PM on the phone who said he would speak to AG
- I issued a letter to PM
- Around 13:00 AG called at the State House; He advised that there was nothing that I could do due to Presidential Immunity and he left.
- On that day the Office received a written advice from the State Law office regarding allegation published in the press to the effect that I was a trainer registered with the MQA and receiving a fee of Rs10.000.
- 18/03/01 @ 9:30 Weekly meeting with PM at the State House; I brought up once again the l'Express article and I fully explained to him the context of the platinum credit card and the highlighted expenses. I stressed that the events dates back to one year; That I had already resigned from PEI in March 2017; And that all the expenses which had been attributed either for official and personal matters had been reimbursed.
- The PM did not comment on whatever I had said. After our meeting which lasted approximately 45-50 minutes, the PM attended a function for laureates which ended at around noon and left.

A

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Around early afternoon, I contacted VPM, Ivan Collendavelloo (IC) and asked for his advice; IC's advice was to issue a short statement to the Press to question the authenticity of the bank statements which it caused to be published and to ask them to furnish a reply within 24 hours;

I asked my Personal Secretary to get me on the phone with someone from Radio Plus. I understood that I was speaking to Elodie Domun and I made the following statement "J'ai constaté que des documents ont été publiés dans l'express. Je mets ce journal au défi d'établir l'authenticité de ces documents. J'accorde 24 heures à ce journal pour le faire. Je répondrai à toutes les questions seulement si l'express le fait"

18/03/03

I Attended Defi Media Award together with the Minister Mentor ("MM"); He queried me about the articles which had appeared in the press. I briefed him about what I had discussed with PM and went into as many details as I could in the circumstances; MM said that the PM had not mentioned anything to him. MM made public statement following the event.

18/03/05

IC called me and asked for a copy of the bank statements with respect to the PEI platinum card; I told him I would seek a copy from the bank.

I called my personal banker, one Ms. Ramdoyal at Ebene and asked for a copy of the bank statements for the months of September 2016 to February 2017.

18/03/06

At around 11:30 IC informed that he would be meeting with PM in 20 minutes.

I asked my *aide de Camp* (Mr. Ridwaan Muhammad) to drop documents he had collected earlier from Barclays IC in person.

Around early afternoon I called IC to inquire about his meeting with the PM and I was told by IC that the PM said nothing;

Around 15:00 IC called and said that he would like to meet with me and the PM at the State House after the launch of the 50<sup>th</sup> Anniversary Celebrations at around 7 or 8pm; I queried the purpose of their visit and he told me it was decided that I should submit my resignation; I asked him why should I resign, and that I considered that I had done nothing wrong; I informed him that I was unwilling to wait till 8pm and that they should come before. I also told him then that if they wanted to get rid of me they could set up a Tribunal.

I followed up with a text message immediately saying: *"Just know that I will never resign and please proceed with the Tribunal"*

[Note: I am not sure but I am under the impression that I also called the PM to tell the same thing]

I texted IC anew: *"I cannot meet you either this evening and I will start speaking now to the public.. I had listened to both your advice. Now I will do it my way";* and some minutes later: *"You better start defending me as I have done nothing wrong.. thanks."*

IC called my office to let me know that the PM and himself will be calling at the State House before the launch of the Independence Day celebrations.

At around 16h30, I met with both IC and PM in my office. The meeting lasted about 20 minutes during which time I was asked by the PM to give a date on which I would tender my resignation. I said to him that I would not resign as I had done nothing wrong.

PM and IC said nothing and left for the launching of the 50<sup>th</sup> anniversary celebrations for which I was not invited.

18/03/07

Book launch 'From Le Reduit to the State House'; Only IC attended on Government's side; I gave a speech during which I explained that I did nothing wrong.

18/03/08

The PM did not come for the weekly meeting. He did not inform me or provide any explanation for not attending.

MM's office called to inform that MM wanted to meet me.

At around 16:00 I met with MM at the State House. He told me that a special cabinet meeting had been held in the morning and that the entire cabinet was against me and that I had to leave. He informed me that the decision had been taken to set up a tribunal to remove me. I told him that if you (government) want me to leave then you would have to set up a tribunal; MM told me that he would advise me not to go down that route, that it was better for me to resign as in front of the tribunal people would say all sorts of things against me so the advice he was giving me was to resign and to give a date to the PM; I refused to resign and insisted with him that I had to clear my name first; MM left and his parting words were that I should give a date to the PM.

18/03/09 @ 8:30

Me Gilbert Noel ("GN") called at the State House

[Note During that whole time whilst the Press was continuously on my case, I would receive countless phone calls from friends and relatives showing supporting and asking if I need assistance. A friend of mine suggested that I meet with her lawyer proposed to arrange for a meeting.]

GN advised that the leakage of my bank statements from Barclays Bank was against the Banking Act and the Data Protection Act; He recommended that a Mise en Demeure be served onto Barclays.

At around 09h30, the PM called at the State House; Referring to our previous meeting of the 5<sup>th</sup> of March, he wanted to have a date for my resignation and suggested that I should leave on the 15<sup>th</sup> of March. I expressed the view that such matters should be discussed after the departure of the Chief Guest, the President of India. When he insisted, I told him in no certain terms that I was not prepared to give any date and that I would need to clear my name first.

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The PM did not appear concerned at all by what I had to say and insisted on a date as he was holding a press conference on that day and wished to impart the date of my departure to the public. I stood my grounds and refused to give a date and he left around 10h30.

At around early evening, I was shocked to hear PM announced in his press conference that I had agreed to resign on the 15<sup>th</sup> of March and further that he had many things to reveal about me.

Shortly thereafter, the Government Information System issued a statement to the international press that I had resigned over a financial scandal; It was subsequently broadcasted worldwide that I had used charity money to go shopping.

I reacted by sending two tweets: "Have not resigned yet.." and "it is being reported that I am resigning.. I am still in post."

18/03/10

I attended a private lunch. GN was amongst the guests. We discussed the tribunal that the government was apparently keen on setting up to remove me. GN opined that the issue of a commission of inquiry would shed light on everything that had happened so far; he advised that as per the Commission of Inquiry Act, the President was empowered to set up a commission of inquiry.

[Note: I must add by then, the relentless attacks by the media had made me a pariah from most of my friends and relatives. The signs of support were few and apart]

18/03/11

In the absence of the Office's press attaché (on leave), I contacted a close friend of mine working in Ghana who is an expert in communication and sought his help for the preparation of a communiqué in relation to the allegations levelled against me.

18/03/12

Visit from the Regional Director of Barclays together with the Chairman of Barclays Mauritius.



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State lunch in honour of the President of India accompanied by the VPM and her husband; I was informed by my secretary that that there would be a change in established protocol whereby the PM would sit next to the Chief Guest instead of sitting on my immediate left.

Flag raising ceremony.

18/03/13

Garden party. No member of Cabinet or of the National Assembly attended. I learnt through the Press that the Speaker had come although I did not meet her.

Call from GN, I gave him the green light to proceed Mise en Demeure on Barclays.

[Note: By then, contact with the PM's office was severed; I was no longer receiving dossiers except urgent approval of replacement of Ministers;]

18/03/14

I caused the communiqué to be posted on the website.

I took cognisance of press article about the offer of Me. Y Mohamed SC ("YM) to assist me as counsel; Later that day a common acquaintance informed me that YM would wish to meet with me.

YM called at the State House together with Me. N Hyderkhan ("NH"). Meeting held in the presence of Juneid El-Khalifa and Rachna Seenauth.

After the meeting I took YM aside and asked his views about the setting up of a commission of inquiry; He did not answer and said he would think about it.

18/03/15

The PM did not attend the weekly meeting. No notice or explanation.

I read in the press that the Government is going ahead with the setting up of the tribunal to remove me.

At around 17h00 I called Irfaan Raman for some advice. He proposed to call at the State House.

At around 18h00 Irfaan Raman called at the State House. He advised me to resign.

Dick Ng Suah, called at the State House shortly thereafter at the request of a friend of my secretary; He also advised that I should resign.

I contacted GN that evening to ask him to come to the State House the following morning to look into the terms of reference of the commission of inquiry; I did not want to resign without clearing my name and showing that there had been no improper use of the Office of the President.

[Note: At one point in time during that day YM mentioned that I should ask Mr Hervé Duval SC and Me Yanilla Moonshiram to join the legal team for the Tribunal and that I would need to call HD personally.]

18/03/16

At around 8h30 GN arrived at the State House and said that he needs YM for the drafting of the terms of reference.

I called YM who said he could not come personally but was sending his Junior, NH.

I called Hervé Duval SC ("HD") to confirm that he was willing to form part of my legal panel for the Tribunal; HD agreed but said that I needed to know that he had strong reservations about the *mise-en-demeure* to Barclays and that his accepting to assist with the Tribunal did not mean that he was agreeable to accept instructions in relation to the claim against Barclays.

We spent some time discussing the Barclays issue; I then asked HD if he could come to the State House to help GN with the drafting the Terms of Reference. As HD could not understand why GN was at the State House for that purpose and why I was requesting him to come, I passed on the phone to GN.



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GN did not share the tenor of the conversation with HD.

At around 09h15 NH arrived at the State House and we began to brainstorm about the terms of reference of Commission of Inquiry.

GN advised that we needed to find a credible commissioner and he suggested the name of Sir Hamid Moollan (SHM).

GN called SHM and handed the phone to me. I spoke to SHM and informed him that I was in the process of setting up a commission of inquiry; I explained to him the context behind the COE and asked whether he would agree to chair the COE. SHM agreed.

At around noon, the drafting of the Terms of Reference was completed. GN and NH left.

At around 12h30- 12h45 YM called to tell me to "hold on" until he had spoken to SHM, which he proposed to do after jummah.

At around 14h30, I phoned YM. He told me he was about to meet SHM and would call me back.

About 20 minutes later, I called YM again. He said he was with SHM. When I asked whether I could proceed with the communiqué which was ready since 12h30 he said verbatim: "no, you can't do it but tactically you can"; I said ok I will proceed and he said "go ahead".

At 15h00, at my request, my secretary caused the communiqué to be sent to TOP FM, RADIO PLUS, Jean Marc Poché of Le Mauricien by email.

I sent a correspondence to the PM informing him of my wish to set up a COE.

At some point in time during that afternoon I received a copy of the letter addressed by SHM to PM.

The PM responded by stating that my acts and doings amounted to a serious breach of section 64 of the Constitution, was legally invalid and of no effect.

At about 20:00 I received SMS from HD: *"Dear Madam, I note with regret that you chose to ignore my advice which leaves me with no alternative but to decline to act further in relation to the constitutional issues. For the record immediately after our conversation, I sent an email to Gilbert Noel fully explaining why I could not agree with this course of action. I wish you the best of luck in your future endeavor. Hervé"*

[Note: I have no recollection of GN mentioning that HD was not agreeable to my issuing a Commission of Inquiry and I was definitely not shown his email at the relevant time. It is only well after my resignation that I was shown a copy of this email and the open letter written by HD in March 2013 to the President of the Republic]

18/03/17

At about 10h00 I received a telephone call from YM asking to see me urgently.

At about 10h30 YM called at the State House. He was closely followed by GN and NH. Ms Rachna Seenauth, and Sadhna Seechurn also added to the meeting. YM told me that he had serious information and that it was best for me to resign straight away. I said I was not prepared to resign.

After they all left, I asked my husband to come to the State House and he advised me to contact the PM again to speak to him; I tried in vain to contact the PM.

My secretary arranged for me to speak to Me Gavin Glover SC on the phone. The gist of his advice that it was best in the circumstances that I resign.



My secretary also arranged for Mr Navin Unnoop, of the VOH, to come and speak to me. He also advised that I should leave office.

Finally, my good friend, Audrey d'Hotman came to see me to offer support.

I called YM and asked him to come back to help me draft my resignation letter, He returned with GN and NH and they drafted the letter on the office computer; I signed it and the rider took it for delivery at the Speaker's house.

18/03/19

The private office of the President was disbanded with immediate effect; I went to remove my personal belongings.

PEI

15/06/05

Sworn in

15/07

I was invited by Lord Paul Boateng of the House of Lords and Trustee of PEI to give a key note address at a conference organised by PEI and being held under the aegis of the House of Lord. I was meant to address the forum on the challenges of scientific capacity building in Africa.

Approval was sought and obtained from PMO and the Ministry of Finance for the disbursement of funds for me and my staff to attend the same.

[Note - I had no prior involvement with PEI.]

I was very impressed by the calibre of the attendees and trustees of PEI. For instance, I met with Sir Magdi Yaccoob, prominent cardio thoracic surgeon and Trustee of PEI, Sir Christopher Edward, VC of University of Newcastle and previous at Imperial College, London, Prof Paul Younger from Glasgow University and the Ministry of Science for South Africa, Madame Naledi Pandor.

The conference was also attended by members of the African Academy of Sciences; Prof. G Mohamedbhai, previous VC of UOM was also in attendance as a consultant as he had previously worked with the African Association of Universities.

At that conference I became acquainted with the initiatives of PEI which were inter alia training of African students in key areas of science, technology, engineering and maths. It was my understanding that PEI was at that point discussing with the Association of African Universities and the World Bank towards capacity building through PhD Programmes (10,000 phds over 10 years)

During that conference, I was introduced to the Chairman of PEI, Dr. Alvarro Sobrinho.



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During the course of various meetings and discussions on science capacity building for the youth of Africa it was felt that we needed to anchor this initiative in Africa itself as opposed to discussing same from London, UK. The idea was then to open a branch of Planet Earth in Mauritius.

During the course of the said meetings, we also discussed the programme that the World Bank was leading across Africa on Capacity Building in Science under the acronym Paset (Partnership for Skills in Applied Sciences and Engineering and Technology). Paset was first mentioned in Kigali, when Vice President of the World Bank, Makhtar Diob mentioned it in his key note address that he gave in Rwanda in 2013 as an Africa-led Solution. Paset was launched in 2013 by the Governments of Senegal, Ethiopia and Rwanda with facilitation by the World Bank. It aims to address systemic gaps in skills and knowledge in Sub-Saharan African countries. A PASET fund would be created with contributions from African countries and African Philanthropists and with the WB credibility and track record. My participation in this initiative would help the country's visibility and help African and Mauritian youths get the necessary training in STEM.

It was understood that there would be follow up talks with a view of implementing the ideas which were brainstormed in London.

Upon my return to Mauritius, I briefed the PM (SAJ) during our weekly Thursday morning meetings. The PM was enthusiastic about PEI opening a branch in Mauritius with a view to developing capacity for Mauritian and African students alike.

15/08

Mr. Mauricio Fernandes, CEO of PEI came to Mauritius and paid me a courtesy visit. He informed me that he was meeting up with then Minister Roshi Bhadain and his adviser A Deerpalsing to look into the licensing aspect of the Paset fund.

[Note - I did not introduce Mr Mauricio Fernandes to anyone in Mauritius or arranged any meetings for him. Nor did he ask me to. I subsequently learnt that Mr Mauricio Fernandes, had already been in touch with the then Minister of Financial

Services (prior to my appointment as President), the PS of the Ministry of Technology, Communication and Innovation, Mr. J D Phokeer and Mr. A Deerpalsing with respect to a presentation on Innovative Financial Model to Invest in Africa, also set to be held in August 2015. I also learnt that there were exchanges between PEI and the Ministry of TIC with relation to a project linking banking with investment in innovation and technology.]

- 15/10 PEI was registered as a foundation and I was appointed as Trustee.
- 15/11 Launch of PEI branch at the State House attended by various members of the Government and Cabinet
- 16/02 Launch of the first edition of STEP, funded by PEI, at Le Bocage in Moka and this was funded by PEI.
- 16/03-04 PEI board meeting in London whereby it was resolved start a Phd programme for 10 Mauritian students. Initially it was decided that part of the studies would be done in the UK or some prominent universities in South Africa.
- 16/05 Launch of the programme under the name AGF Phd Programme. 33 submissions were obtained out of which 10 were shortlisted as potential grantees. The short list was made by a panel of international professors who came to Mauritius for the selection process.
- An award ceremony was held at the State House in the presence of all the trustees and the several Ministers.
- 16/06 All UK universities which had initially manifested interest in the programme (university of Manchester, Newcastle) asked us to stay action in view of the uncertainties with Brexit.
- Two candidates pulled out of the programme. The remaining 8 students were proposed South African universities provided they could match their areas of research with those of the south African universities.



A corporate sponsor, namely Bigen Africa, sponsored one of the students whose proposal matched its area of interest to wit - water and sanitation. Given that that student had two masters from the UK, he was straightaway accepted at the University of Cape Town.

The feedback from the Universities was that the transcripts of the remaining 7 students were not up to their level and that they would need to do a Masters programme before engaging in Phd Research.

The transcripts were also sent to some Japanese Universities when Japanese scholarships were being advertised. The feedback was the same, namely that they would need to do a Masters programme before engaging in Phd Research (amounting to at least 5 years study). This would have not been possible as the grant was for a period of 3 years.

The students were given the option to register with the UOM for an Mphil/Phd and that the scholarship would be made available to them there and the option for them to spend time in a south African university was still open but the awarding body would be the UOM.

PEI appointed a coordinator in the name Dr. Mahomedhally who acted as coordinator with UOM and South African Universities and was responsible for the overseeing the registration of those students.

As far as I know only 5 students enrolled.

Bill and Melinda Gates Foundations ("BMGF") & The PEI Credit Card

15/11

I was invited by the BMGF to give a key note address at their annual grand challenge meeting in Beijing, China. After the meeting, I met with some high officials including Sue Hellmann the No.2 and with Kedest Tesfagiorgis.

I was asked to consider doing an advocacy programme for the promotion of science and capacity building especially for the African continent as I had a science background. I explained that whilst I was agreeable in principle, it was not possible for me to do so as we did not have the funds required. This is when they proposed a grant.

I initially proposed that they work directly with the Office of the President of the Republic of Mauritius/ Le Réduit Appeal Fund but was informed that it was not the Foundation's policy to work with Governments. Instead they were very interested in my involvement with PEI foundation and they were very keen to link up with the PEI foundation so as to promote an advocacy program for the promotion of science on the African Continent.

I introduced Kedest to Mauricio Fernandes and the two institutions started discussing on a future partnership; My role as main advocate was in line with my mission vis à vis the African Union Commission's strategy for promotion of science through higher education.

A Grant Agreement was considered for the financing by BMFG of an advocacy programme consisting of me participating in various conferences; the BMGF however had to conduct a due diligence on PEI which was expected to take between 5 -6 months.

There was an understanding nonetheless that pending the due diligence and the signing of the MOU, the two organisations would work together and an agreed amount of \$400,000 was earmarked for a two-years period to cover the costs of my



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participation at conferences ( flights, hotel accommodation, per diem, body guard, food and beverages etc whilst on mission abroad).

16/05

PEI decided that it would advance funds to cover the costs incurred of the advocacy programme pending the signing of the grant agreement with BMFG and the release of funds.

16/05/11 PEI's board resolution resolving that I be issued with a credit card with a limit equivalent to Rs. 1 Million. I received the card in May 2016.

16/09

The first time I used the credit card. There back to back events which would encompass meetings in Uppsala, Sweden, London, Washington and Canterbury. The meeting in Washington DC was to participate and make an address at the 'Ocean' conference organised by Secretary John Kerry. This meeting is in line with the Paris Agreement COP21 and the UN-SDGs and would be the last one as the USA was going for election in November 2016.

Between the 9<sup>th</sup> and 26<sup>th</sup> of September 2016, I used the card in Uppsala, Canterbury, Arlington, Washington and Kingston on 11 occasions, including for payment for my family members (husband and two children) who had accompanied me to Sweden.

Whilst in Washington (15-16 September), my card had a malfunctioning issue and I requested from PEI (Maurício Fernandes) authorisation to use the PEI platinum card for my personal expenses for the remainder of the trip. Permission was granted to me over the phone by Maurício Fernandes.

When I got back to Mauritius, I called Maurício for a reconciliation, he told me that there was no urgency and that when he does the reconciliation exercise he would let me know.

During that trip in September I used this card inadvertently on 4 occasions; I have a personal credit card with the same first 8 numbers as those of the PEI Credit Card.

16/10 Economic Summit in Dubai (11<sup>th</sup> and 12<sup>th</sup> of October) and Iowa, the World Food Prize in Des Moines (12<sup>th</sup> to 14<sup>th</sup> of October) thereafter I went back to Mauritius through Dubai on the 15<sup>th</sup> of October and reached Mauritius on the 16<sup>th</sup> of October. On the 17<sup>th</sup> of October I flew to Cape Town for the Rurorum (18<sup>th</sup> to 20<sup>th</sup>).

I have used the credit card 8 times whilst on mission abroad and once in Mauritius at Shiv Jewels.

16/11 I travelled to Chennai, India to give a lecture at the Swaminathan Institute on the 19<sup>th</sup> of November. Then I gave a lecture at the Jalandar at the LPU on the 21<sup>st</sup> of November; from there I attended the annual conference on Education at the City Montessori School in Lucknow. From India I proceeded to Hungary, Budapest to attend the Water Summit, because I was co-chairing the UN sustainable development goal/6 which is on water on the 28<sup>th</sup> of November to the 30<sup>th</sup>. I was back in Mauritius on the 2<sup>nd</sup> of December.

I used the card 8 times including 5 times for personal expenses.

16/11 I need to point out that following the due diligence carried out by BMGF, the grant agreement was signed by Ayo Ajayi of the BMGF, director of global policy and advocacy Africa and the Chairman of PEI Alvaro Sobrinho.

16/12 I travelled to Rome, for the FAO meeting between the 16<sup>th</sup> and the 20<sup>th</sup>

I used the card 9 times in December, 3 times for personal expenses.





[Note: I used the card a total of 25 times for personal expenses amounting to Rs. 1,291,238. I wish to point out that I fully expected to have to account for every dollar at the end of the first year cycle of the grant, in as much as BMGF was the donor fund.]

