

COSATU General Secretary Zwelinzima Vavi: response to the two reports produced by Sizwe Ntsaluba Gobodo forensic auditors

29th March 2015

Following the COSATU Central Executive Committee meeting of 23rd to 27th February 2013, Sizwe Ntsaluba Gobodo were commissioned to investigate the sale of old COSATU House in Leyds St and purchase of the new COSATU House in Jorissen St, Braamfontein.

SNG Report submitted to the COSATU Special CEC 10th February 2014 (referred to as the First SNG Report in this document)

Sizwe Ntsaluba Gobodo submitted a “final report” to the Special CEC meeting held on the 10 February 2014. The report contained adverse findings against me and a range of persons. COSATU issued a statement the next day, which repeated these adverse findings against me.

Through my lawyers I wrote to Sizwe Ntsaluba Gobodo, reminding them of the undertaking they had given to me in the presence of the facilitators appointed by the CEC – Petrus Mashishi and Charles Nupen. The undertaking was that they would give any person against whom they intended to make an adverse finding the right of reply before they finalised their report. Below is a copy of an e mail dated 29th February 2014

from one of the facilitators, Charles Nupen, to me confirming this undertaking.

On 2014/02/09, 5:33 PM, "Charles Nupen"

<charles@stratalign.co.za> wrote:

Dear Zweli,

I was unaware of the special CEC.

I have not seen the report either but I confirm that the forensic auditors undertook that if they made an adverse finding against any person they would give that person the right of reply. I suggest you call Vusmuzi. His number is 0718892245

Kind Regards

Charles

Charles Nupen
Executive Chairman

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SizweNtsalubaGobodo wrote to me AFTER the Special CEC meeting of 10 February 2014, requesting to interview me. Their email read as follows:

Dear Mr. Vavi,

Earlier today we attended the CEC meeting to discuss our report. We would also like to have a meeting with you to discuss the report. If possible may we please meet tomorrow any time between 10H00 and 15H00 or you can propose a date that will be appropriate for you? Please feel free to contact me should you need clarity about the proposed meeting.

Regards,

Twalani Nkuna

In response to my lawyers letter in which they took Sizwe Ntsaluba Gobodo to task for trying to do damage control by inviting me to a discussion of a report that was now already both presented to the members of the CEC and in the media, Sizwe Ntsaluba Gobodo through Mveleli Booii said the following:

TO: FASKEN MARTINEAU
BY E-MAIL: ERIC VAN DEN BERG

Dear Sir,

RE: MR. ZWELINZIMA VAVI

We refer to the abovementioned matter as well as your letter dated 12 February 2014 and our reply dated 14 February 2014.

We deny that any undertaking provided or obligation created has been breached as alleged. We further deny causing damage to your client's reputation. Any failure to deal with each and every allegation contained in your letter should not be construed as an admission of liability.

We confirm that a draft report was presented to our client, the Congress of South African Trade Unions ('COSATU') Central Executive Committee ('CEC') on 10 February 2014, whereafter a meeting was requested with your client as part of the ongoing investigation, thereby complying our obligations created in terms of our mandate with our client.

We are notifying our client of your request for copy of our draft report.

All further correspondence is to be directed to our attorney Angela Fourie at



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SizweNtsalubaGobodo Advisory Services (Pty) Ltd
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The dispute hinges on the fact that SNG on 10th February 2014, AFTER the CEC meeting, sent me an email requesting a meeting the following day to discuss their report. Another point of dispute is the fact that they made explicit reference to a final draft, whereas they had in actual fact engaged the CEC on further terms of reference for the investigation.

I declined to meet Sizwe Ntsaluba Gobodo then and I stated publicly that I will not meet them again until they apologise to the COSATU CEC and the public for not providing me with the right to reply before presenting to the CEC, and for the misleading claim to me that the report was a draft subject to further investigation, whilst reporting to the CEC that it was final. I reserved my rights in this regard.

The report presented to the CEC on the 10 February 2014 contained two innuendos against me, which I was never given the opportunity to rebut. Two possible conflicts of interest were claimed:- one that I did not disclose to the CEC that VMS had employed my stepdaughter Thabisa Ngema, and two that my wife was a joint director of a company with Craig Green of VMS. In respect of the first alleged conflict of interest, a recommendation for corrective action was made. In respect of the second alleged conflict of interest, the allegation informed the decision of the CEC of 10th February 2014 to proceed with further investigations into the contracts signed between COSATU and VMS.

I will deal with the second allegation under the section of my response which deals with the 2nd SNG Report.

