

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NO. 1:12-CV-00479

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TURKCELL ILETISIM HIZMETLERI, A.S.
Turkcell Plaza Mesrutiyet Caddesi No. 7134430
Tepibasi, Istanbul, Turkey

EAST ASIAN CONSORTIUM, B.V.
Rokin 55, 1012 KK, Amsterdam, the Netherlands,

Plaintiffs,

v.

MTN, LTD.,
Private Bag 9955, Cresta 2118
South Africa,

MTN, INTERNATIONAL (MAURITIUS) LTD.,

Defendants.

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Videotaped Deposition of Christian Kilowan

Monday, April 30, 2012

9:01 a.m.

VOLUME I

Reported by: Randi J. Garcia

Ref: 7271

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| <p style="text-align: right;">Page 30</p> <p>1 the National Union of Mineworkers in the '80s, you 2 know, and up til today they still remain friends 3 and they're still involved in ANC. 4 Q Did you know Mr. Ramaphosa in the early 5 '90s and mid '90s? 6 A I met him once or twice, but I mean, I 7 would not say that I know him. I know of him and 8 were aware of his credentials. 9 Q Did you later on come to work with Mr. 10 Ramaphosa? 11 A As a executive in MTN, and he is 12 chairman of MTN. So we would see each other, but 13 I would not say that I am a friend of his or 14 anything. 15 Q How about Phuthma Nhelko? 16 A Phuthma Nhelko used to be the president 17 and CEO of MTN until, I think, last year, 18 March 2011. He was the -- he started at MTN as 19 CEO in 2002. Before that he was on the board of 20 MTN, because his company also owns shares in MTN. 21 Q And going back to the '90s, did 22 Mr. Nhelko know Irene Charnley, to your knowledge?</p> | <p style="text-align: right;">Page 32</p> <p>1 BY MR. FARBER: 2 Q Do you know if Mr. Dabengwa or 3 Mr. Nisbet -- let me break it into two questions. 4 Do you know if Mr. Dabengwa knew Ms. Charnley 5 before you arrived at MTN? 6 A Well, he was there and Irene was there 7 before I arrived. So they would have known each 8 other, yes. 9 Q Do you know if they had a relationship 10 back in the '90s where they were friends? 11 A I have no idea. 12 Q About Mr. Nisbet? 13 A I have no idea. 14 Q Thank you. So you've mentioned Iran. 15 Was there a time in which you became 16 involved in Iran on behalf of MTN? 17 A Yes. In the beginning of 2004 -- might 18 have been February -- I had a discussion with 19 Ms. Charnley about my future in MTN, because at 20 that stage we had -- we had turned Orbicom into 21 profit. Phuthma wanted us to sell Orbicom. We 22 were in the process of selling Orbicom. And I was</p> |
| <p style="text-align: right;">Page 31</p> <p>1 A I don't know. I don't know. He was not 2 involved in ANC, so I don't know. 3 Q And how about Sifiso Dabengwa? Who is 4 Mr. Dabengwa? 5 A Dabengwa is currently the president and 6 CEO of MTN Group. When I joined MTN he was, I 7 think he was the CEO of MTN Nigeria. Later he 8 became group chief operating officer for MTN. 9 Q Did you know him before you joined MTN 10 in 2004? 11 A No. 12 Q And just one or two other names, just to 13 identify some of the people. Who is Mr. Nisbet? 14 A Rob Nisbet used to be the chief 15 financial officer of MTN. He also resigned, I 16 think, in 2011. I didn't know him before I joined 17 MTN. 18 Q Mr. Norman? 19 A Paul Norman is the group human resources 20 executive of MTN. I found him there at MTN. 21 (Interruption by the court reporter.) 22</p> | <p style="text-align: right;">Page 33</p> <p>1 discussing what I'm going to do after Orbicom, 2 because I didn't have any intention of working for 3 MTN. 4 And Irene then said to me that they had 5 lost the license in Iran and she needs someone 6 that she could trust to go to Iran and do some 7 investigative work, just to find out whether there 8 would still be an opportunity for MTN. 9 Q You say that MTN had lost the 10 opportunity in Iran. What were you referring to? 11 A Well, there was -- the end of 2003 there 12 was a tender issued by the government of Iran in 13 which MTN participated together with some other 14 companies, including Turkcell and their local 15 parties. And that license was then awarded to 16 Turkcell at the beginning of 2004. 17 Q Could you explain what a tender is? 18 A It is -- basically this was an 19 invitation to international mobile operators to 20 apply for the second GSM license in Iran. And it 21 was managed by BNP Paribas on behalf of the 22 government of Iran. It was a, you know, if you</p> |

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| <p>1 work in the mobile industry, these licenses are 2 often put out in tender by government. 3 And this one in particular was a process 4 that we were all confident in participating with, 5 because the rules were clear, et cetera, et 6 cetera. As a result, at the end of that process, 7 in the beginning of 2004, the license was awarded 8 to the Turkcell Consortium. 9 Q Are you aware that Turkcell bid in the 10 tender for the Iran license? 11 A Yes, because it was, you know, all the 12 bidders were identified at an early stage in Iran. 13 Q Who else bid besides Turkcell? 14 A Orascom from Egypt. I think, well, then 15 it was MTC. Now it is Zain from Kuwait, MTN 16 Turkcell. There was a fifth operator. I can't 17 remember now who it was, but those were the four 18 main operators who participated in that tender. 19 Q What happened to MTN's bid? 20 A Well, MTN came in second on the 21 financial offer, and Turkcell made a better 22 financial offer for that license.</p> | <p>1 Q You mentioned that at that time Orbicom 2 was about to be sold. Could you expand upon your 3 conversations with Irene at the time regarding 4 Iran? 5 A Essentially it was because of her 6 understanding that there is an opportunity for the 7 third license in Iran, she wanted me to go and 8 establish from the people inside Iran whether in 9 fact that possibility existed, one. Two, what it 10 is that MTN had to do to participate in that third 11 license. And, three, whether or not we should 12 establish a permanent presence in Iran before that 13 licensing process. 14 Those were the three main elements of -- 15 of -- three objectives she had in mind. She told 16 me that she cannot trust anyone else in MTN to go 17 and do this. 18 Q Do you know why she trusted you? 19 MR. COLEMAN: Object to the form of the 20 question. 21 THE WITNESS: Well, because of our long 22 history together from 1990, and she --</p> |
| Page 35 | Page 37 |
| <p>1 Q Are you aware of whether there was ever 2 a public announcement of who won the tender? 3 A Well, the I am aware, yes. I was told 4 afterwards that there was a public announcement, 5 and MTN obviously was there, so we knew that 6 Turkcell won. 7 Q Did you participate in putting together 8 the tender bid documents for MTN? 9 A No. 10 Q Did you have any involvement in the 11 tender process at all? 12 A No. No. 13 Q And do you recall approximately what 14 month the tender was awarded? 15 A I think it was February of 2004. 16 Q Okay. 17 A February 2004 or January, but it was 18 like in the first two months of the year the 19 announcement was made. Because I was not part of 20 the process. Irene also was not part of that 21 process. So I heard from her that we lost that 22 license.</p> | <p>1 knowing what I did during the time that we 2 were together on this -- on this interim 3 committee to manage these funds, and the way 4 in which I rescued her by changing Orbicom 5 around. Because Orbicom was her baby. She 6 bought it, and she wanted to show them that 7 she could make this thing successful. And 8 that is what I did. 9 And, you know, we were both activists, 10 political activists together in the struggle, 11 so she trusted me. 12 Q And you mentioned the third GSM license. 13 Was the third GSM license part of that 14 international tender that Turkcell won? 15 A No. 16 Q So this -- 17 A Would have been a new, totally new 18 process. 19 Q How did you know that the third license 20 was even open for discussion? 21 A As I recall, Irene went to Iran earlier 22 with the then minister of Minerals and Energy of</p> |