17/01


Whilst going through the statement of my personal credit card, I realised that many personal expenses effected, did not appear. (Note: The bank statements for the PEI card were never sent to me)

I contacted Mauricio Fernandes and requested him to let me have a consolidated amount for repayment to PEI as soon as possible. He promised to send me the documents. Not hearing from him as soon as I had expected, I contacted my personal banker at Barclays and asked her to clear all expenses on the card against my personal card even official expenses.

(Note: By then the allegations against Mr Sobrinho had been published and I did not want to waste time sorting out personal expenses from the conference expenses which were meant to be eventually reimbursed by the BMGF.)

17/03

By the time I resigned from on the 20<sup>th</sup> of March 2017, I had already given instructions to the bank to settle all card repayment, which has been done.



11/2/19

## FURTHER WRITTEN STATEMENT

I Bibi Ameenah Firdaus Gurib-Fakim, Former President of the Republic of Mauritius, have prepared this further statement, consisting of 3 pages, which I intend to produce to further assist the Commission of Inquiry in relation to the oral evidence I have given at the last sitting of the Commission.

I am grateful for the opportunity afforded to me to provide further clarifications.

I was asked to provide concrete examples of instances when I wrote to the Prime Minister to present a potential investor or a particular project as I did for Mr Sobrinho's group of companies in October 2016.

I have been able to retrieve the following documents:

1. Project for the setting up of a Forensic and Paternity Testing Laboratory Facilities – October 2015 - Annex A

The promoter, Professor Christian Doutremepuich, had submitted a business proposal to the Board of Investment since June 2014, and was proposing to acquire land from BPML.

2. The Biolabex Project – September 2016 – Annex B

I wrote to the Prime Minister to request that he personally look into the delay in processing the application of CIDP, a private owned and managed research and development organisation, for the setting up of a new laboratory promising to expand the range of clinical trials.

There are other instances but I have not been able to retrace the relevant formal correspondence.

I am also enclosing a copy of a correspondence addressed to the Prime Minister dated 20 August 2015, reminding him of the issues raised in the course of the consultation meeting and on which action was required by Ministries/Departments – Annex C

Finally, I am enclosing, a copy of a correspondence addressed to the Prime Minister in October 2016 providing clarifications as to the nature of my involvement with respect to the Pakistan Week – Annex D

I wish to clarify that when I said that I never intervened in favour of Mr Sobrinho's group of companies in relation to licensing issues, I meant that I have never tried to influence the decision-making process of the relevant authorities/licensing bodies. I never imagined that my writing to the Prime Minister could be considered as a wrongful intervention on my part.

Likewise, there was nothing sinister in my agreeing to host a lunch whereby Mr Fernandes would have the opportunity to present the PASET program to Mr. Kuriachen; that was the only licensing issue which was of concern to me as Vice-Chairperson of PEI.

The Commission will appreciate that Mr Sobrihno had been dealing with Government and the FSC well before I became the Vice-Chairperson of PEI; I was aware of that fact and it was not as if the competent authorities were only dealing with Mr Sobrihno or his group of companies because of my association with PEI.

I wish to add that in my mind, since the then Prime Minister, Sir. A. Jugnauth had encouraged me to accept such a prominent position within PEI, it was the Government's wish that the whole country be associated, through its Head of State, with PEI. I therefore considered that it was my role to promote PEI. There was no hidden agenda, everything I did I did openly. Whenever I wrote to other Heads of State in relation to PEI the correspondence was channeled through the Foreign Affairs office; I never received any advice that my position as Vice-Chairperson of PEI or any action undertaken in that capacity was inconsistent with my status as the Head of State of Mauritius.

At the last sitting, the Chair asked me whether it was a coincidence that I should have used the PEI Credit Card for the first time shortly after a licence was issued to a company of Mr Sobrinho's group of companies.

In that connection, I would like to reiterate that I was issued with the PEI Credit Card in May 2016 and used it for the first time in September 2016. It was my understanding, from a Communique issued by the FSC on 2 March 2017, that a first licence was issued to an entity of the ASA Group in August 2015 and that by September 2016 at least 3 other licences had been issued, including the authorisation to operate as a Collective Investment Scheme converted into a Closed-End Fund on 23 March 2016.

In relation to the use of the PEI Credit card, the Chair also inquired as to how I could have intended to use my personal credit card for purchases exceeding my limit. The fact is that at the relevant time my personal Credit Card was automatically topped up from another account as per arrangements with my banker (these arrangements are still in place). Once I reach my limit, funds are transferred from one account to the Credit Card account automatically.

Finally, I would like to comment on the testimony of Mr. Jhugroo, who gave an account of a telephone conversation whereby after speaking with Mr Appadu, the latter would have passed the phone to me and I would have personally explained to Mr Jhugroo why Mr. Sobrinho and his entourage should be granted VIP privileges.

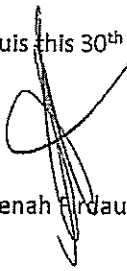


I have no recollection of having ever spoken to Mr Jhugroo over the phone but I cannot positively say that I have never spoken to him over the phone. However, I can positively state that I have never purported to convince anybody, let alone a senior public officer responsible for such matters, that Mr Sobrinho and his entourage should be granted VIP privileges; just like I am positive that I have never banged the phone on Mr Jhugroo as alleged by Mr Appadu.

I have no reason to believe that Mr Jhugroo would, like Mr Appadu, willfully mislead the Commission. I do not know to whom Mr Jhugroo actually spoke when he was under the impression that he was speaking to me, after having spoken to Mr Appadu, but I am positive that I never had with Mr Jhugroo, or with anybody else for that matter, the conversation he described before the Commission. Just like I am positive that the events described by Mr Appadu regarding my alleged fit of anger never took place.

I maintain everything I have previously stated in relation to my alleged involvement with securing VIP access for Mr Sobrinho and his entourage.

Made in Port Louis this 30<sup>th</sup> day of January, 2020

  
Bibi Ameenah Firdaus Gurib-Fakim

 3



CO 52

## ANNEX W

Office of The President  
STATE HOUSE, MAURITIUS

### COMMUNIQUE

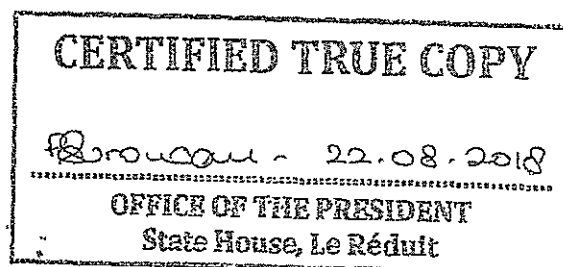
Suite à l'article paru dans l'édition de l'express en date du 28 février 2018 ayant trait aux dépenses encourues par la Présidente de la République dans le contexte de sa participation aux activités de Planet Earth Institute, le Bureau de la Présidence tient à apporter un démenti catégorique aux informations et autres allégations rapportées par cet article de presse.

Le Bureau de la Présidente considère que cet article est totalement faux et infondé et vise à ternir la réputation de la Présidente de la République.

Face aux allégations malveillantes contenues dans cet article, le Bureau de la Présidence a demandé aux autorités concernées d'initier une enquête sur l'origine de ces fausses informations et de prendre toutes actions nécessaires.

28 février 2018

STATE HOUSE  
Le Réduit





Office of the President  
State House, Le Réduit

ANNEX X

URGENT

MY REF: OP/PR/38
YOUR REF:

28 February 2018

**From : Secretary to the President**

**To : Solicitor General**

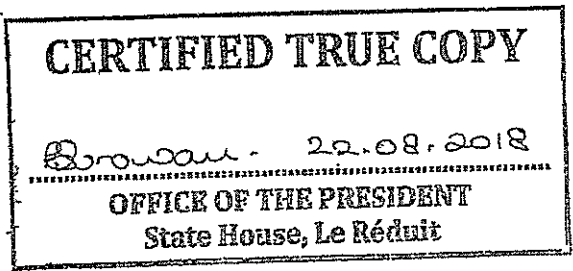
**SUBJECT: Press Article – L`express Newspaper**

Please refer to the press article which appeared in the L`express edition of 28 February 2018 entitled "Les folles dépenses de Madame la présidente" in connection with the participation of Her Excellency the President of the Republic in the activities of the Planet Earth Institute. Attached are photocopies of the relevant press article.

2. Her Excellency the President of the Republic considers that the press article is false and unfounded and it is a deliberate attempt on the part of the author of the press article to tarnish her image.

3. In this regard, Her Excellency the President of the Republic proposes to request the Commissioner of Police to initiate a police enquiry into the matter and to issue a Press Communiqué.

4. It would therefore be appreciated if you would kindly advise:  
(i) as to whether the course of action proposed at paragraph 3 above is in order; and  
(ii) the attached Press Communiqué can be issued.



M. Seebah  
Secretary to the President

# ANNEX Y

File by Mr Seebah (24bis)  
M.G. Form 2 (L)

GOVERNMENT OF THE REPUBLIC OF MAURITIUS

My Ref : AG/OP/4 (V3)  
Your Ref : OP/PR/38

Date: 28 February 2018

CO 52  
OG  
13/09/18

From: Solicitor-General

To : Secretary to the President (Atten: Mr M. Seebah)

Subject: Publication of false information relating to the President's banking transactions

### Your letter of 28 February 2018

Section 30A(1) (Privileges and immunities) of the Constitution, as interpreted in *Dayal v/s President of the Republic 1997 MR 223*, confers on the President immunity from both civil and criminal proceedings and section 30A(2) prohibits the issuing or execution of any "process, warrant during his term of office.

2. A Court cannot, therefore exercise jurisdiction over the President by summoning him or in any other manner notifying him to attend Court.

3. If the President were, as proposed, to report a case of criminal defamation against L'Express, she would be voluntarily waiving the immunity that she enjoys by attending, and giving evidence, in Court in case criminal proceedings are instituted against L'Express as she would be the main prosecution witness in the case. And, as the law stands, she would need to be kept informed of and on her own attend Court on, dates on which the proceedings are scheduled to take place, as no papers, notice or summons can be served on her to compel her to attend Court.

4. Moreover, in doing so, she would expose herself to cross-examination in Court on facts averred in the alleged defamatory article as, in any such proceedings, L'Express, as an accused is likely to question and obtain answers from her aimed at establishing the Defences available under section 288 (Defamation) of the Criminal Code (such as truthfulness of the imputation or allegation, fair and bona fide criticism of the conduct of any person touching on any public question, good faith allegation made for the public good etc .....).

5. Similar considerations may arise in the event that the President chooses to initiate Civil Proceedings for damages for defamation against L'Express.

6. In the light of the above, it is advised that whilst there is no legal impediment or obstacle to the President reporting a case of criminal defamation to the police she may wish to consider whether it would be wise or prudent on her part to do as this would involve personally giving statements to the police and could involve voluntarily attending and testifying in Court. The consequences of such a course of action could be adverse not only to her as an individual but also to the Office of the President as an institution.

7. On the other hand, it is in order for a communiqué to be issued, as proposed. However, the Honourable Attorney General, who has vetted this advice, is of the opinion that the President should raise the matter with and seek the advice of the Honourable Prime Minister before taking any of the above possible courses of action (criminal defamation, civil claim for damages, a Communiqué, a Right of Reply).

8. Alternatively, if the President wishes to respond individually to each of the allegations levelled against her, she may wish to avail herself of the right, under section 289 of the Criminal Code, to compel the editor of L'Express to publish a REPLY; within 3 days, contradicting, or explaining the real facts involved in, the allegations made by L'Express.

9. An additional course of action could be to request the bank concerned to consider referring to the Police a possible breach of section 64 of the Banking Act as confidential information purporting to pertain to the account of an identified customer has been published in the newspaper presumably as a result of an unlawful leakage of such information.

CERTIFIED TRUE COPY

Banowau - 22.08.2018

OFFICE OF THE PRESIDENT  
State House, Le Rebut

Note: Received by fax on 01/03/18. A copy handed over personally to H.E. the President. 13/3/2018

  
D.K. DABEE G.O.S.K., S.C.  
Solicitor General

# ANNEX Z

CO 126  
29  
05/12/18

## IN THE SUPREME COURT OF MAURITIUS

I, Deodass KALISSETTY-APPADU , of Islam Lane, Holyrood, Vacoas and holder of a Mauritian National Identity Card bearing No. K2709551107791

### DO SOLEMNLY AFFIRM AS A HINDU AND SAY AS FOLLOWS:

1. I am a Permanent Secretary, currently posted to the Ministry of Civil Service and Administrative Reforms (hereinafter "the Ministry").
2. I joined the public service on 17 April 1974, and I reckon about 44 years' service.
3. I was assigned the duties of Secretary to the President with effect from 29 November 2012 up to 3 November 2016, when I was transferred to the Ministry on 4 November 2016. A copy of my transfer letter dated 31 October 2016 is hereto attached and marked as Annex A.
4. I performed the duties of Secretary to the President from 29 November 2012 to 29 May 2015 to former President, Mr Rajkeswur Purryag, GCSK.
5. I thereafter continued to perform the duties of Secretary to the President, to Mrs Bibi Ameenah Firdaus Gurib-Fakim, GCSK, (hereinafter "the President"), who was sworn in as the new President of the Republic of Mauritius on 5 June 2015.
6. The President was personally known to me since a long period of time when she joined the Civil Service on or about the late 70's to the extent that I could afford to address her by her first name and *vice versa*, and this even during her tenure of office as President of the Republic of Mauritius.
7. I performed the said duties up to 3 November 2016 when I was posted to the Ministry and I assumed duty on 11 November 2016.
8. I applied for, and was granted 45 days' vacation leave, from 15 November to 29 December 2016. A copy of the letter of approval is hereto attached and marked as Annex B.
9. After my departure from the State House, the President intimated to me that she was saddened by my transfer and that, despite her repeated verbal requests, between November 2016 and February 2017, to the then Prime Minister, Sir Anerood Jugnauth, and the latter's successor, Honourable Pravind Kumar Jugnauth, neither of them would accede to her request to transfer me back to the Office of the President. The President even wrote to the Sir Anerood Jugnauth to that effect. The said letter is in ICAC's custody inasmuch as same was secured by the ICAC's officers during a search conducted at my house on Friday 13<sup>th</sup> April, 2017
10. In or about the same period, the President spoke on numerous occasions to Mr Nayen Kumar Ballah, the Secretary to Cabinet and Head of the Civil Service (hereinafter "Mr



Ballah"), to express her disappointment and dissatisfaction over my transfer from the State House, inasmuch as all the activities that were being organised by her Office, and more particularly, the "Presidential Initiatives", had come to a standstill.

11. In or about the same period, the President intimated to me that she had no trust in the newly posted Secretary, Mrs Nirmala Gobin-Bheenick, as the latter was "*incompetent and not suitable to hold such a position*". Upon the express request made by the President to Mr Ballah, Mrs Gobin-Bheenick was subsequently transferred from her Office, and was replaced by Mrs Nema Devi Goorah.
12. The President intimated to me that, in her opinion, even Mrs Goorah "*lacked the professional skills and dexterity*" to perform the duties of the Secretary to the President. Upon her express request made to Mr Ballah, Mrs Goorah was transferred from her Office and was replaced by Mr Motichand Seebah.
13. In or about October 2016, I received a phone call from the Honourable Seetannah Lutchmeenaraidoo, Minister of Foreign Affairs, Regional Integration and International Trade, who intimated to me that Cabinet was expressing concern over the series of activities that were being hosted by the President at the State House under the 'Presidential Initiatives', and in particular, the 'Pakistan Week' because of the diplomatic embarrassment it caused to the country.
14. The Minister stated to me in no uncertain terms that Cabinet had expressed concern that I was not advising the then President properly. I told the Minister that, despite my advising against such activities, the President was adamant that she was doing the right things and in the interest of and for the good image of the country and she would go ahead with them.
15. Between 15 November and 29 December 2016, although I was on vacation leave, I was constantly being solicited by the President to call at the State House to help and assist her with a number of administrative duties, the drafting of her official speeches, statements and other activities related to her functions as President of the Republic.
16. I was in a situation where I could not refuse her constant pleas inasmuch as the President intimated to me that she was really desperate as the administrative staff at the State House was not up to the mark and activities and administrative functions were suffering.
17. I have been personally requested by the President to accompany her on no less than three occasions to attend meetings abroad, namely, a meeting of the Board of the Planet Earth Institute (hereinafter "PEI") in London in or about November or December 2016, meeting of the Centre for Pharmaceutical Advancement and Training (CePAT) in Accra, Ghana, in December 2016, and the World Economic Forum held in Davos, Switzerland, in January 2017.

18. The President was designated by Mr Sobrinho to be the Vice-Chairperson of PEI, an international London-based NGO and charity striving for the scientific independence of Africa and for the promotion of science and technology in the continent. The President solicited my assistance during the various meetings she had with the representatives of Wellcome Trust, Bill and Melinda Gates Foundation and PEI, amongst others, relating to the promotion of science and technology and health in Africa. My duties consisted of preparing briefs and speaking notes for the President.
19. In or about December 2016, I was requested by then President to accompany her to an event organised by the US Pharmacopoeia Convention and the Centre for Pharmaceutical Advancement and Training (CePAT) in Accra, Ghana. CePAT is an institution that provides training and capacity building for quality assurance and quality control of medicines in sub-Saharan African as well as Mauritius, to assist her in the preparation of speeches and briefs in connection thereto. I also accompanied her when she was received by the President of the Republic of Ghana during her visit.
20. The 2017 Annual Meeting of the World Economic Forum in Davos was held from 17 to 20 January and the President was invited to participate in the context of the setting up of Coalition for African Research and Innovation and Entrepreneurship (CARIE), which was an important item on the forum's agenda. My assistance was required by the President for the preparation of briefs and during the meetings she had in Davos with foreign dignitaries, including the Head of State of the Republic of Guinée Conakry as well as other high profile African investors.
21. In or about May/June 2015, the then President was invited as Chief Guest in an unConference by Lord Paul Boateng, Member of the House of Lords, to participate in unConference organised by the PEI. The President accepted to attend that meeting and all the necessary clearances were obtained from the PMO and the Ministry of Finance. In or about July 2015, I was granted approval to accompany the President, together with two bodyguards. All the costs of that mission were borne by Government.
22. The Conference was held in London on 21 July 2015. I saw one Mr Alvaro Sobrinho there, although I was neither introduced to him by the President nor did I meet him. She told me that this was the first time she was meeting Mr Sobrinho.
23. One Mauricio Fernandes, whom I had never met before, but who was my contact point through emails to liaise with PEI regarding the President's participation at the above unConference, was introduced to me by the London PEI staff. The President and I returned to Mauritius soon after the conference.
24. In or about August 2015, I was informed by the President that Mr Sobrinho and Mr Mauricio Fernandes would be travelling to Mauritius and would be calling at the State House on or about the second week of August 2015, as Mr Sobrinho had the intention to invest in the banking sector in Mauritius. The President added that she was planning to invite the then

Minister of Finance, Honourable S. Lutchmeenaraidoo, as well as the Governor of the Central Bank, Mr Basant Roi, over lunch on a subsequent date with a view to introducing Mr Sobrinho to them.

25. Indeed, in or around August 2015, the President did host a lunch, which was attended by Honourable S. Lutchmeenaraidoo and Mr Basant Roi, and where I was also present. This was the first time I was introduced to, and met, Mr Sobrinho. During his regular subsequent visits to the President at the State House, I became acquainted with Mr Sobrinho and met him during the various lunches and functions hosted by the President during his visits in the country.
26. During the lunch, Mr Sobrinho introduced himself as a banker, investor and philanthropist and stated that he had plans to apply for a banking licence in Mauritius. He also gave an elaborate account of his portfolio of investments in other countries such as Portugal, Angola, and Switzerland. Mr Basant Roi stated that the banking sector was already saturated and that Mr Sobrinho could visit the website of the Bank and download the guidelines concerning the opening of a new bank in Mauritius. He also advised Mr Sobrinho that he would have to hire the services of a consulting firm to assist him in the application.
27. In or around the beginning of October 2015, the President called me in her office at the State House and requested me to make arrangements for VIP access for Mr Sobrinho, Mr Pinto, Mr Fernandes and the latter's family, as they would be arriving in Mauritius to discuss the opportuneness of setting up a PEI Branch in the country.
28. I followed the instructions of the President, and duly processed her request, by sending same to the PMO for its approval. It is apposite to note that the PMO is the sole authority empowered to grant access to the VIP Lounge at the SSR International Airport.
29. Mr Sobrinho thereafter became a regular visitor at the State House for meetings, lunches and other functions with the President. Mr Sobrinho and the President would even go out for long walks within the compound of the State House in the afternoon, sometimes accompanied by her bodyguards, and sometimes alone.
30. In or about end November 2015, PEI was launched in Mauritius and a grandiose ceremony was organised by the President at the State House. Both Mr Sobrinho and Mr Fernandes attended the function along with Ministers and other local and foreign eminent personalities. Both the President and Mr Sobrinho delivered a speech, copies whereof are hereto attached and marked as **Annexes C & D**.
31. From then onwards, the State House literally became the platform for PEI. The work burden increased considerably at the State House, and activities relating to PEI became the President's utmost priority. Most of our time and resources were devoted to PEI.