Regarding the two week employment for IT software services by VMS of my adult step daughter, Thabisa Ngema, from whom I was at the time completely estranged, I categorically deny any conflict of interest in this matter. As stated at the time

when I first learnt of my stepdaughter's brief employment by VMS I first learnt of this through the media, and had no knowledge at the time of any of her working or living arrangements. Oddly, I discovered through this whole incident that she was in fact residing in a house belonging to the then General Secretary of Nehawu, Slovo Majola. Mr Majola is the same person who declared in the February 2013 CEC of COSATU that the "elephant in the room" (meaning me) must be dealt with.

At the end of March 2014 and the beginning of April 2014 Sizwe Ntsaluba Gobodo wrote to me asking me to avail myself for another interview. At this point they had still not addressed my complaint about their contradictory claims about the finality or not of their first Report.

On 28th March 2014 I received a letter from SNG informing me that it had been provided with new terms of reference which included investigating the processes of awarding contracts with VMS and the termination of contracts with other service providers. The letter read as follows:-

Dear Mr. Vavi,

Please see an extract of our scope extension letter below dealing with the objectives of the extended scope:

We understand that you require us to extend our scope and perform a forensic investigation to establish:

- a) The process that was followed in terminating contracts with various service providers as well as the process followed in awarding these contracts to VMS;
- b) Whether the said processes followed were in line with the relevant policies and procedures and standard practice at COSATU; and
- c) Whether there were any irregularities in the termination of contracts with various service providers as well as in the awarding of these contracts to VMS.

We further understand that you require us to recommend appropriate corrective action to be considered against any parties involved in any irregularities identified.

I did not respond for two reasons a) SNG had not responded to my complaint about the right to be heard before adverse findings are made and b) because on 8th April, the CEC took a decision to cease all hostilities while the ANC conducted a mediation exercise. I took this to mean that the investigation would be put in abeyance.

Little did I know that Sizwe Ntsaluba Gobodo was continuing with its investigation, notwithstanding the 08 April 2014 and 12 August 2014 CEC cessation of hostilities decisions. In my view the continuation of the investigation was in violation of the decision of the CEC.

In early February 2015 the NOBs met representatives of Sizwe Ntsaluba Gobodo with the intention of receiving a progress report on their investigation. SNG representatives read a new report to the NOBs again making adverse findings against me and against the COSATU Secretariat PA, Ms Hlomuka without giving us the right to be heard.

The same report was submitted to the CEC of 2nd to 4th March 2015 before a copy was given to me. I did not attend this CEC meeting for reasons to do with the expulsion of NUMSA and the non attendance by a significant number of Affiliates.

SNG Report submitted to the COSATU CEC 2nd - 4th March 2015 (referred to as the Second SNG Report in this document)

This response deals specifically with those elements of the 2nd SNG Report that unfairly implicate me and the Secretariat's PA, Ms Hlomuka. It therefore does not deal in detail with Section C of the Report, which makes reference to the termination of contracts and which makes general process recommendations rather than any recommendations for corrective action.

As explained above I remain in dispute with SNG since the submission of its first report to the COSATU Special CEC on 10th February 2014.

A detailed response is provided in respect of allegations of transgression of policy and procedure in the awarding of 8 contracts for telephone, photocopying and IT and related services.

Before responding to these specific allegations and recommended actions however, it is necessary to raise a few general points about the report.

In raising some general points as well as in responding to the specific allegations against me and Ms Hlomuka, I will demonstrate that the COSATU National Office bearers, in particular the General Secretary, Deputy General Secretary and Treasurer, as well members of as the Fincom and CEC are collectively responsible for any systems weaknesses.

It is impossible not to conclude that the Report is malicious either by design or by default, and that there has been collusion on the part of other NOBs, members of Fincom, the CEC and certain COSATU officials, in that none of these individuals or committees has accepted any responsibility whatsoever for the systems weaknesses that may exist. At no stage has any of them put up their hands to say publicly or privately to SNG that the singling out of the General Secretary and the Secretariat PA is out of order.

The construction of the 2nd SNG Report

The construction of the 2nd SNG Report makes it very difficult for any outside reader to follow. Thus, general impressions are created, sometimes through innuendo, without a logical flow, and without a clear analysis of evidence presented to SNG. As

a result, readers are very likely to jump straight to the recommendations contained in Sections B and C, without thoroughly digesting the main body of the report.

This in itself creates a platform for prejudice against myself and Ms Hlomuka.

No sharing of the 2nd SNG Report with the two against whom action was recommended

As was the case with the 1st SNG Report, despite the fact that the 2nd SNG Report makes adverse findings against me and Ms Hlomuka, the 2nd Report was not provided to either of us before it was presented verbally to a full meeting of the National Office Bearers on 23rd February 2015.

A written copy of the 2nd SNG Report was sent to the Deputy General Secretary on 3rd March 2015. Copies were subsequently made for all National Office Bearers (including myself) and Affiliates and distributed by hand to all parties. I received a copy on 12th March 2015, after many of the NOBs and Affiliates had received copies.