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| <p style="text-align: right;">Page 54</p> <p>1 license, you should talk to us.</p> <p>2 So we continued to have that discussion</p> <p>3 in the context of trying to understand what</p> <p>4 exactly it is we need to do for the third license.</p> <p>5 I don't think we spent a lot of time on</p> <p>6 the second license during that time, the first</p> <p>7 couple of months, so more Sairan than with Bonyad.</p> <p>8 Q Were there any other discussions with</p> <p>9 Sairan in that time period about other defense</p> <p>10 articles they were interested in?</p> <p>11 A Look, the -- the -- by the middle of</p> <p>12 May, towards the end of May the South African</p> <p>13 ambassador came, Mr. Yusuf Saloojee --</p> <p>14 S-A-L-O-O-J-E-E -- came to Iran. And we had a</p> <p>15 discussion about -- because he had a meeting with</p> <p>16 Irene shortly before he came to Iran. And he</p> <p>17 indicated to me that the focus is going to move</p> <p>18 from the third license to the second license.</p> <p>19 Q Who was --</p> <p>20 A Mr. Saloojee. So he said -- that was</p> <p>21 based on his discussion with Irene in South Africa</p> <p>22 before he came to Iran.</p> | <p style="text-align: right;">Page 56</p> <p>1 until it is complete.</p> <p>2 A I agree to that.</p> <p>3 Q Thank you. So I think before the break</p> <p>4 you had just mentioned Mr. Saloojee. Who, again,</p> <p>5 is Yusuf Saloojee?</p> <p>6 A Yusuf Saloojee is the former ambassador,</p> <p>7 South African Ambassador to Iran. He is now the</p> <p>8 ambassador to Oman. He is a long standing ANC</p> <p>9 cadre, and he's got a lot of respect in ANC.</p> <p>10 Q And do you know whether Mr. Saloojee had</p> <p>11 a relationship with Mr. Ramaphosa in the '90s?</p> <p>12 A Yes. Yes. And certainly since the</p> <p>13 unbanning of the ANC.</p> <p>14 Q In what year?</p> <p>15 A 1990. They were all working in the --</p> <p>16 for the ANC in South Africa. And they were in the</p> <p>17 same office building. Mr. Saloojee worked very</p> <p>18 closely with Mr. Thabo Mbeki, who would later</p> <p>19 become the President of South Africa.</p> <p>20 Q Spell Mbeki.</p> <p>21 A Mbeki is M-B-E-K-I. Because during the</p> <p>22 exile years they were both in international</p> |
| <p style="text-align: right;">Page 55</p> <p>1 Q So would you like a break for a minute</p> <p>2 or two?</p> <p>3 A Yes. That is fine.</p> <p>4 MR. FARBER: Let's go off the record.</p> <p>5 THE VIDEOGRAPHER: We are off the record</p> <p>6 at 10:05.</p> <p>7 (Thereupon, a brief recess was taken.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record at 10:15.</p> <p>10 BY MR. FARBER:</p> <p>11 Q Thank you. Two more instructions I</p> <p>12 forgot to mention earlier, Mr. Kilowan. First, if</p> <p>13 you ever need a break, do not hesitate to</p> <p>14 interrupt and ask for one. Any time you need a</p> <p>15 break, we will be happy to take one.</p> <p>16 A I shall do so.</p> <p>17 Q Secondly, over the course of the</p> <p>18 testimony over the next few days, I ask that you</p> <p>19 not talk to anyone about your testimony, whether</p> <p>20 it be a lawyer for any of the parties, or anyone</p> <p>21 on the outside. You really should not talk about</p> <p>22 this testimony with anyone during the testimony</p> | <p style="text-align: right;">Page 57</p> <p>1 affairs section of the ANC. He was based in</p> <p>2 Canada and Mr. Mbeki was based in London, between</p> <p>3 London and Lusaka, in Zambia.</p> <p>4 Q Did Mr. Saloojee have a prior friendship</p> <p>5 with Ms. Charnley?</p> <p>6 A I don't know. I -- I don't know. We</p> <p>7 certainly didn't move in the same circles at that</p> <p>8 time, Irene and the ANC, but...</p> <p>9 Q Did you have a prior relationship with</p> <p>10 Mr. Saloojee?</p> <p>11 A No. No.</p> <p>12 Q You mentioned in about May of 2004 Mr.</p> <p>13 Saloojee arrived in Iran.</p> <p>14 A That is correct.</p> <p>15 Q Do you know if this was the beginning of</p> <p>16 his posting to Iran on behalf of South Africa?</p> <p>17 A That is correct.</p> <p>18 Q And did anyone from MTN, to your</p> <p>19 knowledge, talk with Ambassador Saloojee before he</p> <p>20 came to Iran?</p> <p>21 A Only what has been reported to me by Mr.</p> <p>22 Saloojee and by a gentleman called Nkateko Nyoka.</p> |