32. In this connection, PEI put a car bearing registration number D1955, belonging to the PEI, at our disposal. This car was being used to convey the guests of PEI for the furtherance of the objectives of the NGO. I recall having driven the said car on a number of occasions, in and out of the State House, either alone or with other guests of the PEI, for the sole purpose of the furtherance of the objectives of the PEI. I have never benefited from any car from the PEI or from any of the companies belonging to Mr Sobrinho.
33. Mr Sobrinho, as well as his entourage, were invariably granted access to the VIP lounge at the SSR International Airport on each and every single visit they made to the country. As a matter of fact, the Honourable Prime Minister's reply to a PQ by the then Honourable S. Bhadain on 28 March 2017, gives a detailed account of such access to the VIP Lounge. I attach a copy of the said reply (**Annex E**).
34. I wish to point out that all these requests were made upon the President's express verbal instructions to me. And, in turn, I transmitted the said requests to the staff of the Office of the President to be processed. Thereafter, every time that Mr Sobrinho, Mr Fernandes and Mr Pinto and their family and guests would travel to Mauritius, the President would verbally instruct me to process the application for VIP facilities for them. The President was therefore perfectly aware of each and every single VIP application that was made by the Office of the President to the PMO by me on behalf of Mr Sobrinho and his entourage.
35. Mr Fernandes was subsequently based in Mauritius in an office in Ebène, which was the local headquarters of Mr Sobrinho's business as well as the PEI local office. During the time he was in Mauritius, Mr Fernandes would regularly call on the President at the State House on at least a twice weekly basis. It would happen that during some of his visits, Mr Fernandes would, in my presence, hand over to the President a piece of paper on which he would have indicated the flight details of Mr Sobrinho and/or his family and/or his guests. On many occasions, the requests were also made orally by Mr Fernandes to the President in my presence.
36. Some time later, I cannot remember when exactly, the President informed me that Mr Sobrinho would in future send me the requests for VIP access through the CEO of PEI, Mr Fernandes, and that I should process same, and that I should keep her nonetheless informed on a need to know basis. I also wish to point out that whenever the President would travel abroad, she would instruct me to process such requests during her absence and to report to her upon her return.
37. I subsequently received several emails from Mr Fernandes, in his capacity as CEO of PEI, as well as one Mr James Knight, also of PEI requesting VIP facilities for Mr Sobrinho, his family and his guests. I forwarded the emails to the staff of the President's Office, after having obtained the President's verbal green light.
38. On or about 27 April 2016, subsequent to a request by the Office of the President for VIP facilities for the scheduled arrival of Mr Sobrinho on 2 May 2016, the Office of the then

Secretary for Home Affairs, Mr N. Ballah, wrote to me and drew my attention to the fact that representatives of NGO's were not entitled to VIP access in accordance with existing policy instructions. I duly informed the President of the correspondence, showed it to her, to which she retorted: *"Eski mo péna droit faire ene demande VIP pour ene quelqu'un qui pé investir par milliards dans Maurice"*.

39. On 29 April 2016, Mr N. Ballah summoned me to his office to seek clarifications on the increased number of requests for VIP facilities made by the Office of the President for Mr Sobrinho as Chairman of the PEI, which is an NGO. Before leaving my office, I informed the President that I was convened by Mr Ballah on the question of VIP facilities. I also told her that I would report to her on the outcome of the meeting upon my return to the State House.
40. On the same day, I met Mr Ballah in his office at the 7<sup>th</sup> Floor, New Government Centre. He told me that the PEI requests for VIP facilities were on the high side. I told him that such requests were being made with the express authority of the President, and I had no grounds to resist her requests. I suggested to Mr Ballah that he speaks to the President in person about his concerns. He said that he would not talk to her, but insisted that, in future, all such requests should be signed by me personally and should also include a specific paragraph that the persons in favour of whom the applications were being made were the personal guests of the President or persons known to her. Only then, would the PMO approve such requests. Mr Ballah also asked me to provide additional information pertaining to the investments by Mr Sobrinho in Mauritius. I told Mr Ballah that I would brief the President accordingly.
41. Upon my return to the State House, before lunch time, on 29 April 2016, I headed straightaway to meet the President. I reported the outcome of the discussions to her and the conditions that Mr Ballah had intimated to me in view of approving future requests for VIP access for Mr Sobrinho and his entourage. She instructed me to prepare a letter to be sent to Mr Ballah in regard to the conditions that the latter had imposed upon her concerning requests for VIP facilities. She also told me that she would vet the said letter before issue.
42. I thereafter drafted a letter to that effect, which was duly cleared and approved by the President. The letter was sent the same day, i.e. 29 April 2016, over my signature, reiterating the request for access to the VIP Lounge for Mr Sobrinho's arrival at the SSR International Airport beginning May 2016. The said request was approved by the PMO. The said letter was shown to me by ICAC on 24 May 2018 during inquiry.
43. Subsequently, all requests for VIP facilities from the Office of the President were duly cleared by the President in person and were made in the manner dictated by the PMO i.e. a specific paragraph was included in all future requests to the effect that the persons concerned were the guests of the President or persons personally known to the President.

44. In or about September 2016, Mr Ballah was appointed Secretary to the Cabinet and Head of Civil Service and was replaced at the PMO by Mr Premhans Jhugroo, Senior Chief Executive.
45. In or about October 2016, I received a phone call from Mr Jhugroo, whereby he queried about a couple of requests for VIP facilities made by the Office of the President to the PMO with regard to Mr Sobrinho. He told me that the PMO was in the process of reviewing VIP access facilities at the SSR International Airport because it was a heavy financial burden on Government and that he would not entertain such requests in the future being given that Mr Sobrinho was the Chairman of an NGO, i.e. PEI.
46. I referred Mr Jhugroo to the fact that Mr Sobrinho was the President's guest and that this question had already been cleared with his predecessor, Mr Ballah. I also informed him that I was going to brief the President on the stand of the PMO.
47. Immediately thereafter, I went to see the President in her office and apprised her of the tenor of the phone conversation I just had from Mr Jhugroo and the PMO's stand. The President flared up, and asked her personal secretary, to connect her to Mr Jhugroo on the phone. In my presence, the President spoke to Mr Jhugroo to express her disagreement with the PMO's stand, and enquired as to whether she had the right to make requests for VIP facilities in favour of her guests. She also told Mr Jhugroo that the Office of the President had previously already written to the PMO on this issue. She then banged the phone.
48. On 4 November 2016, I was transferred to the Ministry of Civil Service and Administrative Reforms, where I assumed duty on 11 November 2016.
49. On a couple of occasions, from 11 November 2016 to February 2017, during my posting at the Ministry, I continued to receive emails from Mr Fernandes and the PEI staff regarding requests for VIP facilities for Mr Sobrinho and his entourage. I duly forwarded the said emails to the administrative staff of the Office of the President, as I was no longer empowered to process such requests for VIP facilities on behalf of the Office of the President.
50. I forwarded the emails to Mrs Taslimah Codadeen, Assistant Permanent Secretary and Mrs Preetee Guirdharry, Office Management Assistant, respectively for such action as the President may deem fit. It goes without saying, therefore, that the latter two officers must necessarily have acted upon the President's express prior consent before processing the said requests, being given I was no more posted at the Office of the President.
51. In connection with the VIP facilities granted to Mr Sobrinho, I also wish to refer to the reply to Parliamentary Question No. B/23 during a National Assembly session held on 28 March 2017, the Honourable Prime Minister, Mr Pravind Jugnauth stated that:

"According to reports available at the Prime Minister's Office, Mr AS was granted access to the Arrival and Departure VIP lounge at Sir Seewoosagur Ramgoolam International Airport, following requests made by the Secretary to the President, on 31 occasions during the period 1<sup>st</sup> October 2015 to 21<sup>st</sup> February 2017. Mr AS was accompanied by members of his family and/or his close collaborators on 21 of those occasions. The information regarding the specific dates on which such facilities were granted to Mr AS is being tabled. It is pointed out that it has so far been the practice to extend such facilities to special guests of some personalities. However, the whole issue of grant of VIP facilities regarding access to and from the VIP lounges at Sir Seewoosagur Ramgoolam International Airport is being reviewed" **[Annex E]**.

52. During the National Assembly Session of 17 April 2018, in reply to PQ B/192 from the Honourable Mr S. Abbas Mamode with regard to the policy for the granting of access to the VIP lounge facilities of the Sir Seewoosagur Ramgoolam International Airport by the Prime Minister's Office, the Acting Prime Minister, the Honourable Mr Ivan Collendavelloo stated the following:

"Madam Speaker, in reply to PQ B/405, the Honourable Prime minister informed the house that the provision of VIP facilities to Government Officials and foreign visiting dignitaries is an international practice to facilitate the movement of certain passengers at the airport. These included-

- i. Heads of States, Prime Ministers and Ministers, all Members of the National Assembly as well as their spouse and children.
- ii. Visiting dignitaries;
- iii. Senior Government Officials.
- iv. Ambassadors, Heads of International Organisations;
- v. Heads of religious bodies.
- vi. Persons who have been decorated as GOSK or GCSK or equivalent;
- vii. Chairperson and Commissioners and members of the Rodrigues Regional Assembly.
- viii. Officers of the rank of Deputy Permanent Secretary and above, proceeding on mission; and
- ix. Other persons as per the discretion of the Prime Minister. **[Underlining is mine]**

Furthermore, requests from other personalities to access the VIP lounge are also considered on a case-to-case basis and approved by the Prime Minister's Office.

In his reply, he also stated that the eligibility criteria were last reviewed and approved by Cabinet in 2000 and that the policy regarding access to VIP lounge was being reviewed with a view to ensuring more effective control on the utilisation, including the prevention of any misuse and abuse of the facilities of access.

Madam Speaker, I am informed that the Prime Minister's Office is still working on the review exercise and, once completed, same will be submitted to Cabinet for consideration and approval.

*I am also informed that although the review exercise is still under way, strict control is being exercised regarding access to the VIP lounge. Moreover, like all other passengers, those who have been granted VIP facilities are also subject to security control put in place at the Sir Seewoosagar Ramgoolam International Airport*

*Madam : Hon. Abbas Mamode!*

*Mr Abbas Mamode: Thank you, Madam speaker. Since the Office of the Prime Minister is still working on the Criteria, would the Honourable Acting Prime Minister consider allowing access to those who represent the country, "ceux qui font honneur à la nation mauricienne aient aussi accès au VIP Lounge de Sir Seewoosagar Ramgoolam International Airport?"*

*The Ag. Prime Minister: Well, this remains within the discretion of the Prime Minister. As I have said, the VIP Lounge is also accessible to such persons as per the discretion of the Prime Minister. [Underlining is mine]*

53. During the same session of the National Assembly held on Tuesday 17 April 2018, in reply to PQ B/193 from the Honourable Mr S. Abbas Mamode regarding the names of the passengers who benefitted from VIP Lounge facilities from the Office of the President, since June 2015 to 15 March 2018, indicating in each case the-

- a) *dates thereof;*
- b) *name of the person who submitted the request;*
- c) *capacity in which they were granted such facilities; and*
- d) *names and status of the greeters therefor.*

*The Ag. Prime Minister: Madam Speaker, according to records available, from 01 June 2015 to 15 March 2018, 377 passengers have been granted State and VIP Lounge Facilities, both at the arrival and departure, at the Sir Seewoosagar International Airport, upon request from the Office of the President. A breakdown of the number of passengers granted such facilities is as follows-*

- i. *01 June to 31 December 2015-85;*
- ii. *01 January to 31 December 2016- 160;*
- iii. *01 January to 31 December 2017- 123; and*
- iv. *01 January to 15 March 2018-9*

*These facilities were granted to eligible persons in accordance with established criteria and practices, as stated earlier in reply to PQ B/192. [Underlining is mine]*

*I have been advised that it would not be proper to disclosed names of persons having obtained these VIP Facilities.*

*Madam Speaker: Hon. Adrien Duval!*



*Mr A. Duval: Madam Speaker, may I ask the hon. Ag. Prime Minister, with regard to Mr A.S, the well-known A.S., Mr Alvaro Sobrinho- it is public, it has been in the Press- Whether he has travelled as many 50 times through the VIP Facilities? He has the names in his list. Whether the Hon. Ag. Prime Minister can confirm that is, in fact, the real number?*

*The Ag. Prime Minister: I will have to check. Yes, I have the list. If the Honourable member asks me a particular question on this, I will answer. I need time to go through the list.*

*Madam Speaker: Hon. Rutnah first, then I come to hon. Bhagwan.*

*Mr Rutnah: Thank you, Madam Speaker. Can the hon. Ag. Prime Minister confirm whether the person who is in charge of Global Quantum, Mr Bastos also has been, in the past or present, given facilities through the VIP Lounge?*

*The Ag. Prime Minister: I do not know. I need to go through the list. It is a very long list and I am unable to go through any name.*

*Madam Speaker: Hon. Adrien Duvall*

*Mr A. Duval: Madam Speaker, at least, if the Hon. Ag. Prime Minister can table the list? He has a list in his possession; we will after do the groundwork.*

*The Ag. Prime Minister: I have already said in my reply that I have been advised that it would not be proper to disclose any name of persons who have been obtained. I have to act on the advice I received.*

*Mr X.L. Duval : Can I ask the hon. Ag. Prime Minister what is the reason for the advice? What is secret with who requested, whoever for whoever and who went through the VIP? What is the secret about it?*

*The Ag. Prime Minister: I do not know. I have received an advice and I am acting on the advice; I cannot do otherwise. The hon. Leader of the Opposition knows that I cannot do otherwise. He has done that job himself! Many of us have done that job. I need to act on the advice that I received."*

54. A copy of the Hansard regarding the reply to each PQ B/192 and B/193 is hereto attached and marked as Annex F.

55. I wish to point out that at no point in time did the President reproach me for having processed VIP applications for Mr Sobrinho and his entourage allegedly without her consent or authorisation, or for having, allegedly without her consent and knowledge, inserted in the application for VIP access that Messrs Sobrinho and Fernandes were well known to her. I produce 3 emails dated 13, 23, 26 December 2016 respectively from myself to one Mr

Ashok Mittal, Chancellor of Lovely Professional University ("LPU"), the President and Mr Fernandes, showing clearly that the Mr Fernandes was well known to the President [Annex G]

56. Assuming I had indeed acted behind the President's back to process VIP access for Mr Sobrinho and his entourage, the least to be expected from the President regarding my alleged misconduct, and which she has utterly failed to do, was:

- (i) to report me to the Police and the ICAC;
- (ii) to report me to the Honourable Prime Minister during her weekly meetings with him or otherwise;
- (iii) to report me to the Secretary to Cabinet & Head of the Civil Service;
- (iv) to make a full report of my alleged misconduct to the PMO during the latter's compilation of the reply to the PQ of 28 March 2017, of which she was necessarily apprised before, during and after the PQ; and
- (v) to make a statement or issue press communiqué to the effect that the VIP access granted to Mr Sobrinho and his entourage was none of her doing, but mine alone without her consent or approval.

57. The President neither inquired from me nor reported me to the authorities for having allegedly usurped her functions by processing requests for VIP access to Mr Sobrinho and his entourage. It is therefore clear that the President is desperately seeking to distance herself from, and to sever all possible links with, Mr Sobrinho and his entourage.

58. I further aver that I have never granted any undue advantage to Mr Sobrinho, his entourage, PEI and companies in the form of VIP access in as much as:

- (i) all such persons were eligible as they fell under the category of 'Other persons as per the discretion of the Prime Minister', as explained under paragraphs 52 & 53 above;
- (ii) all such accesses were processed by me strictly in the course of my function as Secretary to the President;
- (iii) all such requests were made with the President's authorisation and approval and within the framework of established policies governing grant of VIP facilities; and
- (iv) all such requests were indeed approved by the Prime Minister, at his discretion, as highlighted at paragraphs 52 & 53 above.

59. In or about March or April 2017, the President resigned as Vice-Chairperson of the PEI in the wake of what became known as the Sobrinho scandal. During the same period, the President would have daily telephone conversations with me. The President was desperate and in tears when speaking to me about the turn of events of the Sobrinho and PEI scandals, and that she had committed a big mistake in accepting the position of Vice-Chairperson of PEI and associating herself with Mr Sobrinho and his entourage. She even intimated to me that she was disgusted with herself and that she could not show her face to her family members and more so to her father, whom she held in very high esteem.

60. The President also told me that I had reached an age whereby I could retire from the service as of right the moroso, as according to her, the treatment that had been meted out to me, in particular, my transfer, was unfair and unacceptable. She stated that the Service did not deserve me. She further intimated to me that I should continue to help her in the discharge of her duties and responsibilities as well as the "Presidential Initiatives" undertaken by her at the State House. However, given my current responsibilities as Permanent Secretary, I could not do so unless I was out of the system.
61. She even told me that should I retire from the service she would make the necessary arrangements to enlist my services as adviser at the Office of the President. I pointed out to the President that I had some commitments which did not allow me to retire from the service before my retirement age. Thereupon, she intimated to me that should I change my mind, she would have a word with Mr Sobrinho to find out if there was any chance for me to secure employment, according to my experience and professional competence, within the latter's group of companies, established in Mauritius.
62. She further intimated to me that she would even discuss a salary package that would not be less favourable than my current salary package and terms and conditions as Permanent Secretary in the Civil Service. The President told me that she was in very good terms with Mr Sobrinho to the extent that she would be able to convince the latter. I told her that I would give a thought to her proposal.
63. In or about December 2016, I received a phone call from Mr Fernandes, CEO of PEI, who intimated to me that he would wish to meet with me at his office at Ebène, to discuss an urgent issue.
64. In or about the same period, I met with Mr Fernandes at his office and during the meeting he told me that the President had spoken to Mr Sobrinho about the possibility that I join his group of companies. He also indicated to me that the President had already discussed with Mr Sobrinho about the salary package and the related benefits that would be offered to me. In this regard, he stated that, in view of my experience as a Senior Officer of the Government, the company was proposing to enlist my services to head one of their newly established companies, Vango Limited, involved in real estate development.
65. I told Mr Fernandes that I needed time to reflect on the proposal, which also depended on the nature and scope of the duties and responsibilities that would be incumbent upon me and also the terms and conditions of the offer.
66. Following my meeting with Mr Fernandes, I called the President and briefed her on the outcome of the meeting. She told me that I should seriously consider the proposal which was also an opportunity for me to use my competence in the private sector.

67. I had further discussions with Mr Fernandes and on 27 December 2016, an offer was made to me in writing. The employment proposal was signed by Mr Sobrinho in his capacity as Chairman of the ASA Group of Companies.
68. I did not make any reply there and then, as I believed that I would require more time to take a decision as it was not easy to leave the service after almost 42 years.
69. I resumed duty at the Ministry on 30 December 2016 after my leave.
70. In or around end January 2017, I spoke to Mr S.K Pather, the then Senior Chief Executive of the Ministry. I intimated to him that I was not very happy with my current posting and I was seriously considering my retirement from the service. I informed him that I had obtained an offer from a company established in Mauritius and as I was almost at the end of my career as a Public Officer, I was contemplating on accepting the offer. I showed him the letter dated 27 December 2016 wherein the offer of employment was made by Vango Ltd.
71. I also shared with him the terms and conditions of the offer and I told him that I would need his advice thereon before taking a decision as regards my eventual retirement. Mr Pather told me that he would have a look at the offer and revert to me subsequently.
72. In or around early February 2017, I met Mr Pather in his office and he told me that he had seen the offer made to me by Vango Ltd and that in his opinion it was a very challenging proposal which I could consider. He also told me that I should not retire outright since according to the provisions of the PRB Report 2016, I could apply for leave without pay up to a period of 1 year to take up employment in the private sector. Mr Pather also intimated to me that, should I not be satisfied with the nature of the job, I could still have the option to return to the Public Service. After the meeting with Mr Pather, I discussed with my family members and took the decision to accept the job.
73. On 03 February 2017, I sent an email to Mr Sobrinho to inform him that I accepted the job proposal on the terms and conditions attached thereto and that I, mistakenly, would assume duty on 06 February 2017. In effect my application would have been submitted on 06 February and my leave, if so approved, would be effective as from 13 February 2017. A copy of the email of 03 February 2017 is hereto attached and marked as Annex H.
74. On 6 February 2017, I wrote to the Secretary to Cabinet & Head of the Civil Service, through my Supervisor, Mr Pather, to apply for leave without pay for a period of one year, effective as from 13 February, to enable me to take up employment with Vango Ltd. A copy of the said letter is hereto attached and marked as Annex I.
75. By letter dated 20 February 2017, by the SCE of the Ministry, Mr Pather, I was informed that my application for leave without pay, to take up employment with Vango Ltd, had been approved with effect from 1 March 2017. A copy of the said letter is hereto attached and marked as Annex J. I never took up employment with Vango Ltd.

76. In or around the third week of February 2017, certain press articles were published regarding Mr Sobrinho's activities in Mauritius and abroad as well as on the Ameenah Gurib-Fakim PhD Scholarship Scheme sponsored by PEI and destined for 10 local graduates.
77. In or around February/March 2017, Mr Fernandes called me at his office in Ebène and informed me that Vango Ltd had decided to rescind its offer of employment made to me in December 2016. I replied that, in any event, I was minded to resume duty in the public service. I signed an agreement with Vango Ltd, according to which, an indemnity in lieu of notice in the sum of USD 31,500 would be paid to me in full and final satisfaction.
78. The contract was therefore terminated and I was duly paid the sum of USD 31,500 on 08 May 2017. A copy of my SBM statement of account to that effect is hereto attached and marked as Annex K.
79. I did not resume duty in the public service immediately, but on 7 April 2017, I wrote to the Secretary to Cabinet & Head of the Civil Service and informed him that I had decided to terminate my contract of employment and to resume work as Permanent Secretary as from 17 April 2017. A copy of the said letter is hereto attached and marked as Annex L.
80. I wish to point out that the tenor of the said letter may lead to confusion in the sense that, strictly speaking, it was Vango Ltd which had terminated my employment. It was never my intention to mislead anyone, the moreso since the termination agreement with Vango Ltd speaks for itself and that I had been paid an indemnity in lieu of notice in the sum of USD 31,500 through proper verifiable banking channels.
81. By way of a memorandum dated 12 May 2017, I took note that my request to resume duty had been approved, and that I was being posted to the Ministry as from 15 May 2017. I assumed duty at the Ministry on the said date.
82. I recall having phoned Mr K. Poonoosamy, CEO of the Board of Investment ("BOI"), on or about September 2016 to inquire about the status of the application of the intended purchase of two plots of land by the companies belonging to Mr Sobrinho. I made this phone call at the President's express request and in good faith. It was never my intention to interfere with the BOI's normal course of business, and this is the spirit in which Mr Poonoosamy took it. He was very courteous and jovial, and the conversation ended on a very positive note. In any event, the subject matter of the conversation was a within the PMO's sole discretion, and not that of the BOI.
83. In this connection, I wish to add that, in or about 2016, the President would regularly request me to phone the Ag. CEO of the Financial Services Commission ("FSC"), Mr Kuriachen, to inquire about the progress being made by the FSC regarding Mr Sobrinho's application for investment banking and global business licences. The President even hosted Mr Kuriachen for lunch at the State House during in or about 2106 on a couple of occasions in company of

Mr Fernandes and myself. Both the President and Mr Fernandes queried Mr Kuriachen on Mr Sobrinho's applications. Mr Kuriachen replied that matters were progressing smoothly and that he did not foresee any difficulty.