To this day Ms Hlomuka has not officially been provided with a copy of the 2nd SNG Report either by SNG itself, or by the Deputy General Secretary, to whom it was addressed and delivered. The first that Ms Hlomuka became aware of the

adverse findings against her was when her name was reported in a news report in the Sowetan newspaper on 9th March 2015. The process has been hurtful and damaging to her.

Neither of Ms Hlomuka nor me have been asked, either by SNG or by the CEC, to respond to the findings of the 2nd SNG Report.

Multiple Inaccuracies

There are multiple inaccuracies in the Report.

Many of the inaccuracies are as a result of an inadequate analysis of the evidence provided in the form of files of contracts, correspondence etc. One inexplicable inaccuracy is the claim that the late Alinah Rantsolase had something to do with the 2012 decision to have a single IT and related service provider. Ms Rantsolase, as is well known, left the Federation for parliament in 2009 and sadly passed away in 2010.

Another inaccuracy is that on pages 25 and 26 SNG refers to 13 contracts with SNG. In fact there are 8 current contracts between COSATU and SNG (with payments collected by Sunlyn Rentals). The first five contracts listed in the table on page 26 are no longer in operation. Copies of all of these contracts were provided to SNG in the course of their investigation

Further inaccuracies can be explained by wrong information being mistakenly provided, and then not verified. The most significant case is the example of the claim mistakenly made by Mr Kimani Ndungu the current Executive Director of NALEDI (COSATU's Research Institute) and reported in clause 4.21 of the 2nd SNG Report, that VMS at no stage provided services to Naledi. In fact a contractual relationship between Naledi and VMS was concluded in February 2006 with a contract being signed by the COSATU Deputy General Secretary in his capacity as Naledi Board chairperson, and Oupa Bodibe, the then Executive Director of NALEDI (See Annexure A). I have never had any decision making powers in relation to NALEDI, as I am not (and never have been) a Board member.

Mr Ndungu has subsequently attempted to correct his mistaken claim, but his calls to SNG have not been returned.

The issue is significant in that Mr Ndungu's mistaken claim is by implication used to discredit the information provided by Mr Greene of VMS that the first contact VMS had with COSATU was while they were engaging NALEDI over the supply of a new telephone system and photocopier machine in early 2006. This engagement was part of a Braamfontein based marketing campaign and resulted in the signing of the telephone and photocopying contract with NALEDI. In the course of this engagement VMS's marketing team noticed that COSATU had

offices in the same building, and ended up engaging first Ms Tshidi Makhathini (COSATU receptionist), and then Mr Mashaba, the COSATU Accountant (see clause 4.20 a-d of the 2nd SNG Report). Thus, the relationship between VMS and COSATU was borne out of a chance marketing exercise.

Innuendos

The above case of inaccurate information is relevant in that in clause 4.30 and 4.38 of the 2nd SNG Report implies that there was an improper and undisclosed business relationship between my wife Ms Noluthando Vavi and Mr Craig Greene of VMS which it is implied (though not stated) was a motivating factor in the business relationship between COSATU and VMS. The Report states that they are both directors of a company called Simethebile Holdings. What clauses 4.30 and 4.38 do NOT state is that the business relationship between my wife and Mr Craig Greene (together with a Mr Tony Barradas) was entered into in 25th October 2012, long after all of the contracts were signed, that the business (a diesel trading company) has never traded, and that it remains dormant. The Report also fails to point out that COSATU does not trade in oil. I was in fact completely unaware of the business relationship until SNG reported to the Special CEC of 10th February 2014.

While the 2nd SNG Report does not find anywhere that I had a conflict of interests in being one of the signatories to the

contracts signed between COSATU and VMS between 2007 and early 2012, and does not make any recommendations for corrective action in this regard, an impression of impropriety is nevertheless created by the inclusion of paragraphs 4.30 and 4.38. This impression in my view adds to the prejudice which the Report builds up against me.

There is a further innuendo in the rather lengthy section of the 2nd SNG Report dealing with the cancellation of contracts. The innuendo boils down to a suggestion that termination decisions were made without due diligence being applied. This is unfair on the deceased former Accountant of COSATU, Mr Mashaba, who is now not here to defend his professional integrity. He was our most qualified Accountant ever, being a registered Chartered Accountant.