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| <p>1 Nkateko is N-K-A-T-E-K-O. His surname Nyoka is</p> <p>2 N-Y-O-K-A.</p> <p>3 Mr. Nyoka at the time was the general</p> <p>4 manager, international business development</p> <p>5 working for Irene in MTN.</p> <p>6 Q And what did they tell you?</p> <p>7 A They had a meeting with Ambassador</p> <p>8 Saloojee to brief him about MTN's interest in</p> <p>9 Iran. And Ambassador Saloojee told me that in his</p> <p>10 briefing with Irene -- Irene -- well, the</p> <p>11 conclusion they reached was that we should be</p> <p>12 focusing on the second license, the GSM license.</p> <p>13 Q When did you first meet with Ambassador</p> <p>14 Saloojee?</p> <p>15 A It was some time in May 2004, very soon</p> <p>16 after he arrived in Iran.</p> <p>17 Q Had Ms. Charnley talked to you at all</p> <p>18 about pursuing the second GSM license before you</p> <p>19 met Mr. Saloojee, Ambassador Saloojee?</p> <p>20 A Not really. We were -- we were sort of</p> <p>21 monitoring the second license but our -- our</p> <p>22 efforts were more on the third license, third GSM</p> | <p>1 to you, who were they conveyed by?</p> <p>2 A Irene would convey to me, and I would</p> <p>3 execute and --</p> <p>4 (Interruption by the court reporter.)</p> <p>5 THE WITNESS: Would it be easier if I</p> <p>6 say Irene Charnley?</p> <p>7 (Interruption by the court reporter.)</p> <p>8 BY MR. FARBER:</p> <p>9 Q Please look at the camera.</p> <p>10 And would you freelance on your own</p> <p>11 while you were in Iran at that time?</p> <p>12 A No. No. I was there on assignment for</p> <p>13 MTN. No need for me to freelance.</p> <p>14 Q So once you heard from Ambassador</p> <p>15 Saloojee that the decision had been made to pursue</p> <p>16 the second GSM license, what did you do?</p> <p>17 A Well, I had a discussion with Irene and</p> <p>18 I started looking at what is it that would have</p> <p>19 moved the Iranian government from -- move them to</p> <p>20 take the license from Turkcell, and give the</p> <p>21 license to MTN. Because when it is one thing to</p> <p>22 stay focus on the second license, but the</p> |
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| <p>1 license. She didn't specifically say we are going</p> <p>2 to go now after the second license before that</p> <p>3 meeting with Ambassador Saloojee.</p> <p>4 Q And when Ambassador Saloojee told you</p> <p>5 about his meeting with Ms. Charnley, what was your</p> <p>6 reaction?</p> <p>7 A Look, I wasn't surprised, because I know</p> <p>8 there would be these discussions. And for me it</p> <p>9 was fine. I mean, if that is what they are going</p> <p>10 to do, tell me what is it that I need to do.</p> <p>11 Because at that stage I was not yet</p> <p>12 permanently based in Iran. I was basically</p> <p>13 conveying information back and forth, getting</p> <p>14 instructions and then coming back to Iran.</p> <p>15 Q Who did you convey information back to</p> <p>16 on the MTN side?</p> <p>17 A Primarily Irene Charnley, and she would</p> <p>18 then convey that back up to Phuthma Nhelko.</p> <p>19 Q Phuthma, at the time, what was his</p> <p>20 position?</p> <p>21 A He was president and CEO of MTN Group.</p> <p>22 Q When you say instructions were conveyed</p> | <p>1 modalities of that had to be carefully planned</p> <p>2 out.</p> <p>3 That was what I then started to do is to</p> <p>4 try and understand what is it that MTN could do</p> <p>5 from its side. To change all -- to augment what</p> <p>6 was already happening in the -- in the</p> <p>7 parliamentary process around the license. So how</p> <p>8 could we construct an environment that would end</p> <p>9 up with MTN being in the second license in one</p> <p>10 form or the other.</p> <p>11 Q Would that also involve knocking</p> <p>12 Turkcell out of the second license?</p> <p>13 MR. COLEMAN: Object to the form.</p> <p>14 MR. FARBER: Withdrawn.</p> <p>15 BY MR. FARBER:</p> <p>16 Q Did you have an understanding of what</p> <p>17 would happen to Turkcell if you pursued these</p> <p>18 plans?</p> <p>19 A Well, the nature of mobile operators is</p> <p>20 such that there can only be one major foreign</p> <p>21 operator in the licensing country. So if MTN</p> <p>22 wanted to be in, Turkcell had to be out.</p> |

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| <p style="text-align: right;">Page 86</p> <p>1 government."</p> <p>2 Q Did you write that?</p> <p>3 A That is correct.</p> <p>4 Q What did you mean by it?</p> <p>5 A What I meant is that we should now step</p> <p>6 up our activities in relation to fleshing out the</p> <p>7 defense nuclear issues, especially, and then</p> <p>8 interact with the South African government,</p> <p>9 especially the Ministry of Defense, to see to what</p> <p>10 extent we can offer the Iranians, either through</p> <p>11 MTN or through the local embassy, South African</p> <p>12 Embassy, could offer the Iranians tangible</p> <p>13 assistance in those two areas, defense and nuclear</p> <p>14 issue." And I was saying to the top executive,</p> <p>15 this is what they should now start looking at.</p> <p>16 Q Who was the decision maker at the time</p> <p>17 in the MTN Group that decided how to pursue this</p> <p>18 strategy that you just described?</p> <p>19 A Mainly Irene Charnley.</p> <p>20 Q Was there someone else?</p> <p>21 A Phuthma Nhelko, because she reports to</p> <p>22 him, and whatever she would commit on behalf of</p> | <p style="text-align: right;">Page 88</p> <p>1 offer to the Iranian government.</p> <p>2 Q At the time did it ever strike you as</p> <p>3 strange that a telecommunications company like</p> <p>4 MTN was dealing in nuclear and defense issues?</p> <p>5 MR. COLEMAN: Object to form.</p> <p>6 THE WITNESS: If it was a different</p> <p>7 mobile operator. But MTN and the top</p> <p>8 executive, specifically Irene, had a very</p> <p>9 specific relationship with the government of</p> <p>10 South Africa. That is one.</p> <p>11 Secondly, MTN really wanted this license.</p> <p>12 So between Irene and Phuthma, they would go all</p> <p>13 out to try and get that second license.</p> <p>14 Q When you say "go all out," did that --</p> <p>15 did you -- how did that relate to defense articles</p> <p>16 or arms?</p> <p>17 A They would facilitate. They would do</p> <p>18 whatever they could do to facilitate actual</p> <p>19 transfer of arms or the signing of agreements</p> <p>20 between South Africa and the government of Iran on</p> <p>21 defense equipment and cooperation.</p> <p>22 Q When you say "go all out," how did that</p> |
| <p style="text-align: right;">Page 87</p> <p>1 MTN, he would have to agree to it. So those are</p> <p>2 the two key people, Irene Charnley and Phuthma</p> <p>3 Nhelko.</p> <p>4 Q Did you have specific discussions with</p> <p>5 them about pursuing the strategy on the nuclear</p> <p>6 and defense issues in and around May 2004?</p> <p>7 A Mainly with Irene. And the -- the</p> <p>8 discussion was also mainly around getting Terror</p> <p>9 Lekota, the Minister of Defense, to come to Iran</p> <p>10 and meet with Shamkani, Iranian Minister of</p> <p>11 Defense. Shamkani is S-H-A-M-K-A-N-I. She was</p> <p>12 pursuing that.</p> <p>13 She was also pursuing discussions with</p> <p>14 the minister in the Office of the State President,</p> <p>15 Mr. Essop Pahad. And she was also discussing this</p> <p>16 with the Minister of Foreign Affairs at that time,</p> <p>17 who was Nkosa Dlamani-Zuma, N-K-O-S-A,</p> <p>18 D-L-A-M-A-N-I, Z-U-M-A.</p> <p>19 So she was the main contact for MTN with</p> <p>20 all of these government officials to see how --</p> <p>21 how do we put together a package that we could</p> <p>22 offer, that the South African government could</p> | <p style="text-align: right;">Page 89</p> <p>1 relate to the nuclear issue?</p> <p>2 A The nuclear issue, they would try and</p> <p>3 make it possible for the Iranians to get meetings</p> <p>4 with our president. Because the impression I had</p> <p>5 at the time was that the Iranians had been trying</p> <p>6 for sometime to get a meeting with our president,</p> <p>7 but our president had been resisting those</p> <p>8 meetings.</p> <p>9 And Irene, certainly, was of the view</p> <p>10 that through her relationship with Zanele and the</p> <p>11 president, she could facilitate those things on</p> <p>12 behalf of MTN.</p> <p>13 Q Zanele being the president's wife?</p> <p>14 A That is correct. Yes.</p> <p>15 Q Let me introduce Exhibit 4.</p> <p>16 (Thereupon, Exhibit Number 4 was marked for</p> <p>17 identification purposes.)</p> <p>18 Q I will state for the record Exhibit 4 is</p> <p>19 Bates stamped CK280 through 287.</p> <p>20 Mr. Kilowan, do you recognize this</p> <p>21 exhibit?</p> <p>22 A Yes, I do.</p> |