84. I wish to conclude that I have never committed any offence under the Prevention of Corruption Act ("POCA") or the Financial Intelligence and Anti-Money Laundering Act ("FIAMLA") in that I have never granted any undue advantage to Mr Sobrinho and his entourage, nor have I been offered any gratification by Mr Sobrinho and his entourage in consideration for such alleged undue advantage.

SOLEMNLY AFFIRMED BY THE ABOVE-)  
NAMED DEPONENT AT CHAMBERS )  
NEW COURT HOUSE, PORT LOUIS ON )  
THIS DAY OF JUNE, 2018 )

Drawn up by me

Before me

Pravind Nathoo  
Attorney

TRANSACTIONS OF THE PLANET EARTH INSTITUTE DEPOSIT ACCOUNT (PEI) MANAGED BY THE OFFICE OF THE PRESIDENT

DATE	AMOUNT RECEIVED (R\$)	AMOUNT PAID (R\$)	BALANCE (R\$)	DETAIL OF RECEIPTS AND PAYMENTS	DOCUMENT REFERENCE	VOUCHER/ RECEIPT No
30-Sep-16	1,267,167.80		1,267,167.80	This money was received on 02 Sept 2016 from Planet Earth Institute Foundation and accounted for in the PEI deposit account on 30 Sept 2016. As per SBM credit advice this relates to allowance for HE. As per credit note submitted by the Office of the President, this amount is the refund of funds on behalf of PEI for London & USA from 12 to 22 September	R1	325094216
30-Sep-16		505,201.79	761,966.01	Per Diem Allowance - Mission London and USA - H.E Mrs Ameneah Gurib-Fakim	P1	101090104
30-Sep-16		118,659.18	643,312.83	Per Diem Allowance - Mission London and USA - O.K Appadu	P1	101090105
30-Sep-16		164,597.19	478,715.64	Per Diem Allowance - Mission London and USA - S.K Sobanath	P1	101090106
30-Sep-16		164,597.19	314,118.45	Per Diem Allowance - Mission London and USA - M Y B Z Kheerdaji	P2	101090107
14-Oct-16		1,410,100.00		Air Tickets for IDWA - H.E Mrs Ameneah Gurib-Fakim, K. Sugun & C. Yeukonundu	P2	101100026
14-Oct-16	1,929,629.68		833,648.13	As per SBM credit advice, this amount has been received from PEI. As per credit note submitted by the Office of the President, this amount is a refund of funds on behalf of PEI for the mission Cape Town, South Africa from 18-20 October 2016	R2	325100406
27-Oct-16		201,617.74	632,030.39	Per Diem Allowance - Mission Dubai to IDWA and Cape Town - H.E Mrs Ameneah Gurib-Fakim (Rs 40,810.94 + Rs 160,806.80)	P3	101100078
27-Oct-16		38,548.50	593,481.89	Per Diem Allowance - Mission Cape Town, SA - Mrs R Godadeen	P3	101100079
27-Oct-16		38,548.50	554,933.39	Per Diem Allowance - Mission Cape Town, SA - Mrs P Jeanneton	P3	101100080
27-Oct-16		38,548.50	516,384.89	Per Diem Allowance - Mission Cape Town, SA - Mr Z Jammaidee	P4	101100081
7-Nov-16		138,786.00	377,598.89	Air Tickets for Mission to Cape Town, SA - H.E Mrs Ameneah Gurib-Fakim, Mrs R Godadeen, Mrs P Jeanneton & Mr Z Jammaidee	P4	101110003
18-Nov-16		12,153.18	365,445.71	Per Diem Allowance - Mission IDWA - H.E Mrs Ameneah Gurib-Fakim	P5	101110066
18-Nov-16		12,153.27	353,292.44	Per Diem Allowance - Mission IDWA - Mr C Yeukonundu	P5	101110067
8-Dec-16	280,061.24		613,353.68	As per BOM bank statement an amount of USD 7,367.32 was received from PEI in relation to allowance for Board meeting. As per credit note submitted by the Office of the President this amount is a refund of funds on behalf of PEI for mission London and Italy from 11 to 18 Dec 16 for USD 7,367.32 (€ - Rs 35,299.31)	R3	325127026
23-Dec-16		174,049.17	439,304.51	Per Diem Allowance - Mission London & Italy - H.E Mrs Ameneah Gurib-Fakim	P6	101120085
23-Dec-16		48,906.66	390,397.85	Per Diem Allowance - Mission London & Italy - Mr V Doonoon	P6	101120089
23-Dec-16		48,906.66	341,490.89	Per Diem Allowance - Mission London & Italy - Mr M N Khosbaini	P6	101120090
31-Jan-17		340,257.75	1,233.14	Payment effected by Ministry of Foreign Affairs - VIP Services (University of Uppsala Sweden)	P6	265070072
1-Mar-17	181,698.64		1,82,931.78	As per SBM credit advice, this amount has been received from PEI which relates to allowance - Ghana Davos. As per credit note submitted by the Office of the President this is a refund of funds on behalf of PEI for mission Ghana and Switzerland from 12 to 20 Jan 2017	R4	32503034
17-Mar-17	55,096.83		238,028.61	As per credit note submitted by the Office of the President this amount is a refund of funds on behalf of Mr K Jettoon for mission to Ghana and Switzerland from 12 to 20 Jan 2017	R5	32503467
20-Mar-17	55,096.83		293,125.44	As per credit note submitted by the Office of the President this amount is a refund of funds on behalf of Mr R Salabee for mission to Ghana and Switzerland from 12 to 20 Jan 2017	R6	32503493
27-Mar-17	55,096.83		238,028.61	Subsistence Allowance to Mr R Salabee for mission to Ghana and Switzerland	P7	101090116
27-Mar-17	55,096.83		182,931.78	Subsistence Allowance to Mr K Jettoon for mission to Ghana and Switzerland	P7	101090117
28-Jun-17		182,931.78		A payment of Rs 190,307.65 was effected to SBM representing subsistence allowance to H.E Mrs Ameneah Gurib-Fakim for mission to Accra, Ghana and Switzerland where Rs 182,931.78 was made from the PEI deposit account and Rs 7,375.87 made out of the budget which was refunded by H.E Mrs Ameneah Gurib-Fakim on 30/6/2017 as per receipt number 325070029	P8	101060166

Note: (1) All funds were received in the Accountant-General Payable order account with the SBM except for the one on 08 December 2016 which was received in the Accountant-General USD account with the BOM

**Briefing**

From: **Mauricio Fernandes** (Mauricio@planetearthinstitute.org.uk)  
 Sent: Wed 3/16/16 8:36 AM  
 To: Ameenah GuribFakim (aguribfakim@gmail.com)  
 Cc: Dass Appadu (appadudass@hotmail.com); James Knight  
 (james@planetearthinstitute.org.uk)

Dear Madame President,

As discussed, Your Excellency, an overview briefing regarding the Financial Services Commission is below. I shall bring copies and can discuss further.

Best wishes

Mauricio

Place in file  
 PASET.

Objectives for meeting Mr Kuriachen

### 1. ASA Investment Advisory License

A key part of our mid stage business strategy (and based on our international financial advisory track record) is to advise international high net worth investors of STI related projects in Mauritius. These investors can also invest in the two funds already licensed with the FSC - ASA Fund and PASET fund. To perform these activities we need a Financial Advisory License.

*Objective: To have the license before 5th April for next visit of Dr Alvaro.*

### 2. Amending of ASA Fund and PASET Fund Constitution

We need to amend both ASA Fund and PASET Fund Constitution previously submitted to the FSC from 'Open End' to 'Close End' investment funds. The only difference is that investors can not redeem their investment at any time. Due to both funds investing in Science Technology and start up companies, the investment needs to be on a longer term instead of a short term basis, as STI and start ups will require long term investment. This is a standard change. A leading lawyer in these matters has been hired to align all documents/prospectus in line with the legality of the FSC.

*Objective: To have approval from the FSC before 5TH April in order to start capturing investors ASAP*

### 3. Application for a Private Investment Bank

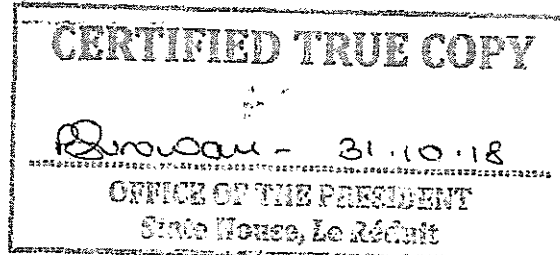
Yesterday we were informed by the BoM that a 'Private Investment Bank' would be more appropriated to our our business model, as we will not be capturing domestic deposits or working in the local market. We were also informed that the responsibility for such licenses will be transferred to the FSC in the next two months with a new law.

*Objective: to assure a smooth process acquiring the license in a relatively short period of time.*



ANNEX AC

CO65(J)



My Ref.: OP/CF/234

27 October, 2016

The Rt Hon Sir Anerood Jugnauth, G.C.S.K., K.C.M.G., Q.C  
 Prime Minister  
 Prime Minister's Office  
 Treasury Building  
 Port Louis

Rt Honourable Prime Minister,

**Investment in the Financial Services Sector**

I mentioned to you this morning about the Alvaro Sobrinho (ASA) Group that is positioning itself in our financial services landscape in view of supporting Government's vision and ambition to transform Mauritius into a major international financial hub for business, trade and investment.

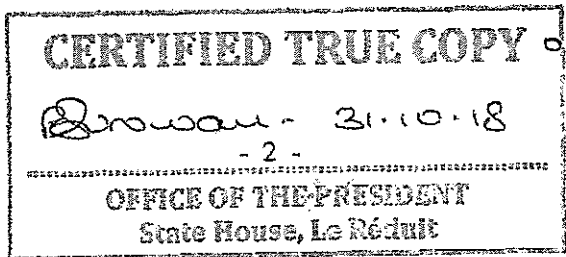
This is an initiative that was mooted by me when I was invited by the Planet Earth Institute (PEI), a London-based NGO, striving for the scientific independence of Africa, to make a key note address during their International Conference on science, technology and innovation in July last year. Indeed, the owner of ASA, Dr Alvaro Sobrinho, of African origin, and well known philanthropist is the main sponsor of PEI, of which I am now the Vice-Chairperson.

PEI is working closely with the Bill and Melinda Gates Foundation and the Wellcome Trust in the United Kingdom to build scientific research capacity in Africa through a PhD programme that seeks to offer 10,000 PhDs to African researchers including Mauritius over the next 10 years.

I am glad that Mauritius, through my Office, has benefitted from 10 PhD scholarships costing over US \$ 1million for our local students. The scheme was successfully launched in July this year and the winners of the scholarships have already been nominated.

ASA is now fully incorporated in Mauritius and has obtained five licences from the Financial Services Commission to operate funds and assets management companies. The company is currently headquartered at the Maeva Tower, in Ebene, a rented building.

ASA has up to now invested an amount of US \$ 6M (approximately Rs 210M) in financial services activities and is proposing to commit some US \$ 10M (Rs 350M) as from next year for the operation of an Investment Bank to provide trade and investment services in Africa.



OPICF/234

FC26)

The company is also proposing to acquire about 4,500 m<sup>2</sup> of land in the Ebene area at the cost of US \$ 1.3M (Rs 46M) for the purpose of constructing a new seven-storey building to accommodate its headquarters and various services, as well as an incubator for start-ups in science and technology, mainly to serve the project for the training of the 10,000 PhD's. The building is estimated to cost some US \$ 10M, approximately Rs 350M.

I am informed that ASA has, in August 2016, submitted an application to the Home Affairs Division of the Prime Minister's Office through the Board of Investment (BOI) to purchase the proposed plot of land in accordance with the Non-Citizens Property Restriction Act. The application has passed the stress test conducted by BOI and has been favourably recommended to the Home Affairs Division.

It is my understanding that the Financial Intelligence Unit (FIU) is now conducting a due diligence exercise on the company which is likely to protract the whole land acquisition purchase process, and by extension, the project for the construction of the company's headquarters. It is not known how long the FIU will take to complete its investigation.

It is worth pointing out the ASA Group of companies has already been previously investigated by the Financial Services Commission (FSC), the Barclays Bank International as well as the Board of Investment. The company has also enlisted the services of an internationally reputed Accounting Firm, Deloitte and Touche, for the preparation of its application documents and to ensure that it is fully compliant with the Mauritian financial investment and banking laws.

I must also add that ASA has submitted an application to the FSC for an investment banking licence since September which is still under consideration.

ASA is currently employing some 20 local people and is planning to recruit another 20 once the investment banking licence is obtained.

Rt Honourable Prime Minister, the purpose of this letter is to kindly request you to look into both cases, that is, the land acquisition and the investment banking licence, and ensure with the institutions concerned that they are attended to promptly.

This is very much in line with the vision you announced in your Vision 2030 that there would be no impediment to investment and jobs creation and permits and licenses would be delivered with utmost priority.

Please accept, Rt Honourable Prime Minister, the assurances of my highest consideration.

Mrs Ameenah Gurib-Fakim, G.C.S.K., C.S.K., PhD., DSc  
President of the Republic



File : OP/CF/234  
Ref

F (27)

CO 65 (K) 24

*The President of the Republic of Mauritius*

**ANNEX AD**

My Ref. : OP/CF/234 ✓

31 October, 2016

**The Rt Hon Sir Anerood Jugnauth, G.C.S.K., K.C.M.G., Q.C**  
**Prime Minister**  
**Prime Minister's Office**  
**Treasury Building**  
**Port Louis**

**Rt. Honourable Prime Minister,**

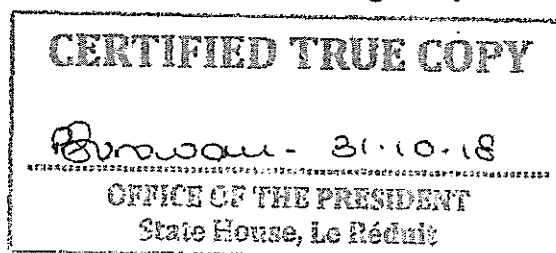
I am enclosing copy of a letter of even date from the Secretary to the Cabinet and Head of the Civil Service, wherein my attention has been drawn that Mr. D. K. Appadu, Secretary to the President, is being transferred from my Office with effect from 03 November 2016.

You will recall I mentioned to you during our conversation last Thursday that Mr Appadu was being the subject of unnecessary harassment from officials attached to the Prime Minister's Office and without any valid reasons.

As a matter of decorum, I should stress that I have not been consulted by whomsoever, and my concurrence not obtained prior to taking such an initiative as the movement of my Head of Staff, which I consider to be most cavalierly. I have known Mr Appadu for the last 30 years. He has always struck me by his seriousness of purpose and commitment for hard work and discipline.

During our conversation, I pointed out to you and in no uncertain terms that I have no complaints whatsoever against Mr Appadu in as much as his professional competence, experience and work and conduct, as well as integrity is concerned.

Indeed, for the last 16 months that he has been assigned to my Office, I have been fully satisfied with the quality of his work, demeanour and attitude, and his advice, always giving the best of himself in the discharge of his responsibilities and duties diligently and faithfully. He has no hesitation to work for long hours, and during the weekends including public holidays on a regular basis, to ensure the smooth running of my Office.




Currently, he is involved in many projects at the State House for which his presence is highly desirable and essential. These involve the renovation of the Chateau and Administrative Block II, the upgrading of the grounds at the State House, the PhD Programme launched in collaboration with the Planet Earth Institute (PEI) which is going to benefit some 10 Mauritian students.

The above project is my personal initiative and PEI has already committed a sum of US \$ 1 million for the 10 Mauritian students who are about to be placed in Universities in South Africa. Furthermore, he is engaged in another project which seeks to build the capacity of over 10,000 PhD students in Africa over the next 10 years, the cost of which is being funded by PEI and other philanthropists. **Mr Appadu is also in the process of writing my speeches, five in all, for the weekend and for my mission to India and Hungary for the Water Summit of which Mauritius is the co-chair together with the President of Mexico.**

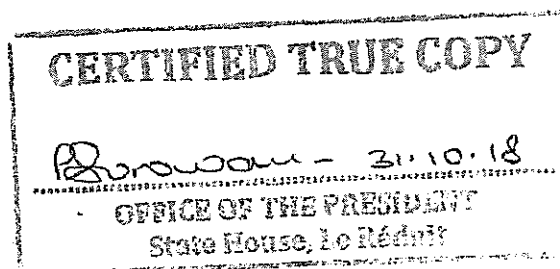
In the light of the above, I am afraid Rt Hon. Prime Minister, that I cannot entertain any change of posting of my Secretary at this stage. I find such an impulsive move totally unacceptable, and therefore a deliberate attempt to undermine the status of my Office and my integrity as Head of State.

In the circumstance, I request that the proposed transfer of Mr Appadu be quashed immediately through your intervention, and he be allowed to continue to remain at my Office until the end of my mandate.

Please accept, Rt. Honourable Prime Minister, the assurances of my highest consideration.



Mrs Ameenah Gurib-Fakim, G.C.S.K., C.S.K., PhD., DSc  
President of the Republic



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## ANNEX AE

*My Ref.:* OP/CF/247

28 January, 2016

**Excellency and Dear Brother,**

You would recall the letter I sent you in December last year regarding the Partnership for Applied Sciences, Engineering and Technology (PASET) Programme that seeks to support the scientific and economic development of our Continent.

I am enclosing a brief note highlighting the priority research areas that underpin the Programme as well as the names of the Tertiary Institutions where the Programme may be successfully hosted.

Excellency and Dear Brother, I am also pleased to announce that an Escrow Account has already been opened at Barclays International in Mauritius by the Planet Earth Institute and it is imperative now that the funds obligated are disbursed urgently for the launch of the pilot scheme this year.

I would be glad if you would personally ensure that the necessary payments are made into the Escrow Account as a matter of priority.

The Africa Business Champions Group which has also mobilised an amount of USD 1million for the Programme is awaiting the disbursement of funds by the participating States in order to release its own contribution.

I am sure I can rely on your continued support and commitment for the timely implementation of the PASET Programme.

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Please accept, Excellency and Dear Brother, the assurances of my highest consideration.

Yours sincerely

**Mrs Ameenah Gurib-Fakim,  
G.C.S.K., C.S.K., PhD, DSc  
Vice-Chairperson, PEI Mauritius  
President of the Republic of Mauritius**

Addresses -

H.E. Paul Kagame  
President of the Republic of Rwanda  
Urugwiro Kigali  
Republic of Rwanda

H.E. Hailemariam Desalegn  
Prime Minister of the Federal Democratic Republic of Ethiopia  
Menelik Palace  
Addis Ababa  
Federal Democratic Republic of Ethiopia

H.E. Macky Sall  
President of the Republic of Senegal  
Republic of Senegal

**Re: Invitation: PASET Steering Committee Meeting >>  
February 9, 2016 >> DC (8:00am); Mauritius (5:00pm);  
Rwanda (3:00pm); Senegal (1:00pm); Ethiopia (4:00pm)**

**From:** Mauricio Fernandes (Mauricio@planetearthinstitute.org.uk)  
**Sent:** Thu 2/04/16 9:53 AM  
**To:** Aminata Sall Diallo (asdiallo50@gmail.com)  
**Cc:** Office of the President (president@govmu.org); Ameenah GuribFakim (aguribfakim@gmail.com); Lord Paul Boateng (paul.boateng1@btinternet.com); C Edwards (c.edwards@newcastle.ac.uk); Alison Marie Mills (amills1@worldbank.org); sshigutie@yahoo.com (sshigutie@yahoo.com); Mary Teuw Niane (mntiane@gmail.com); mikhughesuk@gmail.com (mikhughesuk@gmail.com); samuel.kifle@ju.edu.et (samuel.kifle@ju.edu.et); jerome@wda.gov.rw (jerome@wda.gov.rw); Papius Musafiri (pmusafiri@gov.rw); g\_t\_mobhai@yahoo.co.uk (g\_t\_mobhai@yahoo.co.uk); James Knight (james@planetearthinstitute.org.uk); Sajitha Bashir (sbashir@worldbank.org); Peter Nicolas Materu (pmateru@worldbank.org); Nobuyuki Tanaka (ntanaka1@worldbank.org); Ekua Nuama Bentil (ebentil@worldbank.org); Celia A Dos Santos Faias (cdossantosfaias@worldbank.org); Dimitrie Mukanyiligira (dmukanyiligira@worldbank.org); Biftu Wordofa (bwordofa@worldbank.org); Girma Woldetsadik (gwoldetsadik@worldbank.org); Thanh Thi Mai (mthanh1@worldbank.org); Hiroshi Saeki (hsaeki@worldbank.org); Nogaye Niang (nniang@worldbank.org); Khady Fall Lo (klo@worldbank.org); Mouhamadou Moustapha Lo (mlo@worldbank.org); Dass Appadu (appadudass@hotmail.com)

Dear Aminata,

I feel I must respond wholeheartedly. It is beyond belief that this type of miscommunication and misleading way of doing things continues, and as such threatens the project that we have all worked so hard to bring into being.

Let me start with the funding of the pilot PhD programme and the hosting of the \$7m currently raised. Firstly, we have *always* agreed, since inception of the project, that the funds raised from Governments and the Business Champions must be held in the same account at the same organisation. If this is truly a joint programme between public and private sector, as we have all tried to make it (and claimed as much on various stages around the world) that is the only logical conclusion. Secondly, I have just seen Her Excellency Madame President following her personal bi-laterals with the Heads of States in Addis. Her Excellency's brief was clear – that there was much favourable discussion with HOS regarding hosting the funds in the PEI Escrow Account in Mauritius (at Barclays). At no point during these discussions, as I understand, was AAU mentioned in any regard. Someone has the wrong information here; either you or me. We can't continue to muddle on without knowing what on earth is going on.