No reference to COSATU processes of financial decision making, and its Constitution

Most seriously, there is no reference in the 2nd SNG Report to the processes of financial decision making and accountability in the Federation. These processes and responsibilities which were carefully crafted by the founders of the Federation to ensure checks and balances and accountability, are set out in the COSATU constitution. The key points are the following:-

1. In terms of clause 10.1 of the Constitution, the General Secretary is responsible for financial affairs as well as a range of other duties
2. In terms of clause 10.2 of the Constitution, the Deputy General Secretary explicitly shares all these responsibilities, including the financial ones. The Constitution states that he/she performs the functions set out in 10.1 “with the General Secretary”
3. These shared responsibilities include the keeping of books and accounts, the collection of affiliation fees, the banking of moneys received, the preparation of monthly financial statements, the preparation and circulation of the Annual Financial Report and the circulation of the Annual Auditor’s Report.
4. In practice these functions are not performed by the General Secretary and Deputy General Secretary, but are delegated to the COSATU Accountant and others in the Finance Department of the Federation. The General Secretary and Deputy General Secretary are the first line of supervision of this work.
5. In terms of clause 9.5 the Treasurer is responsible for “presiding over meetings of the Finance Committee; the supervision of the financial affairs of the Federation; and such other duties as may reasonably required by the NC, CC or the CEC”.

6. In terms of clause 12.6 the Finance Committee (Fincom), which is comprised of the National Treasurer as chairperson, the General Secretary and one delegate from each affiliate, is responsible inter alia for “assisting the National Treasurer; preparing financial reports for the NOB’s and CEC; recommending amendments to financial policy; and monitoring the Federation’s accounts and querying unusual expenditure”. The Fincom must meet monthly and reports to the Central Executive Committee.
7. In terms of clause 12.8 of the Constitution all six National Office Bearers are signatories to the Federation’s banking account, and three signatories must authorise any payment. Though not specified in the Constitution, this rule is also applied to all contracts entered into by the Federation, which in practice are correctly treated in the same way as cheque payments. No one signature is regarded as the primary signature. The three signatories are expected to equally apply their minds before attaching their signatures.
8. In terms of clause 13 of the Constitution the officials, office bearers and committee members of the Federation are indemnified against all proceedings, costs and expenses incurred by reason of any omission, negligence or other act done whilst performing their duties provided

that they have not acted in a manner which would constitute misconduct.

Taken in combination these clauses of the COSATU Constitution mean the following:-

1. No Federation official who is not a National Office Bearer has any decision making or signing powers. Ms Hlomuka, the PA to myself and the Deputy General Secretary (one of the lowest paid jobs in the Federation) is named on numerous occasions in the Report as being “involved” in the awarding of various contracts. The 2nd SNG Report recommends corrective action against her. There is no recognition of the fact that she explicitly has no decision making or signing powers in the Federation. She was delegated administrative tasks in relation to the contracts, including the collection of quotations, but has absolutely no decision making powers either constitutionally or in practice.
2. While the General Secretary has a number of financial responsibilities in the Federation, these are explicitly shared with the Deputy General Secretary. Furthermore, the Finance Committee and the National Treasurer have financial oversight functions. All cheques (and contracts) are signed by at least three National Office Bearers. It should be noted that all of the contracts referred to in the Second SNG Report were signed by three or more National Office Bearers. It has to be the case then that the National

Office Bearers and the Fincom must bear collective responsibility for any weaknesses in or deviation from finance policy. Outside of evidence of unconstitutional unilateralism on the part of any National Office Bearer in regard to financial decision making, it runs counter to the letter and spirit of the Constitution to single out a particular National Office Bearer, in this case, myself as General Secretary. Alternatively, in the case of contracts signed by multiple signatories, there would have to be evidence of coercion of some kind by one NOB over the rest of the NOBs. There is no suggestion in the Second SNG Report that such coercion took place.

SNG have therefore not paid attention to the structure and functioning of COSATU as a democratic trade union federation.

What is more worrying however, is that members of the National Office Bearers team, members of the Fincom (including Affiliate representatives), and members of the Central Executive Committee have apparently willfully done the same, and have chosen not to challenge any aspects of the 2nd SNG Report. They have been complicit in the line of argument that singles out an official who has no constitutional powers of decision making, and also me, despite being part of a collective machinery on financial matters. There is no evidence in any minutes of the NOBs, the Fincom, or the CEC itself, that the process of awarding contracts was at any stage queried.

There is clearly room for significant improvement in the financial processes in COSATU. The weaknesses in process however must be collectively owned, and collectively rectified.

SNG's claim of a requirement to follow a tender process in the event of procuring goods and services of above R100 000

A number of references are made in the 2nd SNG Report to the existence of a Financial and Control Policy, which inter alia contains a requirement that goods and services above R100 000 should go out to tender.

It is recorded in the Report that Ms Hlomuka stated when interviewed that she was not aware of such a Policy being in place and that the standard operating practice was for three quotes for procurement of goods and services, irrespective of the amount (para 4.18 k pg 22).