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| <p>1 Q Could you state for the record what it 2 is?</p> <p>3 A It is a memo that I sent -- a report I 4 sent, again, to Irene on my visit to Iran.</p> <p>5 Q Does this appear to be a true and 6 correct copy of the document that was in your 7 custody while you worked at MTN?</p> <p>8 A That is correct. Yes.</p> <p>9 Q Was it kept in the ordinary -- in the 10 regular course of MTN's business?</p> <p>11 A Yes, it was.</p> <p>12 Q Was it prepared by you?</p> <p>13 A That is correct.</p> <p>14 MR. FARBER: Move the admission of 15 Exhibit 4.</p> <p>16 BY MR. FARBER:</p> <p>17 Q Let me focus you on page three of eight, 18 if I could.</p> <p>19 A Okay.</p> <p>20 Q Third bullet down, could you read that 21 into the record, please.</p> <p>22 A "There are strong indications from more</p> | <p>1 Q When you were talking to Sairan, did 2 you -- did MTN have any understanding about 3 whether or not it was talking to the Ministry of 4 Defense?</p> <p>5 A Yes. Because by July 2004 this was now 6 a well-rounded discussion with Sairan and Ministry 7 of Defense.</p> <p>8 Q What do you mean by --</p> <p>9 MR. COLEMAN: Excuse me. Object to the 10 form of the question and move to strike.</p> <p>11 BY MR. FARBER:</p> <p>12 Q What do you mean it was a well-rounded 13 discussion, well-formed discussion?</p> <p>14 A Because by now we were talking about 15 either the suggestion of our Minister of Defense 16 going to Iran, something that also came from 17 Sairan. So we were talking about how do we 18 deflesh to this notion that MTN can help them on 19 defense related matters.</p> <p>20 Q Could you be more specific in terms of 21 what the conversations were? What were the 22 Iranians asking for anything in specific? Let's</p> |
| Page 91 | Page 93 |
| <p>1 than one source that the Iranian Ministry of 2 Defense is a key player and is looking for some 3 sort of trade with South Africa. This could be of 4 assistance to MTN in relation to the second GSM 5 license."</p> <p>6 Q Was this known to MTN in July of 2004?</p> <p>7 A Yes.</p> <p>8 Q Let me focus you on page five, under the 9 header Sairan. If you could read the second 10 sentence into the record.</p> <p>11 A "My overall sense" --</p> <p>12 Q Sorry, I must have -- page five of 13 eight. Are we on the same page?</p> <p>14 A Yes. "Sairan Electronic Industries?"</p> <p>15 Second sentence --</p> <p>16 Q No, second sentence.</p> <p>17 A Oh, okay. "Sairan is a wholly owned 18 agent of the Ministry of Defense, MOD, and 19 therefore, represents the MOD's interest in a 20 number of defense related initiatives."</p> <p>21 Q This is something you wrote in 2004?</p> <p>22 A That is correct.</p> | <p>1 start there.</p> <p>2 A Well, remember they started with the 3 issue of the radios in March 2004. There was the 4 Heads-up display issue. There was the talk about 5 the, you know, we have this helicopter, the 6 Rooivalk. I said that "I don't know, this thing 7 looks like something that the Americans built, so 8 I don't know whether we can give it to you." But 9 there were discussions around what is it that we 10 can actually deliver, because we were saying to 11 them "we can deliver." So these were the items 12 that they were talking to us about.</p> <p>13 Of course, it would still have to go 14 through the normal process, through the South 15 African Embassy in Iran, to the Ministry of 16 Foreign Affairs in South Africa, then from there 17 to the Ministry of Defense. We said to them we 18 can make sure that whatever bottlenecks arise, we 19 can try and attend to.</p> <p>20 Q And by "we" you mean?</p> <p>21 A MTN.</p> <p>22 Q MTN?</p> |

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| <p>1 A Yeah.</p> <p>2 Q And was MTN, at the time, promising to</p> <p>3 facilitate these arms sales?</p> <p>4 A No. We were not promising to facilitate</p> <p>5 the arm sales. We were promising to get them in</p> <p>6 front of the right people for these arm sales.</p> <p>7 And if there are any bottlenecks, we would talk to</p> <p>8 the minister, for example. And the minister would</p> <p>9 talk to his people in the Arms Procurement Program</p> <p>10 in South Africa.</p> <p>11 Q Were you personally having these</p> <p>12 discussions with the Iranians?</p> <p>13 A Yes. On the Iranian side I had these</p> <p>14 discussions myself, which I reported back to</p> <p>15 Irene.</p> <p>16 Q And who were you talking to?</p> <p>17 A I was talking Dr. Mahmoudzadeh mainly.</p> <p>18 M-A-H-M-O-U-D-Z-A-D-E-H.</p> <p>19 Q Was there anyone else you were talking</p> <p>20 to?</p> <p>21 A Not really. On those issues it was me</p> <p>22 and Mr. Mahmoudzadeh.</p> | <p>1 A I do, yes.</p> <p>2 Q Please describe what it is.</p> <p>3 A It is a update that I compiled in 2005.</p> <p>4 Q And do you recognize this as a true and</p> <p>5 correct copy of a document that was kept in your</p> <p>6 custody?</p> <p>7 A That is correct.</p> <p>8 Q Was it kept by you when you were</p> <p>9 employed by MTN?</p> <p>10 A That is correct.</p> <p>11 Q Was it kept in the regular course of</p> <p>12 MTN's business?</p> <p>13 A That is correct.</p> <p>14 Q Did you create this document at the time</p> <p>15 in 2005?</p> <p>16 A I did, yes.</p> <p>17 Q I would like to focus you on paragraph</p> <p>18 four of the exhibit, if you could read that to</p> <p>19 yourself.</p> <p>20 You mentioned that you were -- there</p> <p>21 were some discussions about funding of the local</p> <p>22 partners' shares, if they were to leave Turkcell</p> |
| Page 95 | Page 97 |
| <p>1 Q Did you keep MTN corporate advised of</p> <p>2 your discussions?</p> <p>3 A Of course.</p> <p>4 MR. FARBER: Why don't we pause here to</p> <p>5 take a break for 10 minutes.</p> <p>6 THE VIDEOGRAPHER: This is the end of</p> <p>7 Tape 1 of the videotaped deposition of</p> <p>8 Christian Kilowan. We're off the record at</p> <p>9 11:06.</p> <p>10 (Thereupon, a brief recess was taken.)</p> <p>11 THE VIDEOGRAPHER: Here begins Tape 2 in</p> <p>12 the videotape deposition of Chris Kilowan.</p> <p>13 We are on the record at 11:16.</p> <p>14 BY MR. FARBER:</p> <p>15 Q Mr. Kilowan, let me show you exhibit --</p> <p>16 what I will mark as Exhibit 5.</p> <p>17 (Thereupon, Exhibit Number 5 was marked for</p> <p>18 identification purposes.)</p> <p>19 Q I will state for the record, it is Bates</p> <p>20 stamped CK491 through 492.</p> <p>21 Mr. Kilowan, do you recognize Exhibit</p> <p>22 Number 5?</p> | <p>1 to MTN. Could you expand upon what you mean by</p> <p>2 that?</p> <p>3 A At what point?</p> <p>4 Q Starting in 2000- -- starting in 2004</p> <p>5 and then, sort of, how it progressed.</p> <p>6 A In 2004 the position was that the local</p> <p>7 partners owned 30 percent, Sairan, Bonyad owned</p> <p>8 30 percent of the license. Turkcell owned the</p> <p>9 other 70 percent of the license.</p> <p>10 In terms of the agreements, the local</p> <p>11 partners had to come up with their 30 percent of</p> <p>12 the funding, which is for the license, license</p> <p>13 fee, and the capitalization of the company. So in</p> <p>14 total it is about 450 million euros. So they</p> <p>15 would have to come up with their 30 percent.</p> <p>16 In our discussions we realized that they</p> <p>17 would not be in a position to come up -- despite</p> <p>18 all of their posturing, they would not be in a</p> <p>19 position to come up with their 30 percent. So we</p> <p>20 were saying we will help you. And by that we</p> <p>21 meant that we would give you a loan to pay for</p> <p>22 your part of the financial obligations. And, of</p> |