The mention of the AAU – a completely alien organisation to the PASET programme before December last year – is entirely irrelevant and only adds further to this confusion. No formal decision of any type as far as I'm aware has been made to deposit the pilot funds with them. The AAU have no formal association with PASET whatsoever, as is shown by the Heads of State declaration signed last year and attached again for reference (where the PEI is mentioned as a partner). I find it staggering that a) the AAU have been brought to the table again and b) it is now being claimed that official sanction has been granted from Governments to deposit funds there in lightening quick speed. As members of the S/C, neither myself or Dr Sobrinho have ever voted on this issue and I find this underhand way of promoting the AAU extremely disrespectful to the PEI and also undermining the S/C process. In

any regard, what has been the vision, strategy and impact of the AAU in the last five years or so, that has made them such a prominent and desirable partner?

It seems we are just hurrying once again to make grand declarations next month in Dakar. It is understandable that the build up to the event is raising pressure to deliver, yet for the long term benefit of the project can we all pause for thought and be honest, please. In reality nothing is clearer now that it was some months back. Dr Sobrinho spent hours of his time in Johannesburg last summer and then again at the S/C the following month making the case regarding the business champions very clear. To properly and effectively raise money from the business community we need two things 1) clarity, about PASET's plans and 2) demonstrative action, to prove that we will deliver and they can trust the programme. Since the summer last year it is difficult to show meaningful examples in either area. In June and July last year we all agreed actions had to be taken urgently to address the hosting of the funds raised at the launch. Since then, Dr Sobrinho has sanctioned the cost to open two accounts in Mauritius, first a Fund and bank account in the name 'PASET Fund' and secondly a PEI Escrow account, held at Barclays. Yet we are still playing around with alternative and last minute options and wasting time. It seems that inherent in this process somewhere is a bias to try and involve the AAU in some way, which is neither transparent or in my view reasonable. I might suggest that we look again at the structure of the Executive Committee to ensure impartiality. I would like to suggest a non-Governmental chair of the Executive Committee (as the delivery arm). I would be happy to discuss with Rt Hon Lord Boateng, for example. He is highly respected at HOS level, and given his long and extremely distinguished career in public life, including chairing many successful delivery programmes in Africa.

I write all this as a proud member of the PASET project, from the very beginning over two years ago. But I also write as the CEO of PEI and on behalf of Dr Sobrinho as our Chairman. PEI is an NGO and charity working for scientific development in Africa, beyond PASET alone. As we look to fundraise for our other projects, how can we justify yet another expensive trip to Senegal when things are so desperately unclear. Dr Sobrinho has now visited Rwanda, Senegal, South Africa and Korea for PASET. We have put on large scale events in the UK and US to again heighten its profile. Our Vice-Chair, Madame President, delivered huge value to PASET by hosting bi-laterals with HOS to try and get some clarity and decisions during the AU meeting. No one can say that PEI has not pulled its weight and I don't write these criticisms lightly. It is because of all the commitments that we have made that we so desperately want it to succeed.

In financial terms too, Dr Sobrinho has raised \$1million dollars despite the circumstances I have outlined above. But how can we now justify another visit to Senegal? To meet who? To agree what? Dr Sobrinho participated heavily in Davos this year, where of course he saw in person many of the potential Business Champions we have already met with. It is deeply embarrassing still to have little more to ask them than their vague involvement and their money (even without knowing where we can host their funds!).

We knew PASET was an ambitious project from the outset and that it will require hard work to try and really do things differently and in a way that will have lasting impact with the Scholarship Fund. I write with the best hope that we can resolve things soon. However, having spoken to our Chairman Dr Sobrinho and our Vice-Chairman Madame President, I pass on the message that the PEI reserve the right to negotiate with other parties outside of this group in order to deliver the much-needed PhD scholarship programme in Africa.

I would urge a thorough response to these points before the S/C next week. Otherwise, I regret to inform you that I have been asked to host an emergency PEI Board meeting regarding our future position with this programme and the Business Champions too.

Best wishes,

Mauricio

Mauricio Fernandes

Planet Earth Institute  
Tel : +230 5255 3209

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From: Aminata Sall Diallo



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ANNEX AG

31.10.18

MISSION ABROAD AS FROM JANUARY 2016 TO JUNE 2016 - H.E. MRS AMEENAH GURIB-FAKIM									
OFFICE OF THE PRESIDENT									
ANNEX D									
Sl	Mission	Country Visited	Period	Composition of Delegation	AIR TICKETS (R\$)	COST OF MISSION		TOTAL (R\$)	REMARKS
						SUBSISTENCE ALLOWANCE (USD)	SUBSISTENCE ALLOWANCE (R\$)		
	African Heads of State & Government - CEO Investment Summit	Ethiopia (MRU DUBAI ADDIS ABABA - DUBAI)	27 Jan to 31 Jan 2016	HE The President Secretary to the President Bodyguard 1 Bodyguard 2	260,000	8,000.00 3,250.00 2,500.00 2,500.00	650,000	910,000	All costs will be borne by Government of Mauritius. Cost of Tickets will comprise of 1- 1st Class, 1 - Business Class & 2 - Economy Class
	SUB-TOTAL				260,000	16,250.00	650,000	910,000	
	SNDT Women's University	India Mumbai	16 Feb to 19 Feb 2016	HE The President Secretary to the President Bodyguard 1 Bodyguard 2	425,000	4,800.00 1,710.00 1,260.00 1,260.00	361,200	786,200	All costs will be borne by Government of Mauritius. Cost of Tickets will comprise of 1- 1st Class, 1 - Business Class & 2 - Economy Class
	SUB-TOTAL				425,000	9,030.00	361,200	786,200	
3	UN 50th Anniversary	United States	21 Feb to 23 Feb 2016 (MRU- DUBAI-NEW YORK-DUBAI paid by GOVT)	HE The President Secretary to the President	510,000	9,600.00	780,000.00	1,290,000	Cost of Air Tickets & Allowances to be borne by the Government. Cost of Tickets will comprise of 1-1st Class, 1-Business class & 2- Economy Class
	Women Forum	Dubai/New York	23 Feb to 26 Feb 2016 (MRU- DUBAI- MRU paid by Women Forum)	Bodyguard 1 Bodyguard 2		3,000.00 3,000.00			
	SUB-TOTAL				510,000	19,500.00	780,000	1,290,000	
4	L'Oreal Foundation & Africa Breakfast Club Meeting	Paris & London	27 Mar 16 to 01 Apr 16	HE The President Secretary to the President Bodyguard 1 Bodyguard 2	Air Tickets & Accommodation Cost will be borne by Organiser	9,600.00 3,900.00 3,000.00 3,000.00	780,000	780,000	Only Allowances to be borne by Government of Mauritius

OFFICE OF THE PRESIDENT

MISSION ABROAD AS FROM JANUARY 2016 TO JUNE 2016- H.E. MRS AMEENAH GURIB-FAKIM

ANNEX D

Sn	Mission	Country Visited	Period	Composition of Delegation	COST OF MISSION			TOTAL (Rs)	REMARKS
5	State Visit Islamic Republic of Pakistan	Pakistan	17 Apr 16 to 25 Apr 16	HE The President Secretary to the President Bodyguard 1 Bodyguard 2	490,000	14,400.00 5,130.00 3,780.00 3,780.00	1,083,600	1,573,600	Air fares & Allowances to be borne by Government of Mauritius. Accommodation and Transportation will be provided by Govt of Pakistan
SUB-TOTAL					490,000	27,090.00	1,083,600	1,573,600	
GROSS TOTAL					1,685,000	91,370	3,654,800	5,339,800	

**CERTIFIED TRUE COPY**

Banoor - 31.10.18

OFFICE OF THE PRESIDENT  
SAAD HAYAT, IC Road

My Ref : OP/CF/250

19 February, 2016

Dear Sir,

Sponsorship for the Planet Earth Institute Foundation  
Supporting science, technology and innovation in Mauritius

As you are aware, I am currently the Vice-Chairperson of Planet Earth Institute (PEI), which is an international NGO and Charity working for Africa's scientific independence, as well as for increasing the scientific and technological expertise in Mauritius and across our Continent.

PEI is headquartered in London and is led by a distinguished Board of Council Members, including the prominent African investor, Dr Álvaro Sobrinho, former UK Cabinet Member The Rt Hon Lord Boateng, and internationally renowned scientists such as Sir Magdi Yacoub, Sir Christopher Edwards and Prof Paul Younger.

PEI Mauritius was successfully launched in November 2015.

As part of its objectives, PEI is now seeking local partners to deliver innovative scientific programmes in view of enhancing the state of scientific expertise and interest across Africa.

These initiatives include –


- (i) **STEP – the Science and Technology Enrolment Programme:** which seeks to increase enrolment in the sciences by delivering inspiring study days in Mauritian schools;
- (ii) **The Ameenah Gurib-Fakim – PEI Africa PhD programme:** which seeks to award PhD scholarships to African researchers, in collaboration with industry; and
- (iii) **Grand Challenge Mauritius:** which will seek to invite high-risk, high-reward research proposals to address key scientific challenges in areas such as water, energy and agro-business.

Beyond these specific projects, PEI will also work with partners to support existing and complementary efforts in the above fields.

The purpose of this letter is to invite you to partner with PEI Mauritius and contribute financially in our ongoing effort to promote the cause of science and development in Africa.

Please respond to this letter to Mr Mauricio Fernandes, Chief Executive of the Planet Earth Institute Foundation, on [mauricio@planetearthinstitute.org.uk](mailto:mauricio@planetearthinstitute.org.uk).

Warm personal regards.

  
Mrs Ameenah Gurib-Fakim, G.C.S.K., C.S.K., PhD, DSc  
President of the Republic

Addresses as per Annex

LIST OF SPONSOR FOR PEIFEBRUARY 2016

<b>SN</b>	<b>NAME</b>
1.	Mr Daniel Giraud Chief Executive Officer Médine Ltd 4 Claris Fields Black River Road Bambous
2.	Mr Jacques M. D'Unienville Chief Executive Officer Omnicanne 7 <sup>th</sup> Floor, Anglo Mauritius House Adolphe de Plevitz Street Port Louis
3.	Mr Salim Ismail Chairman and Chief Executive Officer Socota Phoenicia Group Sayed Hossen Street Phoenix
4.	Mr Michel de Speville Chairman Food and Allied Group Gentilly Moka
5.	Mr Donald Payen EVP - Customer Experience, Ground and Inflight Services 16 <sup>th</sup> Floor - Air Mauritius Centre Paille en Queue Building John Kennedy Street Port Louis
6.	Mr Ravin Dajee Chief Executive Officer Barclays Bank Ebène 68/68 CyberCity.
7.	Mr Alastair J. Bryce Chief Executive Officer The Hong kong and Shanghai Banking Corporation 18, CyberCity Ebène

8.	Mr Pierre Guy Noel Chief Executive Officer Mauritius Commercial Bank Sir William Newton Street Port Louis
9.	Prof. Eric Charoux Executive Director Charles Telfair Institute Telfair Moka
10.	Mr John Chung Chief Executive Officer KPMG 30, St Georges Street Port Louis
11.	Mr Yann Duchesne Chief Executive Officer IBL Ltd 5th Floor, Caudan Waterfront Port Louis
12.	Mr Jacques de Chasteigner Du Mée Country Executive Officer Deloitte Mauritius 19, Standard Chartered Tower Cybercity
13.	Mr Sridhar Nagarajan Chief Executive Officer Standard Chartered Bank Units 6A and 6B 6 <sup>th</sup> Floor, Raffles Tower Lot 19, Cybercity Ebène
14.	Mr Jairaj Sonoo, C.S.K., M.S.K. Chief Executive Officer State Bank of Mauritius Ltd SBM Tower 1, Queen Elizabeth II Avenue Port Louis
15.	Mr Arnaud Lagesse Chief Executive Officer Group Mon Loisir (GML) Management Ltd 4 <sup>th</sup> Floor, IBL House Caudan Port Louis

ANNEX I



ANNEX AI

*The President of the Republic of Mauritius*

My Ref.: OP/CF/241/1/22

24 December, 2015

246  
Mr Jean Paul Agon  
Chief Executive Officer  
L'Oreal  
Paris

Dear Mr Agon,

Women's Forum 2016 - Mauritius

It was indeed a great pleasure meeting you in Paris last month and to discuss with you the proposal for Mauritius to host the next Women's Forum in June 2016.

Women's Forum is a platform for highly influential women and men to reflect upon and share ideas and views on the crucial need to transform economies and societies across the world. The theme chosen for next year is "*Building the Future with Women's Vision*".

As intimated to you, this would be the first time ever that such a high level Forum would be held in a Small Island Developing State. The main issues on the agenda would be climate and health, agriculture, biodiversity and renewable energy which have immense implications for Island States that are more impacted by the phenomenon of climate change.

The Forum would also dedicate a major part of its programme to address issues relevant to women in general and the youth in particular, as well as how science, technology and innovation could be leveraged to create a culture of research and entrepreneurship in the region.

A Concept Note of the 2016 Forum is enclosed for your information.

In this regard and as agreed, we would be grateful if you would confirm your acceptance to sponsor the above initiative in Mauritius.

Please accept, Dear Mr Agon, the assurances of our highest consideration.

H.E. Mrs Ameenah Gurib-Fakim,  
G.C.S.K., C.S.K., PhD, DSc  
President of the Republic of Mauritius

Ms Jacqueline Franjou  
Chief Executive Officer  
Women's Forum

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M. Rajeev  
M. Rajeev

Enc.

ANNEX V (43)  
ANNEX AJ

**Office of the President  
State House – Le Réduit**

My Ref: OP/CF/246

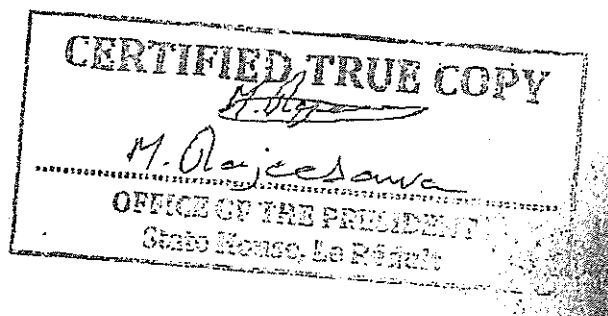
09 February 2016

Dear Sir,

**The Women's Forum Mauritius, 20 - 21 June 2016**

You would recall the dinner hosted by Her Excellency the President of the Republic at the State House on **Thursday 21 January 2016**, in the course of which a presentation was made jointly by Her Excellency and Mrs Jacqueline Franjou, Chief Executive Officer, Global Women's Forum, in the context of the Women's Forum to be organised in Mauritius on 20 and 21 June 2016, the first ever to be held in a Small Island Developing State.

2. As pointed out, the Women's Forum is a high level platform both for influential women and men to reflect upon and share ideas and views on the crucial need to transform economies and societies across the world. The theme chosen for the Mauritius event is: **"Building the Future with Women's Vision"**.
3. The Forum will bring together over 400 participants from across the globe and drawing from the corporate sector, industry, policymakers, academia etc. It will no doubt generate spinoffs for the productive sectors of our economy and will be an excellent opportunity to showcase good practices in the energy, health, IT and agriculture sectors for Mauritius and for the African Continent.
4. Our rich and unique natural fauna and flora of Mauritius and the measures being implemented by Government in matters of environmental protection and our biodiversity will also be showcased.
5. A Concept Paper is enclosed.



- 6. The purpose of this letter is to invite you to become a partner for this high level event and to solicit your contribution towards the costs thereof.
- 7. Your cheque drawn to the order of **Le Réduit Appeal Fund** should be addressed to the Office of the President by **end of March 2016**.
- 8. We thank you for your usual collaboration.
- 9. Please accept the assurances of our highest consideration.

Yours sincerely,




**(D. Appadu)**  
**Secretary to the President**

**Addressees as per Annex**

Enc./...

**CERTIFIED TRUE COPY**



OFFICE OF THE PRESIDENT  
State House, Ac 1514

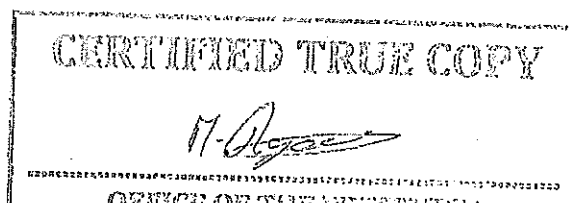


## ANNEX AK

759

## LIST OF GUESTS WHO ATTENDED THE DINNER 21 JANUARY 2016

SN	NAME	Tel
1.	Mr Donald Payen EVP – Customer Experience, Ground and Inflight Services 16 <sup>th</sup> Floor – Air Mauritius Centre Paille en Queue Building Port Louis	
2.	Mr Philip Ah Chuen Executive Director Allied Motors Company Ltd State House Avenue Réduit	401 2900
3.	Mr Emmanuel André Chief Executive Officer SOTRAVIC Ltée Industrial Zone La Tour Koenig Pointe aux Sables	405 7800
4.	Mr. Rahul Bhardwaj Managing Director Indian oil (Mauritius) Ltd. Mer Rouge Port Louis	217 2929 217 2900
5.	Mr Sanjiv Bhasin Chief Executive Officer Afrasia Bank Ltd 3 <sup>rd</sup> floor, NeXTeracom Tower III Ebene	403 5500 <a href="http://www.afrasiabank.com">www.afrasiabank.com</a>
6.	Mr Ravi Chaturvedi Vice-President Bank of Baroda Bank of Baroda Bldg, 4 <sup>th</sup> Floor, Sir William Newton Street Port Louis	212 5082 <a href="http://www.bankofbaroda.mu.com">www.bankofbaroda.mu.com</a>
7.	Mr Ravneet Chowdhury Chief Executive Officer Bank One 16, Sir William Newton Street Port Louis	202 9200 <a href="http://www.bankone.mu">www.bankone.mu</a>
8.	Mr. Bashir Currimjee Chairman Currimjee Jeewanjee & Co. Ltd. 38, Royal Road Port Louis	206 6200 Same group





# ANNEX AL

CO 54  
884/10.12

## Access to VIP Lounge granted to Mr. DE OLIVEIRA MADALENO SOBRINHO Alvaro on Arrival at the request of the Office of the President

Serial No.	Date of Request	Request signed by	Date of Arrival	Accompanied by	Meeters
1.	01 October 2015	Mr. D. Appadu	04 October 2015	Mr. Jose Pinto/Mr. Mauricio Fernandes/wife/daughter	No greeter
2.	10 November 2015	Mrs. M. Chooromoney	20 November 2015	Mrs. Ana Madaleno/Mr. Jose Pinto/Mrs. Marcia Pinto	Mr. M. Fernandes/Mrs. H.D. Dindoya/Mrs. M. Yauji
3.	11 January 2016	Mrs. M. Chooromoney	16 January 2016	Mr. Jose Pinto	No greeter
4.	19 February 2016	Mrs. M. Chooromoney	21 February 2016	Mr. Jose Pinto	Mr. M. Fernandes
5.	31 March 2016	Mrs. M. Chooromoney	03 April 2016	Mrs. Ana Madaleno/Ms. Joana Madaleno	Mr. James Knight/Mr. Jose Pinto
6.	28 April 2016	Mrs. M. Chooromoney	01 May 2016**	---	---
6a.	02 May 2016*	Mr. D. Appadu	02 May 2016	---	Mr. M. Fernandes
7.	13 June 2016	Mr. D. Appadu	16 June 2016	Mr. David Madaleno/Mrs Ana Madaleno/Ms. Joana Madaleno	Mr. M. Fernandes
8.	12 July 2016	Mr. D. Appadu	16 July 2016	---	Mr. M. Fernandes
9.	08 August 2016	Mr. D. Appadu	14 August 2016	Mr. Jose Pinto	Mr. James Knight
9a.	16 August 2016	Mrs. M. Chooromoney	17 August 2016	Mr. Jose Pinto	Mr. James Knight
10.	30 September 2016	Mr. D. Appadu	05 October 2016	---	Mr. M. Fernandes
11.	31 October 2016	Mr. D. Appadu	01 November 2016	Mr. Jose Pinto	Mr. M. Fernandes
12.	11 November 2016	Mrs. N. Bheerick	14 November 2016	---	No greeter
13.	17 November 2016	Mrs. N. Bheerick	21 November 2016	---	No greeter
14.	22 December 2016	Mrs. N. Bheerick	26 December 2016	Mrs. Ana Madaleno	No greeter
15.	10 February 2017	Mrs. B.F. Abdool Raman Ahmed	14 February 2017	Dr. Joao Rodrigues	Mr. M. Fernandes

Note: (a) Mr. SOBRINHO was granted access to VIP Lounge on Arrival on 15 occasions;

- (b) (i) A query was made by this Office on the request made on 28 April 2016 by the Office of the President as to whether Mr. SOBRINHO was 'Special Guest of the President (vide footnote), and
- (ii) In reply to this Office letter of 29 April 2016, the Office of the President replied, among others, that Dr. SOBRINHO was 'well known to HE the President'.