It is also recorded in the 2nd SNG Report that Mr Ramura, the COSATU Accountant, insisted that the Policy was in place and should have been applied at the time of the securing of goods and services for the new building. Mr Ramura stated that he found the undated policy *“when he joined COSATU in February 2009 and was handed a file by Ms Fakude which contained the*

said policy. Mr Ramura informed us that he does not know when the Financial and Control policy was adopted by the CEC, if it was adopted and how long it had been in use at COSATU when he joined COSATU” (para 4.2 pg 13). Ms Fakude also stated that she “found the said policy at COSATU when she joined the organisation” (in 2006) and that the policy “was used for all finance related transactions.” (para 4.4 pg 13 & 14)

The issue of the existence or not of the Financial and Control Policy is relevant in that in paragraph 4.34 SNG finds that myself and Ms Hlomuka were involved in the irregular awarding of IT and related contracts to a company by the name of VMS and that the basis of the irregularity was that the contracts were not put out to tender.

Furthermore, the 2nd SNG Report recommends corrective action against both me and Ms Hlomuka based on this alleged transgression of the claimed Finance and Control Policy.

The fact is that the Finance and Control Policy, including a tender process for contracts of over R100 000 simply does not exist, either in draft or final form. Neither myself or Ms Hlomuka have ever seen it, it has never been submitted to the

CEC for approval, and it has never been distributed to Heads of Department for implementation.

It is the Finance Manual of COSATU that regulates procurement. It is a Manual that has been developed over time since the inception of COSATU in 1985. The most recent consolidated version of the Manual was distributed to all Heads of Department in 2010 by Head of Administration, Ms Fakude. The procurement section of this Manual requires that three quotes be obtained from competing companies.

It was well known and understood by the Finance Department, the Treasurer, the Deputy General Secretary, and the Administrative Secretary that a Task Team including Ms Hlomuka and Ms Fakude were handling the sourcing of contract quotes for service providers for the renovations of new COSATU House in late 2011 and early 2012. It is impossible to accept that any of these people, including the Finance Department, believed that a tendering process should have been followed. Surely if this was the case they should have asked questions at the time about the absence of a tender process? And how could a tender process exist without bidding and selection processes being in place?

In its 30 years of existence a tendering process has never been followed by COSATU because there is no such policy. It has to be that all parties knew and understood that the procedures

contained in the Finance Manual were those to be followed. In particular, in the case of Ms Fakude, she has carried the responsibility for finding venues for large Congresses and Conferences since 2006, and has on many occasions made recommendations to the financial decision makers based on quotes for significant millions. The last Congress held in 2012 cost the federation no less than R12 million. She will have been very aware that no tender processes were followed for the awarding of such venue contracts.

It is indeed odd that the claim that the undated and unseen Finance and Control Policy of unknown origin was in place was accepted uncritically by SNG. No verification was sought for the adoption and application of this policy. A cursory look into other existing contracts would have revealed to SNG that COSATU currently had (and continues to have) contracts that exceed R100 000 per annum with amongst others the following service providers:- Telkom, Rennie's Travel, Shereeno Printers, Walton's Stationers, Vodacom and Medshield, and that ad hoc contracts have been entered into for significant millions with venues such as Gallagher Estate and Birchwood for Congresses and Conferences.

A letter to SASFIN (of which Sunlyn Rentals, the collecting agent of the rentals for VMS) dated 18 April 2008 and signed by the late COSATU Accountant Mr Mashaba, confirms that no

tender was required in terms of COSATU policy. (See Annexure B)

The claim by SNG that Ms Hlomuka and I were responsible for an irregularity because a tender process was not followed for telephone, photocopier and IT and related contracts for the new building is therefore unfounded. The recommendation that corrective action be taken against us is therefore also unfair and unfounded.

Requirement to obtain three quotations for procurement of goods and services, with particular reference to the VMS contracts

It has already been demonstrated above that there was (and is still) no requirement for a tender process in terms of existing COSATU Policy. The requirement is for three quotations.

In clause 4.34 of the 2nd Report SNG claims that they were informed by Ms Hlomuka that neither proposals nor quotations were sought *“for the installation of the networks, CCTV equipment, access controls and biometrics, video conferencing, audio visual equipment and video conferencing bridge since a decision was already taken by Mr Vavi and the late Ms Rantsolase that one service provider be used for all IT related service”*.

The statement in 4.34 of the Report is a misrepresentation of the evidence put to SNG.

In fact evidence was presented to SNG demonstrating that multiple quotes were sought for the provision of the photocopiers and telephones system.

In the case of the security system it is conceded that quotes were received from one service provider, but the context is explained below.

Photocopiers

In 2006 a contract was signed with Xerox for photocopiers for COSATU head office, and a separate contract with Canon for the provision of photocopiers to the parliamentary office and the nine provincial offices.

In 2007 it was recommended by me and the then Treasurer the late Alinah Rantsolase (Treasurer at the time) that the photocopier contracts be consolidated to one service provider. Quotes were sought from Phambile (Xerox), Katlego (Canon), VMS Technologies and Gestetner and other companies. Itec and Nashua also submitted quotes for the provision of small copiers only.