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| <p style="text-align: right;">Page 98</p> <p>1 course, we would, through that loan, we would 2 structure some form of involvement of MTN in the 3 second operator -- this is in 2004. 4 Q Yes. 5 A So that was the financial -- the 6 parameters of the financial discussions in 2004. 7 Q How much was the license fee? 8 A 300 million euros. 9 Q Was that 300 million part of the 10 Turkcell bid? 11 A Yes. It is -- the tender -- the tender 12 regulations set that as the license fee. So it is 13 not that Turkcell -- anyone who won the tender, 14 had to pay that license fee. 15 Q What were the capital -- do you know how 16 much the capitalization cost was? 17 A 130 million. Because 35 percent -- they 18 had to put in 35 percent of the total capital of 19 the company in cash, which amounted to roughly 20 150 million euros. 21 Q 150 million euros, the 35 percent or the 22 total capitalization?</p> | <p style="text-align: right;">Page 100</p> <p>1 obligations. 2 Q So going -- turning to paragraph four of 3 Exhibit 5, what is this reference "I put the 4 proposal of funding, the Iranian part to Mokhber 5 this morning?" 6 A Well, after this June 2005 MOU was 7 signed, and it was submitted to the -- to 8 Dr. Fardis at the Ministry of Communications, I 9 think the -- the next day. This was the 24th, was 10 the Friday we signed the MOU. On the Saturday we 11 saw newspaper reports that Turkcell had also met 12 the condition that they must have met, a 13 certificate that they are going ahead with the 14 license, with the process with their local 15 partners. 16 So, you know, on the Saturday morning 17 when everyone left for South Africa, there was 18 great euphoria in the MTN camp. In the afternoon 19 when they landed and I conveyed the information to 20 them everyone was panicking. Because now we 21 thought that this thing was not done on Friday. 22 So I was told by Irene and Phuthma to go</p> |
| <p style="text-align: right;">Page 99</p> <p>1 A The 35 percent. 2 Q Did those discussions about MTN helping 3 fund or finance the local partners' change between 4 what you described in 2004 and 2005? 5 A Yes. In June 2005 we signed a 6 memorandum of understanding with Turkcell's local 7 partners at that stage, Sairan and Bonyads, where 8 in June MOU we agreed that MTN would pay its 9 49 percent, and it would fund up to 80 percent of 10 the local shareholders' obligations. 11 So we would give them a loan up to 12 80 percent of their obligations. They would have 13 to fund the other 20 percent themselves. 14 That changed in September 2005, where we 15 then agreed that we would fund up to 90 percent of 16 their obligation, and they would fund their 17 10 percent. 18 In October 2005, when we deposited our 19 portion of the license fee and the capitalization, 20 they asked us to give them their 10 percent also. 21 So we ended up paying 100 percent of their 22 obligations. And, of course, we paid our full</p> | <p style="text-align: right;">Page 101</p> <p>1 back to find out what happened. I must go back to 2 Sairan. I must go back to Bonyad. And Phuthma 3 said to me, "see what they would say about MTN 4 funding their portion." This is now in 2005, 5 which now has increased from 30 percent to 6 51 percent. What -- how they would feel about 7 this, and that is what I put to Mr. Mokhber. I am 8 reporting back now. Had the discussion; this is 9 what he is saying about our offer of helping them 10 with their 51 percent. 11 Q Let me shift topics, if I could. We're 12 done with the exhibit. Give it to the court 13 reporter. Thank you. 14 Let's go back to the time period of July 15 and August 2004. Could you pick up the 16 discussions in that time period about MTN's 17 involvement in the defense articles? 18 MR. COLEMAN: Object to form. 19 THE WITNESS: I have given them these 20 reports, the 2007 July report. I said this 21 is what Sairan is looking for. They want the 22 MOD, et cetera, et cetera. So from that</p> |