# ANNEX AM

PAGE 01 of 1

CO 55  
089  
04.10.18

Access to VIP Lounge granted to Mr. DE OLIVEIRA MADALENO SOBRINHO Alvaro on Departure at the request of the Office of the President

Serial No.	Date of Request	Request signed by	Date of Departure	Accompanied by	Meeters
1.	06 October 2015	Mrs. M. Yeung	07 October 2015	Mr. Jose Pinto	No greeter
2.	30 October 2015	Mrs. M. Chooromoney	31 October 2015	Mrs. Katrina Hildands	No greeter
3.	16 November 2015	Mrs. M. Yeung	25 November 2015	Mrs. Ana Madaleno/Mr. Jose Pinto/Mrs. Marcia Pinto	Mr. M. Fernandes/Mrs. Dindya/Mrs. Chooromoney
4.	11 January 2016	Mrs. M. Chooromoney	21 January 2016**	Mr. Jose Pinto	No greeter
4a.	20 January 2016	Mrs. P. Guirithany	20 January 2016	Mr. Jose Pinto	No greeter
5.	19 February 2016	Mrs. M. Chooromoney	26 February 2016	Mr. Jose Pinto	Mr. M. Fernandes
6.	07 April 2016	Mrs. M. Chooromoney	10 April 2016	Mrs. Ana Madaleno/Mrs. Joana Madaleno	No greeter
7.	09 May 2016	Mr. D. Appadu	10 May 2016	---	Mr. M. Fernandes
8.	23 June 2016	Mr. D. Appadu	23 June 2016	Mrs. Ana Madaleno	No greeter
9.	25 July 2016	Mr. D. Appadu	26 July 2016	Mrs. Ana Madaleno	Mr. M. Fernandes
10.	27 August 2016	Mr. D. Appadu	29 August 2016	Mrs. Ana Madaleno	No greeter
11.	09 October 2016	Mr. D. Appadu	10 October 2016	---	Mr. M. Fernandes
12.	01 November 2016	Mr. D. Appadu	05 November 2016**	Mrs. Ana Madaleno	No greeter
12a.	03 November 2016	Mrs. T. Codadeen	06 November 2016	Mrs. Ana Madaleno	No greeter
13.	17 November 2016	Mrs. N. Bhaenick	18 November 2016	---	No greeter
14.	24 November 2016	Mrs. N. Bhaenick	26 November 2016	---	No greeter
15.	11 January 2017	Mrs. N. Bhaenick	12 January 2016	---	No greeter
16.	21 February 2017	Mrs. B.F. Abdoal Raiman Ahmed	23 February 2017	Dr. Joao Rodrigues	No greeter

\*\*\*Travel date amended

Note: (a) Mr. SOBRINHO was granted access to VIP Lounge on Departure on 16 occasions.

# ANNEX AN

CO 56  
04.10.15

## Requests for Access to VIP Lounges received from the Office of the President Iro Members of Planet Earth Institute (not travelling with Mr. A. SOBRINHO)

### A. From 01 June 2015 to 31 December 2015

SN	Date of Request	Request signed by	Name of Passenger	Lounge used	Travel Dates	Meeters/ Greeters
1.	10.11.15	Mrs M. Yeung	1. Mrs. Sarah Hambly 2. Rt. Hon. Lord Paul Boateng 3. Sir Christopher Edwards 4. Sir Magdi Yacoub (Board of Trustees, Planet Earth Institute) (Personal guests of H.E Gurib - Fakim)	VIP	Arr: 21.11.15  Dep: 24.11.15	Mr. M. Fernandes  Mrs. Devi Bedacee-Dindoyal  Mrs. M. Chooromoney
2.	26.11.15	Mrs M. Chooromoney	1. Mr. Mauricio Fernandes, CEO of PEI accompanied by: 2. His spouse Mrs. Kelly Taylor 3. Daughter Miss Anna Fernandes	VIP	Dep: 29.11.15	No greeter
3.	07.12.15	Mrs. M. Chooromoney	1. Mr. Mauricio Fernandes, CEO, PEI	VIP	Arr: 14.12.15	No greeter

### B. From 01 January 2016 to 31 December 2016

SN	Date of Request	Request signed by	Name of Passenger	Travel Dates	Lounge used	Meeters/ Greeters
4.	20.01.16	Mrs. P. Guirdharry	1. Mr. Rodrigues Martins 2. Mr. Pals Agostinho Homem (Special Guests of HE Mrs. Gurib Fakim)	Arr: 24.01.16 Dep: 28.01.16	VIP	No greeter
5.	19.02.16	Mrs. M. Chooromoney	1. Mr. Mauricio Fernandes - Special Guest of HE Mrs. Gurib Fakim	Dep: 24.02.16 Arr: 26.02.16 Dep: 29.02.16 Arr: 06.03.16	VIP	No greeter
6.	19.02.16	Mrs. M. Chooromoney	1. Mrs. Kelly Fernandes 2. Ms Anna Fernandes (Special Guest of HE Mrs. Gurib Fakim)	Dep: 27.02.16 Arr: 28.03.16	VIP	Mr. Mauricio Fernandes

SN	Date of Request	Request signed by	Name of Passenger	Travel Dates	Lounge used	Meeter Greeters
7.	16.03.16	Mrs. M. Chooroomoney	1. Mr. Mauricio Fernandés, Special Guest of HE Mrs. Gurib Fakim	Dep: 25.03.16 Arr: 05.03.16	VIP	Mr. James Knight
8.	25.03.16	Mrs. M. Chooroomoney	1. Mrs. Kelly Fernandes accompanied by: 2. Ms. Anna Fernandes (Special Guests of HE Mrs. Gurib Fakim)	Arr: 09.04.16	VIP	Mr. Mauricio Fernandes
9.	25.03.16	Mrs. M. Chooroomoney	1. Mr. Jose Pinto accompanied by: 2. Ms. Marcia Pinto, 3. Mr. Mathis Pinto; and 4. Mr. Illan Pinto. (Special Guests of HE Mrs. Gurib Fakim)	Dep: 08.04.16	VIP	No greeter
10.	06.05.16	Mr. D. Appadu	1. Mrs. Ana Madaleno (Special Guest of HE Mrs. Gurib Fakim and spouse of Mr. A. Sobrinho)	Dep: 07.05.16	VIP	Mr. Mauricio Fernandes
11.	09.05.16	Mr. D. Appadu	1. Mr. Mauricio Fernandes, Personal Guest of HE Mrs. Gurib Fakim.	Dep:12.05.16 Arr:15.05.16	VIP	No greeter
12.	11.06.16	Mr. D. Appadu	1. Ms. Kelly Fernandes, Personal Guest of HE Mrs. Gurib Fakim)	Dep: 12.06.16 Arr: 20.06.16	VIP	Mr. Mauricio Fernandes
13.	21.06.16	Mrs. S. Bumma	1. Ms. Joana Madaleno 2. Mr. Sergio Figueiredo 3. Ms. Maria Repesas (Guests of HE Mrs. Gurib Fakim)	Dep: 22.06.16	VIP	No greeter
14.	07.07.16	Mr. D. Appadu	1. Sir Christopher Edwards and 2. Sir Magdi Yacoub, (Special Guests of HE Mrs. Gurib Fakim)	Arr: 19.07.16 Dep:22.07.16	VIP	Mr. James Knight Mr. Mauricio Fernandes
15.	12.07.16	Mr. D. Appadu	1. Ms. Joana Madaleno, guest of HE Mrs. A. Gurib Fakim	Arr: 13.07.16	VIP	No greeter
16.	12.07.16	Mr. D. Appadu	1. Ms. Ana Madaleno, Guest fo HE Mrs. Gurib Fakim	Arr:17.07.16	VIP	No greeter
17.	14.07.16	Mr. D. Appadu	1. Ms. Joana Madaleno, Guest of HE Mrs. Gurib Fakim	Dep:15.07.16	VIP	Mr. Mauricio Fernandes
18.	21.07.16	Mr. D. Appadu	1. Rt Hon. Lord Paul Boateng, guest of HE Mrs. Gurib Fakim	Dep: 22.07.16	VIP	Mr. Mauricio Fernandes

SN	Date of Request	Request signed by	Name of Passenger	Travel Dates	Lounge used	Meeters/ Greeters
19.	02.08.16	Mr. D. Appadu	1. Mr. Mauricio Fernandes, guest of HE Mrs. Gurib Fakim	Dep: 15.08.16 Arr: 18.08.16	VIP	No greeter
20.	08.08.16	Mr. D, Appadu	1. Ms. Ana Madaleno, spouse of Dr. A. Sobrinho, personal guest of HE Mrs. Gurib Fakim.	Arr: 11.08.16	VIP	Mr. James Knight Mr. Mauricio Fernandes
21.	22.08.16	Mrs. T .Codadeen	1. Mrs. Amna Munawwar Awan accompanied by: 2. her spouse Mr. Salim Hanif, guests of HE Mrs. Gurib Fakim.	Arr: 25.08.16 Dep: 28.08.16	VIP	Mr. Mauricio Fernandes Mr. D. Appadu
22.	01.09.16	Mr. D. Appadu	1. Mr. Mauricio Fernandes 2. Mrs. Kelly Fernandes 3. Children Anna and Clara Fernandes (Guests of HE Mrs. Gurib Fakim.)	Dep: 10.09.16 Arr: 25.09.16	VIP	No greeter
23.	01.09.16	Mr. D. Appadu	1. Mr. Mauricio Fernandes, guest of HE Mrs. Gurib Fakim.	Dep: 07.09.16 Arr: 08.09.16	VIP	No greeter
24.	01.12.16	Mrs. N. Bheenick	1. Mr. Mauricio Fernandes, special guest of HE Mrs. Gurib Fakim	Dep: 05.12.16	VIP	No greeter
25.	01.12.16	Mrs. N. Bheenick	1. Mrs. Kelly Fernandes accompanied by: 2. children Anna and Clara Fernandes, guests of HE Mrs. Gurib Fakim.	Dep: 03.12.16	VIP	Mr. Mauricio Fernandes

**C. From 01 January 2017 to 31 December 2017**

SN	Date of Request	Request signed by	Name of Passenger	Travel dates	Lounge Used	Meeters/ Greeters
26.	02.02.17	Mrs. B.F. Abdool Raman Ahmed	1. Lord Paul Boateng, Member of the House of Lords accompanied by: 2. Sir Christopher Edwards	Arr:03.02.17 Dep:05.02.17	VIP	Mr. James Knight Mr. Mauricio Fernandes
27.	13.02.17	Mrs. B.F. Abdool Raman Ahmed	1. Mrs. Ana Madaleno, spouse of Dr. Alvaro Sobrinho	Arr:14.02.17	VIP	Mr. James knight

C054 No 1  
**ANNEX AO** (1)

(6)

**REPUBLIC OF MAURITIUS**

M.C. Form 2 (L)

2066

**URGENT**

My Ref. OP/G/42 Vol. 4

Your Ref.

Date: 01 October 2015

*From* : Secretary to the President

*To* : Secretary for Home Affairs, Prime Minister's Office  
(*Attn*: Mr Nowbuth)

**SUBJECT: VIP Lounge and Car Park Facilities**

Dr Alvaro Sobrinho, Chairman of Planet Earth Institute, a London-based NGO that strives for the promotion and advancement of science, technology and innovation in Africa, will arrive in Mauritius on Sunday 04 October at 11.55 hrs by MK 057.

2. Dr Sobrinho is now in the process of setting up an offshore bank in Mauritius for which he has already applied for a licence to the authorities concerned.

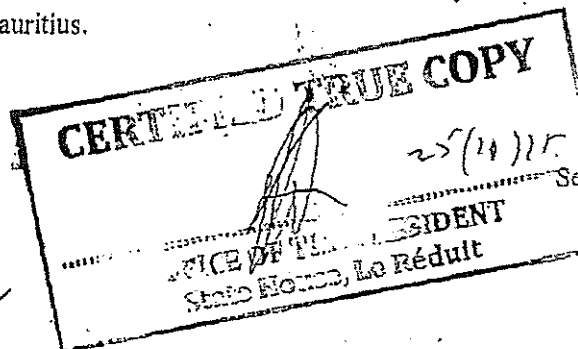
3. Dr Sobrinho will be accompanied by Mr José Pinto, one of his closest aides.

4. The CEO of the future bank, namely, Mr Mauricio Fernandes, is also arriving on the same day, that is, Sunday 04 October, by flight BA 2063 at 11.55 hrs. He will be accompanied by his wife and young daughter.

5. Both Dr Sobrinho and Mr Fernandes are personally known to Her Excellency the President.

6. In this regard, it would be appreciated if access to the VIP lounge and car park facilities could be granted to them all upon arrival at the Sir Seewoosagur Ramgoolam International Airport.

7. It should be noted that Mr Fernandes and family will be carrying their personal belongings to Mauritius.



D  
D. Appadu  
Secretary to the President



CO 68(a)

# Arrival Sunday 4th October

From: **Mauricio Fernandes** (mauricio@planetearthinstitute.org.uk)  
 Sent: Thu 10/01/15 9:33 AM  
 To: appadudass (appadudass@hotmail.com); appadu.dass@gmail.com  
 (appadu.dass@gmail.com)

Hi Dass

Hope all is well, I know you have been away this week. I'm writing to ask some assistance with our arrival on Sunday. As you know, I will be arriving with my wife and baby daughter, with all of our luggage as we move down to Mauritius. We are arriving on the BA2063 which lands at 11.55am. It would be great to have someone at the door to greet us and to assist in the immigration process, as we will be entering on business visa, and also with our many suitcases and such. I have a car outside of the airport waiting but would greatly appreciate support inside.

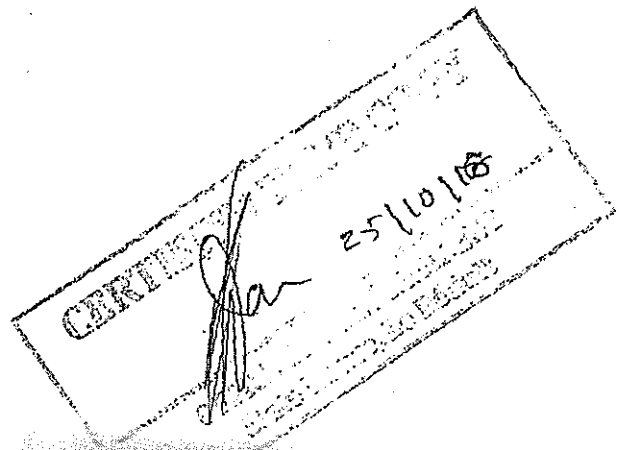
Dr Alvaro will be arriving with a colleague of ours, Jose Pinto, on the Air Mauritius flight MK57 which lands at the same time, 11.55am. It would be great to have the same treatment and for him to be greeted, as he lands, and to have some support through immigration. Dr Alvaro and Jose will also be entering on a business visa, which we will have to obtain at the airport counter.

Could you let me know the arrangements you can make?

Looking forward to seeing you at lunch next Tuesday with Her Excellency.

Best wishes

Mauricio



6/19

Handwritten initials and date: 01/06/14

*Speech by*

*Her Excellency Mrs. Ameenah Gurib-Fakim,*

*G.C.S.K., C.S.K., PhD,*

*President of the Republic of Mauritius*

*on the occasion of the launch of the*

*Planet Earth Institute Mauritius*

~~*Private VIP Presentation*~~

*Planet Earth Institute in Mauritius:*

*Opportunities for Partnership*

~~*Monday 23 November 2015*~~

*11.15am – 12.15pm*

*State House, Le Réduit*

*Honourable Minister(s)*  
*Distinguished Trustees of Planet Earth Institute*  
*Ladies and Gentlemen*

Good morning!

A very warm welcome to you all!

Let me start by thanking the Rt Hon Lord Paul Boateng for his kind introduction, and also ~~my fellow Council members~~, Dr Sobrinho, Mauricio Fernandes, Sir Christopher Edwards and Sir Magdi Yacoub for their presence on this auspicious occasion.

It is indeed a great pleasure to host you all at the State House to-day. ]

[ As you may be aware by now, ~~we will officially launch the Planet Earth Institute in Mauritius this afternoon~~ to a host of local academics, businesses, students and other partners involved in the field of science, technology and innovation.

I am sure that by the end of the day, words will be out about the objectives of Planet Earth Institute, and more importantly, about its vision and mission for Africa's scientific independence.

[ I also hope that we will have found many more local partners, too, that can work together with us in the attainment of our objectives. ]

Mauritius is at a major crossroads.

We have become a well-established middle income nation with much to be proud of.

Government is now ambitiously seeking to move the Country to a high income status and to the next level of its development.

That ambition can only be realized through the development of our single most value resource - human capital.

When we look at our youth in this country, we must see them as tomorrow's scientists, innovators and entrepreneurs and support them in achieving this noble ideal.

In fact, they are the beautiful minds of our country, any country, for that matter.

It is our duty to nurture and develop that vast human potential for the benefit of society at large.

We have to ignite their minds so that they become creative and inquisitive.

And that can be done only through science, technology and innovation.

To do so, and as Dr Sobrinho and Mauricio touched on, we must prioritise and support our higher education systems and - critically - seek to make them not just relevant but integral to our economic priorities.

We need a system of higher education that remains focused on and is oriented towards employability and the creation of employment opportunities.

As late Dr Abdul Kalam, the former President of India once said :

(Quote)

*"The education system has a tremendous responsibility to transform a child into a leader - the transformation from "What can you do for me?" to "What can I do for you?" (Unquote)*

The workforce we require to achieve our higher income status is ready and waiting, if only we invest in equipping them with the world-class knowledge and skills they require.

~~We have heard from Dr Sobrinho and Mauricio the Planet Earth Institute's aims and ambitions for Africa and its plans for Mauritius and we will return to discuss the broader issues of Africa's future policy directions this afternoon.~~

However, the priority for this morning is practical potentials for partnership with the Planet Earth Institute in Mauritius and to explore and develop ideas to build on our collaboration.

~~I would urge you all to view PEI in Mauritius as our privileged partner.~~

As you can see, ~~the Planet Earth Institute is led by an inspiring African businessman and entrepreneur in Dr Sobrinho,~~ alongside scientists and academics at the very height of their field and figures with political experience and expertise able to guide and influence.

As Lord Boateng mentioned at the start, we have very limited time for this session and I would like it to become an open conversation instead of just a presentation.

I am therefore looking forward to your questions and comments and I hope to work with you all closely in the years to come.

Thank you again for joining us this morning.

ANNEX A  
Pa  
01/06/18

## Launch of the Planet Earth Institute in Mauritius

Posted on December 1, 2015 by Alvaro Sobrinho —

I was absolutely delighted to welcome over 160 people from business, academia, higher education, and the broader civil society to our public launch in Mauritius. Below is my speech from the day.

~~My dear Minister (s) / Honorable guests,~~ It is a pleasure to be here. I thank those of you, such as the African Academy of Sciences and UNESCO, who have travelled to be with us today. The launch of the Planet Earth Institute in Mauritius is, I hope, another positive step for Africa's scientific agenda.

I will just say a few words before handing over to our CEO, Mauricio Fernandes, who will lead the operations in Mauritius as he has done so successfully in the UK for the last five years, before we hear from Her Excellency Madame President.

As you may know, the Planet Earth Institute is an international NGO committed to the vision of Africa's scientific independence.

Scientific independence does not mean working alone. But it means Africa being scientifically strong enough to set its own agenda, and to develop its own solutions to the challenges we face.

Africa's political independence has come. Our economic independence is coming. But scientifically, Africa produces just 1% of all global research, and is struggling to keep up with other regions in the Global South.

The statistics are stark. Fewer scientists than anywhere in the world and even those we have often seek employment elsewhere. We want to play our part in changing this – and fast. For its sustainable growth, Africa must become a place where our young people are supported to become world-leading scientists, innovators, entrepreneurs.

We must offer great education. We must surround them with the environment they need. And we must inspire them.

I was in South Korea just last month and anyone who has been there knows that the rest of the world is not waiting for Africa. In my view, this century can become Africa's century. But we must act now and be ambitious with our plans.

Investing in higher education. Investing in PhD research. Investing in apprenticeships. Investing in schools and science education. Investing in laboratories and facilities. The tide is changing but we must move fast. The PEI may still be a young charity but I believe, with the Board you see in front of you today, that we can be influential and we can work with you all to support African science.

Finally, I must say one thing.

I began when I was younger as a mathematician. Numbers came naturally to me and I was lucky to have a great education. But now I am a businessman, and I have spent decades working across sectors from the top to the bottom of the continent.

And sadly, even in my businesses, we have often operated in completely apart from universities and scientific agendas. When businesses need skills, they need them today and they hire them – wherever they are and however much they cost.

But business as usual in Africa cannot continue. Our businesses need to be better linked to the development of our greatest asset – our young people. That is really where I want the PEI to add its voice. To build links and support partnerships between business and scientific education, in schools and in universities.

We all want to inspire a new generation of African scientists. But better still, let's make them relevant and critical to our local economies too. Their research focused on our challenges. Their innovations solving our problems.

Then we can be scientifically independent. In my opinion, this is the only way we can become high income countries and a knowledge producing continent.

I will leave you with this thought before I hand over to my fellow Trustees.

The PEI is here to work with you all. Scientists, businesses, students, civil society. But let's move fast, because Africa can not wait.

Thank you.

This entry was posted in Blog, Business, News, Science by Alvaro Sobrinho. Bookmark the permalink (<https://alvaro-sobrinho.com/2015/12/01/launch-of-the-planet-earth-institute-in-mauritius/>).

6/1/2018 9:17 AM



ANNEX AR

46  
6c

Office of the President

M.G. Form 2 (L)

REPUBLIC OF MAURITIUS

MY REF.: OP/G/42

**MOST IMMEDIATE**

YOUR REF.: 1079/20/4

29 April, 2016

From : Secretary to the President

To : Secretary for Home Affairs

Subject: Request for VIP Facilities

Please refer to your memorandum of even date and to the meeting we had in your Office this morning.

2. As explained, Dr Alvaro Sobrinho, is the Chairperson of Planet Earth Institute (PEI) of which Her Excellency the President is the Vice-Chairperson. PEI is an international London-based NGO and Charity that strives to support and strengthen Higher Education Institutions engaged in scientific advancement and in fostering a science-led development agenda for the Continent.

3. PEI is a highly reputable organisation that is governed by a Board of Trustees comprising -

- (i) Dr Alvaro Sobrinho;
- (ii) Her Excellency the President;
- (iii) The Rt Hon Lord Paul Boateng, a member of the House of Lords in the United Kingdom;
- (iv) Professor Sir Magdi Yacoub, Professor of Cardiothoracic Surgery, Imperial College, London;
- (v) Professor Sir Christopher Edwards, former Vice-Chancellor of Newcastle University;
- (vi) Professor Paul Younger, Chair of Engineering, University of Glasgow; and
- (vii) Mr Mauricio Fernandes, CEO, PEI.