The late COSATU Accountant Mr Mashaba analysed the proposals and recommended VMS be contracted based on their costs. VMS offered paper at a lower cost, and no itemised billing for service and toner. While the other providers quoted a zero escalation vs the VMS escalation of 15% per annum, the Accountant calculated that the savings costs were greater on the side of VMS. In paragraph 4.19 of the Second SNG Report it is claimed that *“based on our discussions with Ms Hlomuka, we also established that no cost benefit was performed to determine which service provider would be the most cost effective over a period of 60 months, being the contract period”*. This claim is misleading, as it does not take into account that Ms Hlomuka explained to the SNG investigators that she is not financially qualified to make the sort of cost benefit analysis that was required to make a recommendation on the photocopier quotes, but that Mr Mashaba, as a Chartered Accountant was competent to do so, and had performed this task and made a recommendation.

The 2007 photocopier contract with VMS (a copy provided to SNG in the course of their investigation) was signed by

- the General Secretary, Zwelinzima Vavi
- the then 2nd Deputy President Violet Siboni
- and the President, Sidumo Dlamini

No objections to signing the contract were raised by any or all of the above National Office Bearers.

In 2007, based on assessment of need in the bigger Provinces, an additional contract was signed with VMS for three additional “cascading” machines for these three bigger Provinces.

Both the 2007 contracts, which had expiry dates of 2012, were consolidated into one contract in 2010. The contract was consolidated and extended by three years based on the offer from VMS to give back 50% of the rentals paid between 2007 and 2010. This pay-back clause was included in the original contract as a term for extension. COSATU received R1.4m in terms of this clause on 11th March 2011. SNG confirms that a cheque for this amount was received by COSATU.

Before the contract was renewed, a meeting was called to consider various concerns raised by Mr Ramaru (COSATU Accountant) and Ms Fakude (Head of Administration) about the price of the contract. Although they were requested to attend the meeting (See the e mail from me - Annexure C) they did not. The meeting was attended by the two PAs of the Secretariat, Ms Ngali and Ms Hlomuka, and Mr Craig Green of VMS, and was minuted by Ms Ngali. On the basis of Mr Greene’s responses to the concerns raised, Ms Ngali and Hlomuka made a recommendation to me for renewal.

The 2010 renewal contract (a copy provided to SNG in the course of their investigation) was signed on 1st December 2010 by

- The General Secretary
- The National Treasurer
- The Deputy General Secretary

No evidence has been surfaced of any coercion of the signatories to the contract.

The photocopier contract continues to run until December 2015.

The 2nd SNG Report recommends action be taken against me and Ms Hlomuka for our “involvement” in the awarding of the VMS photocopier contract without going out to tender. As with all other contracts, Ms Hlomuka had no decision making powers in regard to the contracts, and in this instance my decision making powers were shared with the Deputy General Secretary and the National Treasurer. There was no contravention of a tender policy, as such tender policy does not exist.

What possible basis for picking me out on this contract can there be other than to suit a pre-determined and manipulated end? And what possible basis can there be for picking out Ms Hlomuka, other than a vain attempt to appear even-handed?

Telephone services

In the case of the provision of telephone services the first contract with VMS was signed in December 2006. A large number of proposals were received, with the applicants being narrowed down to Itec, Nashua, Siemens, Xerox, Canon and VMS. All of these companies were interviewed based on their proposals. In this case VMS was recommended to me by the then Accountant Mr Mashaba, the deputy accountant, and Ms Hlomuka on the basis that they demonstrated that they could substantially reduce the Federation's telephone bill, that they would provide a pay-back of R200,000 towards the cost of a network upgrade, and that they had in addition offered to supply a number of "freebies" to the Federation (two plasma TVs, and a conference phone) as part of the deal. These were recorded in their proposal. The R200,000 was paid to COSATU in 2008. A copy of the cheque received from SNG was provided to SNG. Having received the recommendations of Mr Mashaba and Ms Hlomuka, I recommended VMS to the National Office Bearers.

The 2006 contract (a copy provided to SNG in the course of their investigation) was signed by

- the General Secretary
- the Deputy General Secretary
- and the then second Deputy President Violet Seboni.

No evidence has been surfaced of any coercion of the signatories to the contract.

The contract with VMS for telephone services was renewed in 2011 based on the savings that had been achieved. The 2011 renewal contract (a copy provided to SNG in the course of their investigation) was signed by

- the General Secretary
- the Deputy General Secretary
- and the President of COSATU

No evidence has been surfaced of any coercion of the signatories to the contract.