| Page 102 | Page 104 |
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| <p>1 point we started discussing with the 2 ambassador in Iran, Ambassador Saloojee; 3 Irene started discussing with Terror Lekota 4 and with the Minister of Foreign Affairs 5 about the possibility of Terror Lekota going 6 to Iran. 7 When he comes to Iran, what is it that he 8 would offer, be able to offer them at an 9 official South African government to Iranian 10 government level. Irene was responsible for 11 those discussions in South Africa. Ambassador 12 Saloojee and myself, we were in Iran at that 13 time. 14 So we were communicating backwards and 15 forwards on when he would be able to come, you 16 know, what would he be able to do, et cetera, 17 et cetera, et cetera. So we started the 18 process of preparing for his visit to Iran. 19 During that process, July, early August, 20 Irene came to Iran. And we had a meeting with 21 Ambassador Saloojee. She then -- they then had 22 a private meeting where I was not present.</p> | <p>1 with Iran in terms of which certain items they 2 will discuss, which items can be sold to Iran and 3 that will pass through the National Convention of 4 Arms Committee of South Africa. 5 Q Did you have an understanding -- 6 MR. COLEMAN: Excuse me. I just want to 7 put an objection on the record to the 8 question on line seven and line nine, "what 9 was the fish?" Object to form and move to 10 strike. 11 BY MR. FARBER: 12 Q Did you have an understanding of why 13 Ambassador Saloojee was talking to you about 14 defense sales or defense agreements between the 15 two governments? 16 A I mean, that was the nature of the 17 relationship between us. We discussed these 18 things openly, and it was something that was in 19 constant discussion between MTN and him -- Irene 20 in particular, him, me after all of these 21 indications earlier in the year. So we were all 22 on the same page what it is that the Iranians</p> |
| Page 103 | Page 105 |
| <p>1 They had the meeting and then she said to me -- 2 after that meeting she said that Terror is 3 coming to Iran. 4 Q Terror being? 5 A Terror Lekota, the Minister of Defense, 6 is coming to Iran. I asked her when. She said it 7 will be sometime in August. He has to see when he 8 would be able to come. And Ambassador Saloojee 9 would be doing the formal invitation, getting it 10 from the defense in Iran and channeling it through 11 normal channels back to Victoria, and so on. 12 I think one week or two weeks later, 13 when I had dinner -- I had regularly dinner at 14 Ambassador Saloojee's house. We were discussing 15 this. He said that Irene had told him that they 16 can give the fish to Iran. 17 Q What was the fish? 18 A Well, his understanding of the fish was 19 that Terror would come, the Minister of Defense, 20 with our Minister of Defense would come to Iran, 21 and he would agree that South Africa will enter 22 into some form of defense cooperation agreement</p> | <p>1 wanted from us. 2 So for me it wasn't strange, because by 3 then we had a relationship. We were both in the 4 struggle together, albeit in different countries, 5 but that comradeship was there. We were all on 6 the same page and we were all focusing on the same 7 thing. 8 Q When you say "we," who is the we? 9 A MTN, and Ambassador Saloojee and myself, 10 Irene, we were all in the same -- on the same page 11 on this. 12 Q Did you communicate to anyone on the 13 Iranian's side that Defense Minister Lekota would 14 be taking the trip? 15 A Yes. I spoke to Dr. Mahmoudzadeh, but I 16 said this will -- the formal processes will be 17 done by the ambassador. But I didn't say to him, 18 yes, we will -- also, I went with Irene to Dr. 19 Mahmoudzadeh. Irene also confirmed this to him. 20 Q Why was MTN telling someone who worked 21 for the Defense Ministry that -- the Iranian 22 Defense Ministry, that someone from the South</p> |

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| <p style="text-align: right;">Page 106</p> <p>1 Africa Defense Ministry was coming to visit?</p> <p>2 A We wanted to show them that we could</p> <p>3 deliver.</p> <p>4 Q Deliver on --</p> <p>5 A On defense cooperation. We can deliver</p> <p>6 our Minister of Defense.</p> <p>7 Q Did you -- who invited -- did anyone</p> <p>8 from MTN talk to Defense Minister of South Africa</p> <p>9 Lekota about this trip?</p> <p>10 A Irene spoke to him.</p> <p>11 Q And did she tell you about her</p> <p>12 conversations?</p> <p>13 A Yes.</p> <p>14 Q What did she tell you?</p> <p>15 A She said that, you know, it was tough</p> <p>16 because this guy doesn't want to go to Iran, and</p> <p>17 --</p> <p>18 Q This guy being --</p> <p>19 A Minister Lekota. And she had to put</p> <p>20 some pressure on him, begged him and said "my</p> <p>21 brother, you know, we want you to come to me</p> <p>22 because we can show that we can deliver on these</p> | <p style="text-align: right;">Page 108</p> <p>1 would run smoothly.</p> <p>2 Q Did anyone from MTN accompany the</p> <p>3 Defense Minister Lekota?</p> <p>4 A Irene and Phuthma Nhelko accompanied.</p> <p>5 Q Do you know whether they were in the</p> <p>6 meetings that Minister Lekota had with the</p> <p>7 Iranians?</p> <p>8 A As far as it was reported to me, yes.</p> <p>9 Q Did you find that unusual?</p> <p>10 A No, not in a context of what we had been</p> <p>11 doing all along.</p> <p>12 Q Did Irene ever tell you what she</p> <p>13 expected from the Iranians in return for arranging</p> <p>14 the visit of Mr. Lekota?</p> <p>15 A An entry into the second license.</p> <p>16 Q Do you know whether MTN paid for any</p> <p>17 portion of Minister Lekota's trip?</p> <p>18 A I don't know because I don't know what</p> <p>19 financial arrangements were made.</p> <p>20 Q Were there any dinners or other events</p> <p>21 between MTN and Minister Lekota in Iran during the</p> <p>22 trip?</p> |
| <p style="text-align: right;">Page 107</p> <p>1 things." So in the end, I don't know what it is</p> <p>2 that she promised him or why he went, but he went</p> <p>3 to Iran.</p> <p>4 Q Did Irene tell you that she promised</p> <p>5 something to Minister Lekota?</p> <p>6 A No. She didn't say anything to me about</p> <p>7 it.</p> <p>8 Q Do you know when Minister Lekota</p> <p>9 actually visited?</p> <p>10 A I think it was August 2004.</p> <p>11 Q Did you work on his agenda?</p> <p>12 A No.</p> <p>13 Q Who arranged his agenda and meeting?</p> <p>14 A The agenda was arranged between Irene</p> <p>15 and Ambassador Saloojee. I wasn't even in the</p> <p>16 country when this visit took place. I wasn't in</p> <p>17 Iran. I was in South Africa.</p> <p>18 Q How do you know Irene arranged his</p> <p>19 agenda with Ambassador Saloojee?</p> <p>20 A Through her office in South Africa and</p> <p>21 through the office in Iran. I was in constant</p> <p>22 touch with both offices to make sure that the trip</p> | <p style="text-align: right;">Page 109</p> <p>1 MR. COLEMAN: Object to form.</p> <p>2 THE WITNESS: Well, the dinners were</p> <p>3 at -- one dinner was at the hotel where</p> <p>4 Minister Lekota stayed. And then there was</p> <p>5 an official dinner at the Ministry of Foreign</p> <p>6 Affairs --</p> <p>7 (Interruption by the court reporter.)</p> <p>8 A -- of defense, Ministry of Defense,</p> <p>9 where Irene and Phuthma and Ambassador Saloojee</p> <p>10 were present with Minister Lekota and Minister</p> <p>11 Shamkani and Mahmoudzadeh.</p> <p>12 Q Who was Minister Shamkani, and can you</p> <p>13 spell Shamkani?</p> <p>14 A Shamkani was the Minister of Defense of</p> <p>15 Iran at that time. His spelling is</p> <p>16 S-H-A-M-K-A-N-I.</p> <p>17 Q What was MTN doing in a meeting between</p> <p>18 the Minister of Defense of South Africa and the</p> <p>19 Minister of Defense of Iran?</p> <p>20 A MTN organized it. MTN arranged it.</p> <p>21 Irene arranged it. So -- and it was specifically</p> <p>22 arranged so as to prove to the Iranians that MTN</p> |