*Approved exceptionally - only for this time request of at the request of the President*

*on behalf of the President. 29/4/16*

- 2 -

4. PEI Mauritius was successfully launched in November 2015 as part of the Presidential Initiative for the promotion of Science, Technology and Innovation (STI) as the main drivers of growth and development in Mauritius. Its main objective is to position Mauritius as a leading hub for STI in the region, which is very much in line with the vision of the Rt. Hon. Prime Minister. This includes capacity building programmes in collaboration with both local and foreign tertiary education institutions, grant schemes as well as scholarships to students studying science.

5. It should also be noted that five Phd scholarships for local students in science and related fields will be advertised in mid-May this year.

6. Quite apart from being a renowned philanthropist, Dr Sobrinho has also invested in funds and investments management trusts in Mauritius for which appropriate licences have already been granted by the Financial Services Commission.

7. **Dr Sobrinho is well known to Her Excellency the President.**

8. In the circumstances, the request for access to the VIP Lounge and car park facilities at the SSRIA to Dr Sobrinho and his spouse is resubmitted for consideration.



(D. Appadurai)

Secretary to the President

114<sup>a</sup>

# ANNEX AS

**MOST IMMEDIATE**

**My Ref: OP/G/42**

23 December 2016

Mr P. Jhugroo  
Secretary for Home Affairs  
Prime Minister's Office  
Port Louis

Dear Sir,

**VIP Lounge and Car Park Facilities**

I am directed by Her Excellency the President to refer to the telephone conversation she had with you today, and to inform you that Dr Alvaro Sobrinho, Chairperson of the Planet Earth Institute (PEI,) and owner of the ASA Group of Companies, is arriving in Mauritius from Dubai on Monday 26 December 2016 at 10 40 hours by flight EK 192. He will be accompanied by his spouse, Mrs Ana Madaleno. They will return to Dubai on Friday 06 January 2016 by flight EK 702 at 22.55 hrs.

2. Dr Sobrinho is the owner of the ASA Group of Companies incorporated in Mauritius. ASA has invested nearly one billion rupees in the Global Financial Sector in Mauritius. The company, through its philanthropic organization, PEI, has also offered a grant of US\$ 1 million to 10 Mauritian students to undertake PhD research programmes in universities in South Africa. The main objective of PEI is to support the training of 10,000 African PhD students including from Mauritius during the next 10 years.
3. Her Excellency the President is the Vice-Chairperson of PEI, which is fully established in Mauritius since November last year.
4. Both Dr Sobrinho and his spouse are the guests of Her Excellency the President.
5. Dr Sobrinho will be travelling regularly to Mauritius in view of his commitments and investment portfolios.
5. It would be appreciated if the above request and any other future requests for access to the SSRIA Lounge could be favourably considered.

*S. Vydelingum*

**S. Vydelingum**  
*Personal Secretary to the President*





# ANNEX AT 11

**MOST IMMEDIATE**

## Office of the President

M.G. Form2 (L)

### REPUBLIC OF MAURITIUS

MY REF.: <b>OP/G/42</b>
YOUR REF.:

*July 2016, and  
 Ann. Mr. Lechner  
 kindly do need to see*

31 October, 2016

From : Secretary to the President

To : Secretary for Home Affairs (Attn. Mr Nowbuth)

*Mr. Nowbuth  
 file  
 31/10/16*

Subject: **VIP Lounge and Car Park Facilities**

Dr Alvaro Sobrinho, Chairperson of the Planet Earth Institute (PEI) and owner of the ASA Group of Companies is arriving in Mauritius on Tuesday 01 November by EK701 at 10 40 hours. He will be accompanied by Mr Jose Pinto, Financial Controller of ASA.

- It should be noted that ASA is investing over Rs 700M in the Global Business Sector in Mauritius. The company, through its philanthropic organisation, PEI, has also offered a grant of US \$ 1 million to 10 Mauritian students to undertake Phd research programmes in universities in South Africa. PEI is a London-based NGO that is striving for the scientific independence of Africa. Its main objective is to support the training of 10,000 African Phd students including from Mauritius during the next 10 years.
- Her Excellency the President is the Vice-Chairperson of PEI, which is fully established in Mauritius since November last year.
- Both Dr Sobrinho and Mr Pinto are the guests of Her Excellency the President.
- They will be met on their arrival by Mr Mauricio Fernandes, CEO of PEI and the ASA Group of Companies.
- It would be appreciated if access to the VIP Lounge and car park facilities at the SSRIA could be granted for the purpose.

*DMAC M  
 Approved [Signature] Bilal*

*Leo*  
 (D. Appadu)  
 Secretary to the President

June 18

# ANNEX AU

27

ANNEX F

Q 21/06/18

## SSR INTERNATIONAL AIRPORT - VIP LOUNGE FACILITIES

(No. B/192) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the VIP lounge facilities of the Sir Seewoosagar Ramgoolam International Airport, he will state if the policy for the granting of access thereto by his Office has been reviewed and, if so, indicate the -

- (a) new terms and conditions thereof;
- (b) date of coming into operation thereof, and
- (c) persons who are entitled thereto.

**The Ag. Prime Minister:** Madam Speaker, in reply to PQ B/405, the hon. Prime Minister informed the House that the provision of VIP facilities to Government officials and foreign visiting dignitaries is an international practice to facilitate the movement of certain passengers at the airport. These included -

- (i) Heads of States, Prime Ministers and Ministers, all Members of the National Assembly as well as their spouse and children;
- (ii) visiting dignitaries;
- (iii) senior Government officials;
- (iv) Ambassadors, Heads of international organisations;
- (v) Heads of religious bodies;
- (vi) persons who have been decorated as GOSK or GCSK or equivalent;
- (vii) Chairperson and Commissioners and Members of the Rodrigues Regional Assembly;
- (viii) officers of the rank of Deputy Permanent Secretary and above, proceeding on mission, and
- (ix) other persons as per the discretion of the Prime Minister.

Furthermore, requests from other personalities to access the VIP lounge are also considered on a case-to-case basis and approved by the Prime Minister's Office.

In his reply, he also stated that the eligibility criteria were last reviewed and approved by Cabinet in 2000 and that the policy regarding access to VIP lounge at the airport was being reviewed with a view to ensuring more effective control on the utilisation, including the prevention of any misuse and abuse of the facilities of access.

Madam Speaker, I am informed that the Prime Minister's Office is still working on the review exercise and, once completed, same will be submitted to Cabinet for consideration and approval.

I am also informed that although the review exercise is still under way, strict control is being exercised regarding access to the VIP lounge. Moreover, like all other passengers, those who have been granted VIP facilities are also subject to security control put in place at the Sir Seewoosagur Ramgoolam International Airport.

**Madam Speaker:** Hon. Abbas Mamode!

**Mr Abbas Mamode:** Thank you, Madam Speaker. Since the Office of the Prime Minister is still working on the criteria, would the hon. Ag. Prime Minister consider allowing access to those who represent the country, *ceux qui font honneur à la nation mauricienne aient aussi accès au VIP lounge de Sir Seewoosagur Ramgoolam International Airport?*

**The Ag. Prime Minister:** Well, this remains within the discretion of the Prime Minister. As I have said, the VIP lounge is also accessible to such persons as per the discretion of the Prime Minister.

#### SIR SEEWOOAGUR RAMGOOLAM INTERNATIONAL AIRPORT - VIP LOUNGE FACILITIES - GRANT

(No. B/193) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the VIP lounge facilities of the Sir Seewoosagur Ramgoolam International Airport, he will state the names of the passengers who benefitted therefrom upon request from the Office of the President, since June 2015 to 15 March 2018, indicating in each case the -

- (a) dates thereof ;
- (b) name of the person who submitted the request;
- (c) capacity in which they were granted such facilities, and
- (d) names and status of the greeters therefor.

**The Ag. Prime Minister:** Madam Speaker, according to records available, from 01 June 2015 to 15 March 2018, 377 passengers have been granted State and VIP lounge

facilities, both at the arrival and departure, at Sir Seewoosagur Ramgoolam International Airport, upon request from the Office of the President. A breakdown of the number of passengers granted such facilities is as follows -

- (i) 01 June to 31 December 2015 - 85;
- (ii) 01 January to 31 December 2016 - 160;
- (iii) 01 January to 31 December 2017 - 123, and
- (iv) 01 January to 15 March 2018 - 9.

These facilities were granted to eligible persons in accordance with established criteria and practices, as stated earlier in reply to PQ B/192.

I have been advised that it would not be proper to disclose name of persons having obtained these VIP facilities.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Madam Speaker, may I ask the hon. Ag. Prime Minister, with regard to Mr A.S., the well-known A.S., Mr Alvaro Sobrinho - it is public, it has been in the Press - whether he has travelled as many as 50 times through the VIP facilities? He has the name in his list. Whether the hon. Ag. Prime Minister can confirm that is, in fact, the real number?

The Ag. Prime Minister: I will have to check. Yes, I have a list. If the hon. Member asks me a particular question on this, I will answer. I need time to go through the list.

Madam Speaker: Hon. Rutnah first, then I come to hon. Bhawan.

Mr Rutnah: Thank you, Madam Speaker. Can the hon. Ag. Prime Minister confirm whether the person who is in charge of Global Quantum, Mr Bastos also has been, in the past or present, given facilities to travel through the VIP lounge?

The Ag. Prime Minister: I do not know. I need to go through the list. It is a very long list and I am unable to go through any name.

Madam Speaker: Hon. Adrien Duval!

Mr A. Duval: Madam Speaker, at least, if the hon. Ag. Prime Minister can table the list? He has a list in his possession; we will after do the groundwork.

The Ag. Prime Minister: I have already said in my reply that I have been advised that it would not be proper to disclose any name of persons who have been obtained. I have to act on the advice that I received.

Mr X. L. Duval: Can I ask the hon. Ag. Prime Minister what is the reason for the advice? What is secret with who requested, whoever for whoever and who went through the VIP? What is the secret about it?

The Ag. Prime Minister: I do not know. I have received an advice and I am acting on the advice; I cannot do otherwise. The hon. Leader of the Opposition knows that I cannot do otherwise. He has done that job himself! Many of us have done that job. I need to act on the advice that I received.

Madam Speaker: The Table has been advised that PQ Nos. B/194 and B/197 have been withdrawn.

**ECONOMIC DEVELOPMENT BOARD - FRENCH NATIONAL - OCCUPATION PERMIT**

(No. B/194) Mr J. C. Barbier (Fifth Member for GRNW & Port Louis West) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to one Mr P. R. M. G., a French national, he will -

- (a) for the benefit of the House, obtain from the Economic Development Board, information as to if the latter has been issued with an occupation permit, and
- (b) state if he is aware that the latter has been convicted twice by a French court of justice for swindling to the detriment of *Pole Emploi*, a French public institution, and, if so, indicate if consideration will be given for the revocation of the occupation permit.

*(Withdrawn)*

**BEAU BASSIN & PETITE RIVIÈRE - NDU PROJECTS**

(No. B/195) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Constituency No. 20, Beau Bassin and Petite Rivière, he will give a list of the projects implemented by the National Development Unit thereat, since March 2016 to date indicating the -

- (a) ongoing projects, further indicating the;

6. To investigate and report on all aspects of the application of the license;
7. To seek information from all available sources including overseas;
8. To scrutinize all documents in relation to the application of the license;
9. To investigate the circumstances in which H.E The President was appointed on the board of the PEI;
10. To investigate the circumstances and rationale of issuing a Barclays Platinum Card to H.E the President of the Republic;
11. To look into and scrutinize all transactions of the Platinum card by H.E the President ;
12. To inquire into and report as to the circumstances leading to the publication of confidential banking records in the press;
13. To inquire into the relevant mechanisms utilized and the parties involved in order to leak the banking records to the press;
14. Make such recommendations as may be considered to be of public interest;
15. To report its findings and make any recommendations deemed necessary in relation thereto.

Office of the President  
State House  
Le Reduit

16 March 2018



6

Doc 2



# ANNEX AW

*The President of the Republic of Mauritius*

16 March 2018

Dear Sir Hamid Moollan,

Terms of Reference of the Commission of Inquiry into (1) The Regulatory Authorization of Business and Financial Services Entities held and controlled directly or indirectly by Mr Alvaro Sobrinho and his relevant counterparts in Mauritius (2) Leaking of Banking Records (3) Conduct of the President in relation to credit card issued by Planet Earth Institute.

The President of the Republic of Mauritius hereby appoints you as Chairman and Commissioner under the Commission of Enquiry Act of the said Commission of Enquiry.

Please accept the assurances of my highest consideration.

H.E. Mrs Ameenah Gurib-Fakim, G.C.S.K., C.S.K., PhD, DSc  
President of the Republic

Sir Hamid Moollan, GOSK, QC  
5th and 6th Floor, PCL Building  
43, Sir William Newton Street  
Port Louis

CERTIFIED A TRUE COPY	
Signature : .....	
For Secretary to Cabinet & Head of the Civil Service	
Date : .....	21/3/18

# ANNEX AV



Office of The President  
STATE HOUSE, MAURITIUS

(53) (2)  
CERTIFIED TRUE COPY

M. Sec bah. 24.07.2018

OFFICE OF THE PRESIDENT  
State House, Le Réduit

## COMMUNIQUE

Terms of Reference of the Commission of Inquiry into (1) The Regulatory Authorization of Business and Financial Services Entities held and controlled directly or indirectly by Mr Alvaro Sobrinho and his relevant counterparts in Mauritius (2) Leaking of Banking Records (3) Conduct of the President in relation to credit card issued by Planet Earth Institute.

The Office of the President of Mauritius wishes to inform of the setting up of a Commission of Inquiry as described above.

The President of the Republic of Mauritius hereby appoints Sir Hamid Moollan, G.O.S.K, Q.C. as Chairman and Commissioner under the Commission of Enquiry Act of the said Commission of Enquiry.

The Terms of Reference of the Commission of Inquiry shall be, *inter alia*, as follows:

1. To gather all information in relation to the application of the investment banking license made by companies or entities directly or indirectly owned by Mr. Alvaro Sobrinho at the Financial Services Commission;
2. To investigate into the due diligence carried out by the Financial Services Commission on the companies or entities owned by Mr. Alvaro Sobrinho;
3. To investigate on to whether the Financial Services Commission, Bank of Mauritius and/or any such other regulatory bodies or Government departments, had received adverse reports on the companies or entities owned directly or indirectly by Mr. A. Sobrinho and to report on the action taken thereto;
4. To investigate whether there has been interference by any person(s) in such a manner so as to facilitate and/or influence the granting of the Investment Banking License;
5. To investigate into any matter within its remit, seek any information from any stakeholder and/or any person, which is necessary to satisfactorily discharge its duties;

received in OR on 19/03/18 @ 09.15 hrs

19/03/18  
P. Emirdhan  
OMF





# ANNEX AX

*The President of the Republic of Mauritius*

16 March 2018

Honourable Prime Minister,

Terms of Reference of the Commission of Inquiry into (1) The Regulatory Authorization of Business and Financial Services Entities held and controlled directly or indirectly by Mr Alvaro Sobrinho and his relevant counterparts in Mauritius (2) Leaking of Banking Records (3) Conduct of the President in relation to credit card issued by Planet Earth Institute.

(1425)<sup>a</sup>

Please find attached for your information, a copy of the Terms of Reference for the setting up of a Commission of inquiry with regard to the above.

Sincerely,

H.E. Mrs Ameenah Gurib-Fakim, G.C.S.K., C.S.K., PhD, DSc  
President of the Republic

The Hon. P.K. Jugnauth,  
Prime Minister,  
Minister of Home Affairs, External Communications and National Development Unit,  
Minister of Finance and Economic Development  
Treasury Building  
43, Sir William Newton Street  
Port Louis

CERTIFIED A TRUE COPY  
Signature :.....  
For Secretary to Cabinet &  
Head of the Civil Service  
Date :..... 31/3/18.....



Office of The President  
STATE HOUSE, MAURITIUS

COMMUNIQUE

Terms of Reference of the Commission of Inquiry into (1) The Regulatory Authorization of Business and Financial Services Entities held and controlled directly or indirectly by Mr Alvaro Sobrinho and his relevant counterparts in Mauritius (2) Leaking of Banking Records (3) Conduct of the President in relation to credit card issued by Planet Earth Institute.

The Office of the President of Mauritius wishes to inform of the setting up of a Commission of Inquiry as described above.

The President of the Republic of Mauritius hereby appoints Sir Hamid Moollan, G.O.S.K, Q.C. as Chairman and Commissioner under the Commission of Enquiry Act of the said Commission of Enquiry.

The Terms of Reference of the Commission of Inquiry shall be, *inter alia*, as follows:

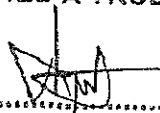
1. To gather all information in relation to the application of the investment banking license made by companies or entities directly or indirectly owned by Mr. Alvaro Sobrinho at the Financial Services Commission;
2. To investigate into the due diligence carried out by the Financial Services Commission on the companies or entities owned by Mr. Alvaro Sobrinho;
3. To investigate on to whether the Financial Services Commission, Bank of Mauritius and/or any such other regulatory bodies or Government departments, had received adverse reports on the companies or entities owned directly or indirectly by Mr. A. Sobrinho and to report on the action taken thereto;
4. To investigate whether there has been interference by any person(s) in such a manner so as to facilitate and/or influence the granting of the Investment Banking License;
5. To investigate into any matter within its remit, seek any information from any stakeholder and/or any person, which is necessary to satisfactorily discharge its duties;

6. To investigate and report on all aspects of the application of the license;
7. To seek information from all available sources including overseas;
8. To scrutinize all documents in relation to the application of the license;
9. To investigate the circumstances in which H.E The President was appointed on the board of the PEI;
10. To investigate the circumstances and rationale of issuing a Barclays Platinum Card to H.E the President of the Republic;
11. To look into and scrutinize all transactions of the Platinum card by H.E the President ;
12. To inquire into and report as to the circumstances leading to the publication of confidential banking records in the press;
13. To inquire into the relevant mechanisms utilized and the parties involved in order to leak the banking records to the press;
14. Make such recommendations as may be considered to be of public interest;
15. To report its findings and make any recommendations deemed necessary in relation thereto.

Office of the President  
State House  
Le Reduit

16 March 2018

CERTIFIED A TRUE COPY

Signature :..........

For Secretary to Cabinet &  
Head of the Civil Service

Date :.....2/8/18.....

13

Doc 4

# ANNEX AY

SEC/OP/1

16 March 2018

Your Excellency,

Terms of Reference of the Commission of Inquiry into (1) The Regulatory Authorisation of Business and Financial Services Entities held and controlled directly or indirectly by Mr Alvaro Sobrinho and his relevant counterparts in Mauritius (2) Leaking of Banking Records (3) Conduct of the President in relation to credit card issued by Planet Earth Institute

f(425) Please refer to your even-dated letter on the above subject.

2. I have taken note of the purported appointment today of a Commission of Inquiry with Sir Hamid Moollan as Chairman and Commissioner.
3. I am to inform you that this act of yours constitutes a serious breach of section 64 of the Constitution and is legally invalid and of no effect. ..
4. Any purported action by any person pursuant to this unlawful act of yours will be equally invalid and unlawful.

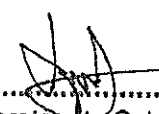
Yours faithfully



Pravind Kumar Jugnauth  
Prime Minister

H. E. Mrs Ameenah Gurib-Fakim, G.C.S.K., C.S.K., Phd, DSc  
President of the Republic  
State House  
Le Reduit

Copy to : Sir Hamid Moollan, GOSK, QC

CERTIFIED A TRUE COPY	
Signature :.....	
For Secretary to Cabinet & Head of the Civil Service	
Date :.....	2/3/18

14

Doc 5



# ANNEX AZ

PRIME MINISTER'S OFFICE  
REPUBLIC OF MAURITIUS

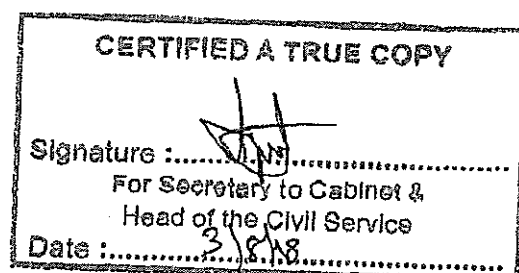
## Press Communique

The Prime Minister has taken note of the purported appointment today of a Commission of Inquiry by the President with Sir Hamid Moollan as Chairman and Commissioner.

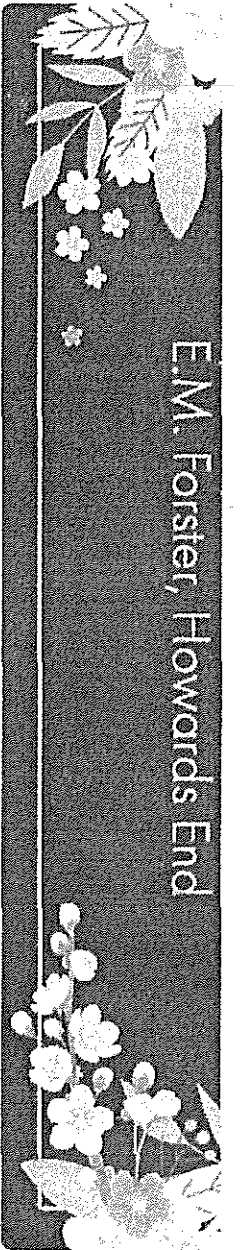
The public is hereby informed that this act of the President constitutes a serious violation of section 64 of the Constitution and is legally invalid and of no effect.

Any purported action by any person pursuant to this unlawful act of the President will be equally invalid and unlawful.