In the course of their investigation, SNG requested proof of the savings on telephone services from Ms Hlomuka. Ms Hlomuka referred SNG to Ms Jabu Tshehla in the Finance Department where files of all telephone records are kept. Ms Tshehla happened to be in the Finance Department over the period of the switch-over to VMS in 2006 and so had personal knowledge of the reduced costs, as well as the whereabouts of the telephone bill records. SNG at no point approached Ms Tshehla. Instead SNG took the word of Mr Ramaru who in fact had no personal knowledge of the switch-over period, as he was not working for COSATU at this point. For some reason he did not provide SNG with the telephone bills over the switch-over

period. Had the evidence been properly sought and provided, it would have shown that the savings were between R30 000 and R60 000 a month.

SNG's claim that there was no evidence of savings is spurious. They simply never properly sought the evidence.

The 2nd SNG Report recommends action be taken against me and Ms Hlomuka for our involvement in the awarding of the VMS telephone contract without going out to tender. As with all other contracts, Ms Hlomuka had no decision making powers in regard to the contracts, and the my decision making powers were shared with the Deputy General Secretary and President. There was no contravention of a tender policy, as such tender policy does not exist.

What possible basis for picking me out on this contract can there be other than to suit a pre-determined and manipulated end? And what possible basis can there be for picking out Ms Hlomuka, other than a vain attempt to appear even-handed?

Contracts for CCTV Equipment, the AV system (screens etc), access controls and biometrics, networks, video conference, video conference bridge

The 2nd SNG Report states in clause 4.26 that Ms Hlomuka informed them that no quotes were sought for the six services above. However this is not the case. She informed them that quotes were received by her from VMS for all these services.

In the case of the sourcing of the above, the building Task Team (comprising the GS, DGS, and five staff members) agreed that there should be only one quote sought from VMS for each of the services because of time pressures. The new owners of the old building were pushing COSATU to vacate and the new building needed to be ready for entry. The Task Team minutes were lost when Ms Fakude's computer crashed.

Quotes were received from VMS for each of the services. It was decided not to consolidate the services into one contract, as building renovations were going slowly and the starting date of each service could not be the same. Before the contracts were signed VMS made presentations to both the NOBs and the head office staff on the services that could be provided. No questions or objections were raised in these meetings about either the services or the costs reflected in the quotes provided.

The claim made in the Second SNG Report on page 24 that Ms Hlomuka stated that the reason for a single IT contractor was because the General Secretary and the late Alinah Rantsolase had decided the Federation should have a single IT contractor is completely misleading. As stated above, the decision for a

single IT contractor was made in the context of pressures to complete the building. The reference to the late Rantsolase's preference for limited service providers was in relation to photocopiers and telephones, not to IT systems. Ms Rantsolase left the Federation in 2009 to become a Member of Parliament, and passed away in 2010 long before the Federation considered expanded IT services and the move to the new building. It is therefore impossible that she had anything to do with the decision on a single IT contractor.

The six contracts (copies provided to SNG in the course of their investigation) were signed by

- the General Secretary
- the Treasurer
- and the Deputy General Secretary.

No evidence has been surfaced of any coercion of the signatories to the contract.

The 2nd SNG Report recommends action be taken against the General Secretary and Ms Hlomuka for their involvement in the awarding of the 6 IT and related contracts without going out to tender. As with all other contracts, Ms Hlomuka had no decision making powers in regard to the contracts, and in this instance my own decision making powers were shared with the Treasurer and Deputy General Secretary. There was no

contravention of a tender policy, as such tender policy does not exist.

What possible basis for picking me out on this contract can there be other than to suit a pre-determined and manipulated end? And what possible basis can there be for picking out Ms Hlomuka, other than a vain attempt to appear even-handed?

Purchase of five fridges, a microwave oven and a audio recorder

The new building renovations made provision for kitchens on every floor. Four small fridges and one large fridge were required for these kitchens, as well as one microwave oven. An audio recorder was also required for office usage.

In the course of engagement with VMS about the IT contracts, the question of sourcing the kitchen and audio equipment was raised by Ms Hlomuka.

VMS provided a price to source the required equipment from Samsung at factory prices for a total of R20 700. Based on comparisons with prices sought through phoning various discount dealers such as Makro and Game, Ms Hlomuka recommended to me that this price be accepted, as it involved considerable savings. The prices paid for the individual Samsung pieces are reflected in the first column below. The

second column reflects current advertised retail prices. The 2012 advertised prices have not been kept on record:-

| <u>retail price</u> | <u>VMS Price ex VAT</u> | <u>Current</u> |
|---------------------|-------------------------|----------------|
| Double door fridge | R8596.49 | R15,900 |
| Small fridges | R1842.11 x 4 | R2500 x 4 |
| Microwave oven | R1315.79 | R1999 |
| Audio recorder | R876.30 | R1200 |
| Total | R18157 | |
| Plus VAT | R20700 | R29198 |

On my instruction Ms Hlomuka provided the quotation to the Accounts Department which in turn prepared for payment authorisation. The payment was authorised, as per policy, by three National Office Bearers. No objections or concerns were raised by any of the signatories, as the savings were appreciated.