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| <p>1 can deliver on the defense matters.</p> <p>2 Q Were there any agreements reached during</p> <p>3 that trip?</p> <p>4 A My understanding, again, is that at the</p> <p>5 dinner Minister Shamkani turned to Minister Lekota</p> <p>6 and said "my brother, I will make sure that MTN</p> <p>7 gets a share of the second license." He turned to</p> <p>8 Dr. Mahmoudzadeh and said "you must go and talk to</p> <p>9 Turkcell, and you must make sure that MTN get</p> <p>10 shareholding in the second license." That is --</p> <p>11 that is what was reported to me by Irene, as well</p> <p>12 as by Ambassador Saloojee. Irene then said I</p> <p>13 should follow up on these promises.</p> <p>14 Q And did Minister Lekota make any</p> <p>15 commitments to Minister Shamkani?</p> <p>16 A Minister Lekota, in turn, indicated that</p> <p>17 they will put together a joint committee that will</p> <p>18 sign an MOU, that will spell out all the defense</p> <p>19 related items on which South Africa and Iran would</p> <p>20 cooperate with each other.</p> <p>21 Q Did you understand that this dinner</p> <p>22 involved a quid pro quo of the agreement for</p> | <p>1 more directly involved with the negotiations with</p> <p>2 Turkcell. So he would follow up, and so we should</p> <p>3 remain in contact to see what is happening.</p> <p>4 Q And did you stay in contact with Vafaie?</p> <p>5 A I did indeed, yes.</p> <p>6 Q Did Vafaie ever tell you if he talked to</p> <p>7 Turkcell?</p> <p>8 A It took, I think, maybe a month or two</p> <p>9 before he came back to me, and he indicated that</p> <p>10 they spoke to Turkcell, and that Turkcell is not</p> <p>11 really happy with that arrangement.</p> <p>12 Q Did the idea ever -- did you ever pursue</p> <p>13 the idea of sharing with Turkcell the second GSM</p> <p>14 license?</p> <p>15 A When he gave us that feedback we didn't.</p> <p>16 Q What did you decide to do vis-a-vis the</p> <p>17 second GSM license once you got that feedback?</p> <p>18 A We pursued it more aggressively, because</p> <p>19 at that time there was also legislative changes</p> <p>20 coming through Parliament. And with Dr.</p> <p>21 Mahmoudzadeh's inputs, he was making sure that</p> <p>22 that legislation would be shaped in the way that</p> |
| Page 111 | Page 113 |
| <p>1 defense articles in return for participation in</p> <p>2 the second license?</p> <p>3 MR. COLEMAN: Object to form.</p> <p>4 THE WITNESS: The entire trip</p> <p>5 culminating in the dinner was focused on</p> <p>6 making sure that we deliver the Minister of</p> <p>7 Defense, you deliver from the Iranian side,</p> <p>8 you deliver to MTN shareholding in the</p> <p>9 Turkcell, in the Turkcell Consortium, if we</p> <p>10 could not completely exclude them.</p> <p>11 BY MR. FARBER:</p> <p>12 Q Now, you mentioned that Minister</p> <p>13 Shamkani during this dinner turned to Mahmoudzadeh</p> <p>14 and instructed him to talk to Turkcell. Did you</p> <p>15 follow up with Mahmoudzadeh about that?</p> <p>16 A That is correct.</p> <p>17 Q What happened with that effort?</p> <p>18 A He then referred me to Mr. Vafaie.</p> <p>19 Q Who is the he? Sorry.</p> <p>20 A Dr. Mahmoudzadeh -- sorry -- referred me</p> <p>21 to Mr. Vafaie and said Mr. Vafaie will be</p> <p>22 following up with Turkcell, because Mr. Vafaie is</p> | <p>1 it would give us the possibility to eventually</p> <p>2 move Turkcell out of the license.</p> <p>3 Q So were you collaborating, you being</p> <p>4 MTN, collaborating with Dr. Mahmoudzadeh to</p> <p>5 structure legislation to move Turkcell out of a</p> <p>6 license?</p> <p>7 A Yes. We -- we had many discussions. I</p> <p>8 had discussions. Irene would come to -- Irene --</p> <p>9 to Iran, she would have discussions with him to</p> <p>10 discuss how do we -- how do we get this thing to</p> <p>11 happen in MTN's favor, given the very convoluted,</p> <p>12 messy political environment in Iran.</p> <p>13 Q And in what months did those discussions</p> <p>14 take place?</p> <p>15 A Those were roundabout from September</p> <p>16 onwards, September 2004 onwards. We would remain</p> <p>17 in touch. I would visit Dr. Mahmoudzadeh maybe</p> <p>18 every second week just to discuss updates on what</p> <p>19 is happening.</p> <p>20 Q And just a few more questions about</p> <p>21 Mr. Lekota's visit. Was there any discussion of</p> <p>22 the fish during that visit that you're aware of?</p> |

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1 A No, not as far as I -- I wasn't there,
 2 so I don't know. But nobody reported back to me
 3 that there was discussion about the fish.
 4 Q Was there any discussion about nuclear
 5 issues between Minister Lekota and the Iranian
 6 defense minister?
 7 A I wasn't there, but there was a press
 8 article -- Minister Lekota had a press conference
 9 where he specifically referred to Iran's right to
 10 peaceful nuclear activities. So from that I
 11 deduced that there was some discussions around the
 12 nuclear issue also.
 13 Q Do you know if MTN ever talked to
 14 Minister Lekota before the trip about the nuclear
 15 issue?
 16 A Yes. Irene spoke to him about that.
 17 Q How do you know that?
 18 A Because she told me.
 19 Q What did she tell you she had talked to
 20 Minister Lekota about?
 21 A The issue at that stage was the question
 22 of Iran having suspended the nuclear program in

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1 2004. Iran was waiting for a proposal from the P5
 2 Plus One on the way forward. And so what Irene
 3 was discussing was what is the South African's
 4 stance on the Iran issue, nuclear issue.
 5 And the position at that time was that
 6 South Africa supports any peaceful nuclear
 7 programs. And that support was important for
 8 Iran, because South Africa had this moral high
 9 ground around the nuclear issue.
 10 Q At that time, August/September 2004, did
 11 MTN make any promises to the Iranians that they
 12 could deliver the South Africa government on
 13 nuclear issues?
 14 A No. They could not deliver a vote, but
 15 they could deliver access to the South African
 16 government. Because up until then it was very
 17 difficult for the Iranian nuclear negotiators to
 18 get a meeting with President Thabo Mbeki. Because
 19 he would not -- because he would -- normally he
 20 would say this is the name of Abdul Minty, foreign
 21 ministry, et cetera, et cetera.
 22 Q Who was Mr. Minty?

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1 A Mr. Minty was the South African
 2 ambassador to International Atomic Energy Agency.
 3 M-I-N-T-Y.
 4 Q That is known as IAEA?
 5 A That is correct.
 6 (Thereupon, Exhibit Number 6 was marked for
 7 identification purposes.)
 8 MR. FARBER: For the record, we will
 9 mark as Exhibit 6 CK330 through 333.
 10 Q Mr. Kilowan, do you recognize the
 11 document?
 12 A Yes, I do.
 13 Q What do you recognize it as?
 14 A It is a report that I compiled for
 15 submission to Irene Charnley.
 16 Q What is the date on the memo?
 17 A It's 2004/09/09.
 18 Q Is that September 9, 2004?
 19 A That is correct, yes.
 20 Q Is this a true and correct copy of the
 21 document that you prepared?
 22 A That is correct.