*Prime Minister's Office*  
16 March 2018



# ANNEX AAA



Annex 9  
COB  
DCR  
2/19/18

11 407 1.0K

**Ameenah Gurib-Fakim @aguribfakim** · Mar 9  
It is being reported that I am resigning.. I am still in post.

59 49 124

**Ameenah Gurib-Fakim @aguribfakim** · Mar 9  
Have not resigned yet.. [twitter.com/rabihbhujun/st...](https://twitter.com/rabihbhujun/st...)

This Tweet is unavailable.

8 10 33

**Ameenah Gurib-Fakim @aguribfakim** · Mar 9  
ALL ALLEGATIONS... truth will come out when inquiry over...  
[twitter.com/nouzoun\\_damien...](https://twitter.com/nouzoun_damien...)

This Tweet is unavailable.

13 7 36

**Ameenah Gurib-Fakim @aguribfakim** · Mar 8

# ANNEX AAB

Yousuf Mohamed

Doc-co 20

23/2/18.

**From:** Ameenah GuribFakim <aguribfakim@gmail.com>  
**Sent:** Friday, March 16, 2018 9:04 AM  
**To:** yarmohamed@intnet.mu; M.G. Gilbert Noel  
**Subject:** Fwd: Terms of Reference  
**Attachments:** Draft Terms of Reference.docx

----- Forwarded message -----

**From:** M.G. Gilbert Noel <[gilbert@lxattorneys.com](mailto:gilbert@lxattorneys.com)>  
**Date:** Fri, Mar 16, 2018 at 7:44 AM  
**Subject:** Terms of Reference  
**To:** Ameenah GuribFakim <[aguribfakim@gmail.com](mailto:aguribfakim@gmail.com)>

Kindly see attached

Best regards

Gilbert

**TERMS OF REFERENCE OF THE COMMISSION OF INQUIRY INTO (1) THE REGULATORY AUTHORISATION OF BUSINESS AND FINANCIAL SERVICES ENTITIES HELD AND CONTROLLED DIRECTLY OR INDIRECTLY BY MR ALVARO SOBRINHO AND HIS RELEVANT COUNTERPARTS IN MAURITIUS (2) LEAKAGE OF BANKING RECORDS (3) CONDUCT OF THE PRESIDENT IN RELATION TO A CREDIT CARD AND RELATIVE EXPENSES (4) PRESSURES EXERCISED ON THE PRESIDENT TO LEAVE OFFICE (5) MAKE RECOMMENDATIONS IN THE NATIONAL AND PUBLIC INTEREST**

1. A commission of inquiry ("the Commission") is hereby appointed by Her Excellency, The President of the Republic in terms of section 2 of the Commissions of Inquiry Act 1944 ("the Act").

**BUSINESS INTRODUCTIONS, DEALINGS OF MR ALVARO SOBRINHO AND REGULATORY APPROVALS**

2. The Commission is appointed to investigate into the regulatory authorisation of the business and financial services entities held and controlled directly and indirectly by Mr Alvaro Sobrinho and his relevant counterparts and contact persons in Mauritius.
3. The Commission shall inquire into, make findings, report on and make recommendations concerning the following, taking into consideration the Constitution and other relevant legislation, policies and guidelines:
  - 3.1 The background and track record of Mr Alvaro Sobrinho;
  - 3.2 The persons and/or corporate entities that introduced Mr Sobrinho to Mauritius and the circumstances of Mr Sobrinho's introductions to Mauritius;
  - 3.3 The business plans and application process of connected entities with the Financial Services Commission ("FSC"), and deliberations of the licensing decisions of the FSC and licences issued, if any;
  - 3.4 The business plans and application process of connected entities with the Bank of Mauritius and deliberations of the licensing decisions of the Bank of Mauritius and licences issued, if any;
  - 3.5 The nominees, trustees and advisers of Mr Sobrinho in Mauritius and their relevant remunerations, and/or gifts and chatels received, if any;
  - 3.6 The circumstances in which the regulatory framework for Investment Banks was amended so that investment banking licences may be issued by the FSC;
  - 3.7 Whether there is evidence of political influence or any other form of influence during the licensing process;
  - 3.8 The dealings and contact persons as regards immovable properties held directly or indirectly by Mr Sobrinho and/or the PEI in Mauritius;
  - 3.9 Such other matters as the Commission may deem necessary and/or appropriate and in the public interest;
  - 3.10 The adequacy of the regulatory framework and regulations so as to protect the good repute of Mauritius as a Financial Services Centre; and



4. The findings and recommendations of the Commission must address and set out mechanisms that will identify and recommend regulatory best practices in the financial services sector.
5. The terms of reference may be amended at any time by the Commissioners.
6. All organs of the state will be required to cooperate fully with the Commission.

#### **LEAKAGE OF BANKING RECORDS**

7. The Commission shall inquire into and report as to the circumstances leading to the publication of confidential banking records in the press.
8. The Commission must address the relevant mechanisms utilised and the parties involved in order to leak the banking records to the press.
9. The Commission must address and consider regulatory actions undertaken by the competent authorities as and when the banking records were publicised.
10. The Commission must consider and make recommendations as to the legal and regulatory framework in order to protect confidentiality of financial information and also the integrity of the banking sector.

#### **CONDUCT OF THE PRESIDENT IN RELATION TO CREDIT CARD ISSUED BY PEI**

11. The Commission shall investigate into:
  - 11.1 The activities and connections of the Planet Earth Institute ("PEI");
  - 11.2 The circumstances in which Her Excellency the President was appointed on the board of the PEI;
  - 11.3 The circumstances and rationale of issuing a Barclays Platinum Card to Her Excellency, the President of the Republic;
  - 11.4 The use of the Platinum Card by Her Excellency, the President of the Republic;
  - 11.5 Relevant details of transactions under the Platinum Card;
12. The Commission shall consider the provisions under the Constitution as regards the office of the President and to make recommendations.

#### **PRESSURES EXERCISED ON THE PRESIDENT TO LEAVE OFFICE**

13. The Commission shall consider as a matter of vital public importance the circumstances and rationale leading to pressures being exercised on the President to leave office;
14. The Commission shall make recommendations as regards the provisions of the Constitution in order to ensure to promote and maintain harmony between the most

important institutions in Mauritius and this, in the best interest of consolidating the Constitutional framework and democracy of Mauritius.

**RECOMMENDATIONS OF THE COMMISSION IN THE PUBLIC INTEREST AND TO CONSIDER MATTERS OF VITAL PUBLIC IMPORTANCE**

15. The Commission shall inquire into and make recommendations as regards the following matters of vital public importance and this, in the best interest of Mauritius:
  - 15.1 The legal and regulatory framework as regards financial services and financial institutions;
  - 15.2 Regulations as regards political influence or any other form of influence as regards business and financial interests;
  - 15.3 The adequacy of the legal framework as regards confidentiality of banking records and with a view to protect the integrity of Mauritius;
  - 15.4 The provisions of the Constitution as regards the office of the President;
  - 15.5 Provide adequate framework in order to preserve and protect the democracy in Mauritius;
  - 15.6 Make recommendations to avoid institutional crisis at the highest level between the executive and the Head of State.

Note: To provide for logistics (where and when under section 3)

Appointment of Commissioners (names)

Remuneration and expenses under section 16 (payments may be deferred by executive)

16.

Yousuf Mohamed

# ANNEX AAC

CO  
Doc 17  
23/8/18

**From:** Nadeem Hyderkhan <nadhyd@icloud.com>  
**Sent:** Friday, March 16, 2018 9:53 AM  
**To:** Yousuf Mohamed  
**Subject:** Terms of Reference  
**Attachments:** W-Terms of Reference\_1st Draft.docx; unknown.jpg; Untitled attachment 00017.txt

## Terms of Reference 1st Draft

- A. The Terms of Reference of the Board of Enquiry shall be, *inter alia*, as follows :
- A. To gather all information in relation to the application of the investment banking licence made by companies owned by Mr AS at the Financial Services Commission;
  - B. To investigate into the due diligence carried out by the Financial Services Commission on the companies owned by Mr AS;
  - C. To investigate on to whether the Financial Services Commission had received adverse reports on the companies owned by AS and to report on the action taken thereto;
  - D. To investigate whether the the has been interference by any person(s) in such a manner so as to facilitate and/or influence the granting of the Investment Banking Licence;
  - E. To investigate into any matter within its remit, seek any information from any stakeholder and or any person, which is necessary to satisfactorily discharge its duties.;
  - F. To investigate and report on all aspects of the application of the licence.;
  - G. To seek information from all available sources including overseas;
  - H. To scrutinise all documents in relation to the application of the licence;
  - I. To report its findings and make any recommendations deemed necessary in relation thereto;
  - J. The Inquiry shall run from the date of appointment until the submission of the report.
  - K. To investigate the circumstances in which HE The President was appointed on the board of the PEI;
  - L. To investigate the circumstances and rational of issuing a Barclays Platinum Card to HE the President of the Republic
  - M. To look into and scrutinise all transactions of the Platinum card by HE the President
  - N. To inquire into and report as to the circumstances leading to the publication of confidential banking records in the press
  - O. To inquire into the relevant mechanisms utilised and the parties involved in order to leak the banking records to the press

**Subject:** Re: Your proposed course of action  
**Date:** Monday, 19 March 2018 at 8:35:29 AM Mauritius Standard Time  
**From:** M.G. Gilbert Noel  
**To:** Hervé Duval  
**CC:** Moonshiram Yanilla

Co 25  
OG  
2/8/18.

Dear Herve

Thank you for your email and apologies for the delayed response. The client had subsequent discussions with Yusuf and I was also with Nadeem at the material time. She has been briefed but decided to proceed accordingly.

With kind regards  
Gilbert

**From:** Hervé Duval <herveduval@ahnee-duval.com>  
**Date:** Friday, 16 March 2018 at 8:51 AM  
**To:** NOEL Gilbert <gilbert@lxattorneys.com>  
**Cc:** Moonshiram Yanilla <yanilla@intnet.mu>  
**Subject:** Your proposed course of action

Dear Gilbert,

I refer to our short conversation attach is the letter I just referred you. I contains all the references as to why the President can only request to be advised on particular subject.

I do not have the email of Yusuf so please circulate to him for the purposes of your discussion.

Best

Hervé

This message (including any attachment) is confidential and may further contain privileged information. It is intended solely for the address(es). The sender shall not accept any liability for any unauthorised use of this message. Every care has been taken for this email to reach the recipient(s) free from computer viruses. No liability will be accepted for any loss or damage, which may be caused.

Legal Advice Disclaimer:

You should recognize that responses provided by this email are analogous to ordinary telephone or face-to-face conversations and do not reflect the level of factual or legal inquiry or analysis which would be applied in the case of a formal legal opinion. A formal legal opinion could reach a different result.

## OPEN LETTER TO PRESIDENT OF THE REPUBLIC

*Time to STEP UP Mr President before our country goes down on its knees*

Mr President,

I am deeply honoured that my comments during the Grand Journal have prompted you to intervene on Radio Plus.

The purpose of this letter is to respond to your request that I should enlighten those who cared to listen to me as to whether I brought them into error when I suggested that the President could and should exercise his function under the Commission of Inquiry Act ("the Act").

I understand that the State House has secured a copy of the recording of my intervention. I therefore assume that you are aware that my main assertion was that it is for you to act under the Law. Asked whether in so doing you would be bound by the advice of the PM, I answered in the negative. I was then asked whether I meant that the President could act "*de son propre chef*" to which I answered "*bien sûr*" before adding that the S.2.2 of the Act did not direct the President to exercise his function after consultation with the PM or any person.

I maintain everything I said on air. I did not then deem it necessary to expatiate then the most basic principle relating to the exercise by the President of his functions under the laws of this country. However since you have personally and publicly invited me to comment on the provisions of s.64 of the Constitution, I shall gladly oblige.

S.2.2 of the Act, read in conjunction with s.64 (1) of the Constitution, confers on the President (Not the PM!), acting in accordance with advice of Cabinet (not the PM!!!), the power to appoint a Commission of Inquiry. The interpretation suffers no ambiguity.

I pause here to address a common misapprehension: S. 64(1) of the Constitution stipulates that, unless otherwise provided, the President shall, in the exercise of his functions act in accordance with the advice of the Cabinet. Our Constitution does not say that the PM's desires are the President's command. And although we tend to forget that Mauritius is a democracy, our Constitution also provides that the Cabinet is collectively responsible to the National Assembly for the advice given to the President.

Another misapprehension is that the President merely executes the decision of the Cabinet unless the law specifically provides that he may act in his own deliberate judgment: The general rule that the President acts upon the advice of the Cabinet, in no way prohibits the President from taking the initiative.

To hold otherwise would be tantamount to turning our Constitutional Head of State into a glorified puppet. I much prefer to read the Constitution as providing that where the President considers that he SHOULD act, he must first seek the advice of the Cabinet as to whether he MAY do so. I am comforted in my view by the provisions of

# ANNEX AAE

Sir Hamid Moollan QC, GOSK

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16 March 2018

The Hon Pravind Kumar JUGNAUTH  
Prime Minister  
Minister of Home Affairs, External Communications and National Development Unit  
Minister of Finance and Economic Development  
Government House  
Port Louis

My dear Prime Minister,

(426)<sup>a</sup> Please find enclosed copy of a communication I received from the State House.

Mr G. Noel, the lawyer of the President, rang me this morning to ask me whether I would accept to chair the proposed Commission. I replied I would accept in principle, provided all proper formalities be fulfilled.

I remain,

Yours sincerely,

Hamid Moollan

Enc.

cc. Her Excellency  
The President  
State House  
Le Reduit

CERTIFIED A TRUE COPY  
Signature :   
For Secretary to Cabinet &  
Head of the Civil Service  
Date : 3.15.18

MINUTES

f(2)

(23)

CO 65 (M) (2)

ANNEX AAF

Your Excellency,

Government has agreed that you be advised to set up a Commission of Inquiry to be conducted by Mr Paul LAM SHANG LEEN, former Judge, as Chairperson and Mr Samiollah LAUTHAN, former MP and Dr Ravind Kumar DOMUN, Acting Director, Health Services as Assessors to inquire into, and report on all aspects of Drug Trafficking in Mauritius.

f(2a)

2. I should be grateful if, pursuant to section 2(2) of the Commissions of Inquiry Act, you would sign the Commission at centre of file which has been vetted by the Attorney General's Office, please.

3. The Commission will thereafter be published in the Government Gazette.

f(2b)

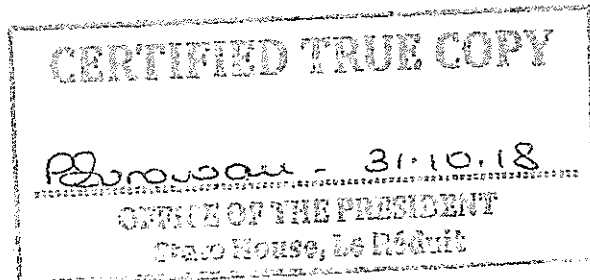
4. I also recommend that, pursuant to section 6 of the Commissions of Inquiry Act, Mr Koosiram CONHYE, Deputy Permanent Secretary be appointed as Secretary to serve the above Commission of Inquiry, please. A draft letter is put up at centre of file.

Anerood Jugnauth  
Prime Minister  
14 July 2015

(Lu)

Approved

14/7/15





# ANNEX AAG

## LOIS

### LOI organique n° 2014-1392 du 24 novembre 2014 portant application de l'article 68 de la Constitution (1)

NOR : PRMX1029143L

L'Assemblée nationale et le Sénat ont adopté,  
Le Conseil constitutionnel a déclaré conforme à la Constitution,  
Le Président de la République promulgue la loi dont la teneur suit :

#### Article 1<sup>er</sup>

La décision de réunir la Haute Cour résulte de l'adoption d'une proposition de résolution par les deux assemblées du Parlement, dans les conditions fixées par l'article 68 de la Constitution.

La proposition de résolution est motivée. Elle justifie des motifs susceptibles de caractériser un manquement au sens du premier alinéa de l'article 68 de la Constitution. Elle est signée par au moins un dixième des membres de l'assemblée devant laquelle elle est déposée.

*[Dispositions déclarées non conformes à la Constitution par la décision du Conseil constitutionnel n° 2014-703 DC du 19 novembre 2014.]*

La proposition de résolution est communiquée sans délai par le Président de cette assemblée au Président de la République et au Premier ministre.

Aucun amendement n'est recevable à aucun stade de son examen dans l'une ou l'autre assemblée.

L'examen de la proposition de résolution ne peut faire l'objet de plus d'une lecture dans chaque assemblée.

#### Article 2

Le Bureau de l'assemblée devant laquelle la proposition de résolution a été déposée vérifie sa recevabilité au regard des conditions posées à l'article 1<sup>er</sup>.

Si le Bureau constate que ces conditions ne sont pas réunies, la proposition de résolution ne peut être mise en discussion.

Si le Bureau constate que ces conditions sont réunies, la proposition de résolution est envoyée pour examen à la commission permanente compétente en matière de lois constitutionnelles, qui conclut à son adoption ou à son rejet. Sans préjudice des dispositions de l'article 48 de la Constitution, la proposition de résolution est inscrite à l'ordre du jour de l'assemblée au plus tard le treizième jour suivant les conclusions de la commission. Le vote intervient au plus tard le quinzième jour.

Lorsque la clôture de la session du Parlement fait obstacle à l'application des deux dernières phrases de l'avant-dernier alinéa du présent article, l'inscription à l'ordre du jour intervient au plus tard le premier jour de la session ordinaire suivante.

#### Article 3

La proposition de résolution adoptée par une assemblée est immédiatement transmise à l'autre assemblée. Elle est envoyée pour examen à la commission permanente compétente en matière de lois constitutionnelles, qui conclut à son adoption ou à son rejet.

La proposition de résolution est inscrite de droit à l'ordre du jour de l'assemblée au plus tard le treizième jour suivant sa transmission. Le vote intervient de droit au plus tard le quinzième jour.

Lorsque la clôture de la session du Parlement fait obstacle à l'application du deuxième alinéa, l'inscription à l'ordre du jour intervient au plus tard le premier jour de la session ordinaire suivante.

#### Article 4

Le rejet de la proposition de résolution par l'une des deux assemblées met un terme à la procédure.

#### Article 5

Lorsqu'une proposition de résolution tendant à la réunion de la Haute Cour a été adoptée par chacune des assemblées, le Bureau de la Haute Cour se réunit aussitôt.

Le Bureau de la Haute Cour est composé de vingt-deux membres désignés, en leur sein et en nombre égal, par le Bureau de l'Assemblée nationale et par celui du Sénat, en s'efforçant de reproduire la configuration politique de chaque assemblée.

Il est présidé par le Président de la Haute Cour.

Le Bureau prend les dispositions nécessaires pour organiser les travaux de la Haute Cour.

### Article 6

Une commission constituée de six vice-présidents de l'Assemblée nationale et de six vice-présidents du Sénat est chargée de recueillir toute information nécessaire à l'accomplissement de sa mission par la Haute Cour. La composition de la commission s'efforce de reproduire la configuration politique de chaque assemblée.

La commission dispose des prérogatives reconnues aux commissions d'enquête aux II à IV de l'article 6 de l'ordonnance n° 58-1100 du 17 novembre 1958 relative au fonctionnement des assemblées parlementaires dans les mêmes limites que celles fixées au deuxième alinéa de l'article 67 de la Constitution.

Sur sa demande, le Président de la République ou son représentant est entendu par la commission. Il peut se faire assister par toute personne de son choix.

La commission élabore, dans les quinze jours suivant l'adoption de la résolution, un rapport qui est distribué aux membres de la Haute Cour, communiqué au Président de la République et au Premier ministre et rendu public.

### Article 7

Les débats de la Haute Cour sont publics.

Outre les membres de la Haute Cour, peut seul y prendre part le Président de la République [*Dispositions déclarées non conformes à la Constitution par la décision du Conseil constitutionnel n° 2014-703 DC du 19 novembre 2014*].

Le temps de parole est limité [*Dispositions déclarées non conformes à la Constitution par la décision du Conseil constitutionnel n° 2014-703 DC du 19 novembre 2014*]. Le Président de la République peut prendre ou reprendre la parole en dernier.

Pour l'application des deuxième et troisième alinéas, le Président de la République peut, à tout moment, se faire assister ou représenter par toute personne de son choix.

[*Dispositions déclarées non conformes à la Constitution par la décision du Conseil constitutionnel n° 2014-703 DC du 19 novembre 2014*.]

La Haute Cour est dessaisie si elle n'a pas statué dans le délai d'un mois prévu au troisième alinéa de l'article 68 de la Constitution.

### Article 8

L'ordonnance n° 59-1 du 2 janvier 1959 portant loi organique sur la Haute Cour de justice est abrogée.

La présente loi sera exécutée comme loi de l'Etat.

Fait à Paris, le 24 novembre 2014.

FRANÇOIS HOLLANDE

Par le Président de la République :

*Le Premier ministre,*  
MANUEL VALLS

*La garde des sceaux,  
ministre de la justice,*  
CHRISTIANE TAUBIRA

*Le secrétaire d'Etat  
chargé des relations  
avec le Parlement,*  
JEAN-MARIE LE GUEN

(1) Loi n° 2014-1392.

– *Travaux préparatoires* :

*Assemblée nationale* :

Projet de loi organique n° 3071 (treizième législature) ;  
Rapport de M. Philippe Houillon, au nom de la commission des lois, n° 3948 ;  
Discussion le 17 janvier 2012 et adoption le 24 janvier 2012 (TA n° 827).

*Sénat* :

Projet de loi organique, adopté par l'Assemblée nationale, n° 288 (2011-2012) ;  
Rapport de M. Hugues Portelli, au nom de la commission des lois, n° 29 (2014-2015) ;  
Texte de la commission n° 30 (2014-2015) ;  
Discussion et adoption le 21 octobre 2014 (TA n° 5, 2014-2015).

– *Conseil constitutionnel* :

Décision n° 2014-703 DC du 19 novembre 2014 publiée au *Journal officiel* de ce jour.