The 2nd SNG Report recommends action be taken me and Ms Hlomuka for our “involvement” in the purchase of the fridges, microwave and audio recorder on the grounds that three quotations were not sought. Whilst it is correct that formally speaking this is the case, cost comparisons were done. However the critical issue is that the ultimate decision to purchase via VMS was made concurrently by three NOBs, not

by any single NOB, or by Ms Holumka, who as stated repeatedly above had no powers to do so.

What possible basis for picking me out on this purchase can there be again other than to suit a pre-determined and manipulated end? And what possible basis can there be for picking out Ms Hlomuka, other than an attempt to appear even-handed?

Termination of contracts

I accept the recommendations of the section of the 2nd SNG Report that deals with termination of contracts in so far as there needs to be the adoption of a clear process to be followed going forward.

However, the recommendation is that the Financial and Control Policy be updated to do this. As stated above, this Policy does not currently exist.

In fact what is required is for the Finance Manual to be fully reviewed and submitted to the CEC for consideration and adoption.

Summary and Conclusions

Adding all of the above together the following is clear:-

1. That SNG did not pay attention to the constitutional provisions of COSATU with respect to financial controls, nor did they pay sufficient attention to which policies are currently in place
2. That contrary to the claim that the Financial and Control Policy (inclusive of a tendering process for purchases of over R100 000) was transgressed, this Policy does not exist. The policy in place is for three quotes to be obtained. This policy was adhered to in all cases except the case of the IT contracts, which exception is explained above, and in the case of the purchase of certain white goods to the tune of approximately R20 000 (see point 7 below).
3. That SNG is completely mistaken in recommending corrective action against Ms Holumka for her involvement in the various contracts. Over and above the point that no tender policy exists, she has no financial decision making powers in the Federation. One can only conclude that the naming of Ms Hlomuka for consideration of corrective action was done in a cynical attempt to appear even handed.
4. That SNG is also mistaken in singling me out for corrective action in respect of the various contracts, as over and above the non existence of a tender policy, authorization by way of signatures was

shared with two other National Office Bearers in every case.

5. That SNG is mistaken in recommending corrective action against me for my step-daughter's two week employment by VMS, as I had absolutely no knowledge of this.
6. That SNG has included in both the 1st and 2nd reports an innuendo of a conflict of interest in that my wife entered into a brief, but never activated, business relationship with a person associated with a contracted COSATU service provider. The innuendo is not followed up with any suggested corrective action. It can therefore be assumed that the formal intention of SNG was for the innuendo to be ignored as immaterial. However, they know as well as I do that such an innuendo can do serious reputational damage.
7. If the 2nd SNG report arrives at one credible conclusion it is that procedures were not properly followed in the case of the purchase of the five fridges, a microwave and an audio recorder at factory prices for a sum of just over R20 000. While comparative prices were sought at the time, these did not constitute formal quotes. SNG has been paid hundreds of thousands of Rands for us to arrive at this!
8. In all of the transactions that have been investigated there is no suggestion of any moneys going missing or unaccounted for. There is no evidence

presented that suggests that either myself or Ms Hlomuka, or any other NOB or staff members, benefitted personally from any of the transactions.

9. We do indeed have some systems weaknesses which need to be attended to. Responsibility for these systems weaknesses and for improvements must be collectively borne by the National Office Bearers Team, the Head of Finance, the Fincom, and the CEC as a whole. As General Secretary I accept that I am the leader of these processes, but that does NOT mean that I must take singular responsibility.
10. What seems to be forgotten in all of this is that if there were any systems weaknesses, they did not lead to a total breakdown of financial systems. Our audits have been clean for the entire 30 year life of COSATU, including for the duration of my tenure as General Secretary from 1999 to date. In recent years, our auditors have formally commented that our accounting processes have significantly improved under the management of the late Mr Mashaba and now under Mr Ramura. We have run a tight ship, with a zero sum annual budget, with constraints on any extravagant spending. It is only now that we have lost a significant portion of our income through the expulsion of our biggest Affiliate NUMSA, that our finances have become destabilized.

One can only conclude that the SNG investigations and handling of the two reports to date have been designed as part of a witch hunt, which started with accusations made by unnamed members of the COSATU CEC in the media that I benefited in the purchase and selling of the COSATU buildings. Sizwe Ntsaluba Gobodo was commissioned to investigate at a massive financial cost. No findings of any benefit were made. Then I was accused of having benefitted from the upgrading, furnishing and provision of services to the new COSATU House. Again a huge search for evidence was initiated, at vast expense. Nothing was found to be true.

And yet I, together with Ms Hlomuka, an ordinary employee of the Federation with no financial decision making powers, are recommended for “corrective” action.

When will this ever stop?