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1 Q And was it in your custody while you
 2 were employed by MTN?
 3 A That is correct.
 4 Q And did you keep it in the regular
 5 course of MTN business?
 6 A That is correct.
 7 Q I would like to focus you on -- I move
 8 the admission of Exhibit 6.
 9 Let me focus you on page CK332.
 10 A Yeah.
 11 Q And in the item, second license, do you
 12 see that?
 13 A That is correct.
 14 Q If you could just read into the record
 15 the status.
 16 A The complete status?
 17 Q Yes.
 18 A "All relevant parties received PFN's
 19 letters. Meeting arranged for IC and RN on 15
 20 September in Tehran. Latest rumors are that the
 21 Turkcell process has been stalled once more. Also
 22 potential threat to entire second license process.

30 (Pages 114 to 117)

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| <p>1 Sairan is yet to approach Turkcell with the</p> <p>2 proposals that were made to MTN by their MOD."</p> <p>3 Q So, let's go one by one. This is</p> <p>4 September of 2004, as I understand it. What did</p> <p>5 you mean "by all relevant parties receive PFN</p> <p>6 letters?"</p> <p>7 A Phuthma sent letters of appreciation to</p> <p>8 the people who were involved in arranging the</p> <p>9 visit of Minister Lekota, and also he thanked Dr.</p> <p>10 Mahmoudzadeh and Mr. Mokhber for their assistance</p> <p>11 in making the visit go smooth.</p> <p>12 Q Why was the CEO of MTN Group, a telecom</p> <p>13 company, sending thank you letters after a</p> <p>14 Minister of Defense meeting?</p> <p>15 MR. COLEMAN: Object to the form.</p> <p>16 THE WITNESS: Because MTN arranged those</p> <p>17 meetings. And it was arranged to the benefit</p> <p>18 of MTN, and he was appreciative of the fact</p> <p>19 that Sairan and Bonyad helped us to make that</p> <p>20 visit possible.</p> <p>21 BY MR. FARBER:</p> <p>22 Q Turning to the second bullet. Did you</p> | <p>1 received from the Iranians, from the Iranian</p> <p>2 Ministry of Defense, Foreign Affairs, but coming</p> <p>3 from the Iranian Ministry of Defense. And I read</p> <p>4 through it, and I mean, it was -- they wanted</p> <p>5 everything.</p> <p>6 So I said to him, "but, really, this is</p> <p>7 ridiculous." He said, "yeah, they want everything</p> <p>8 from the earth to the sea, and everything that is</p> <p>9 in the sea and everything that flies. They want</p> <p>10 all that stuff." Because they were talking about</p> <p>11 the Rooivalk, the G5 cannon, all equipment that we</p> <p>12 could not sell. But also they were talking about</p> <p>13 signing a joint defense agreement, if Iran gets</p> <p>14 attacked, South Africa will come to their</p> <p>15 assistance. And if South Africa gets attacked,</p> <p>16 Iran will come to their assistance.</p> <p>17 So he received that, and he put it into</p> <p>18 the system and sent it to Foreign Affairs in South</p> <p>19 Africa. And up until today they are still</p> <p>20 struggling to sign that agreement.</p> <p>21 Q Do you know why ambassador -- strike</p> <p>22 that.</p> |
| Page 119 | Page 121 |
| <p>1 have any role in arranging a meeting for Irene</p> <p>2 Charnley and RN --</p> <p>3 A Rob Nisbet.</p> <p>4 Q Rob Nisbet. Thank you. -- on</p> <p>5 September 15 in Tehran?</p> <p>6 A Yes.</p> <p>7 Q What happened at this meeting, do you</p> <p>8 recall?</p> <p>9 A No, I can't recall. I can't recall.</p> <p>10 Q And going to the last bullet. "Sairan</p> <p>11 is yet to approach Turkcell." What did you mean</p> <p>12 when you wrote that?</p> <p>13 A Well, as I said Mr. Vafaie was my</p> <p>14 liaison partner, and by this stage, which is early</p> <p>15 in September, he had not come back to me yet on</p> <p>16 progress with Turkcell.</p> <p>17 Q Now, was there ever a time that the fish</p> <p>18 was laid out on a piece of paper?</p> <p>19 A Yes. I think it was somewhere --</p> <p>20 sometime in 2004, late 2004 or early 2005. I</p> <p>21 can't remember the exact date. Ambassador</p> <p>22 Saloojee showed me a draft MOU that he had</p> | <p>1 Did Ambassador Saloojee tell you why he</p> <p>2 was showing you this memo?</p> <p>3 A Because this was -- we had been</p> <p>4 discussing the fish, the Minister of Defense had</p> <p>5 come. This was all part of our cooperation</p> <p>6 between MTN and the South African ambassador in</p> <p>7 Iran to make this second license happen for MTN.</p> <p>8 Q And were you talking to Dr. Mahmoudzadeh</p> <p>9 about the fish?</p> <p>10 A I can't recall that we discussed -- that</p> <p>11 I ever discussed the fish with him, but we did</p> <p>12 discuss the equipment that they wanted.</p> <p>13 Q So you never -- do you recall ever using</p> <p>14 the phrase "the fish" with Dr. Mahmoudzadeh?</p> <p>15 A No. I never used it.</p> <p>16 Q But you recall discussing the different</p> <p>17 defense articles that were on this list with --</p> <p>18 A That is right. Yes.</p> <p>19 Q You just didn't use it by the code name</p> <p>20 fish?</p> <p>21 A We didn't, no. By then, in a sense by</p> <p>22 then the code name had become obsolete, because</p> |

| Page 122 | Page 124 |
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| <p>1 the code name was the visit and commitments that</p> <p>2 the South African Minister of Defense would make</p> <p>3 to the Iranian Minister of Defense.</p> <p>4 Q Did you, after the meeting with the --</p> <p>5 visit by Minister Lekota, discuss with Dr.</p> <p>6 Mahmoudzadeh the fact that MTN had delivered the</p> <p>7 South African Defense Minister to Iran?</p> <p>8 A Yes. Yes. And he was very happy.</p> <p>9 Q And was there any promises or</p> <p>10 commitments made because of MTN's efforts?</p> <p>11 A We had now shown them that we can</p> <p>12 deliver, and he was now ecstatic that this is our</p> <p>13 new partner. This is what he said. "This is our</p> <p>14 new partner."</p> <p>15 Q When Dr. Mahmoudzadeh said to you "our</p> <p>16 new partner," was that to the exclusion of someone</p> <p>17 else?</p> <p>18 MR. COLEMAN: Object to form.</p> <p>19 THE WITNESS: The obvious import of that</p> <p>20 was the fact that they would be excluding</p> <p>21 Turkcell.</p> <p>22 Q Did the fish continue to be a subject of</p> | <p>1 identification purposes.)</p> <p>2 BY MR. FARBER:</p> <p>3 Q I will state for the record that Exhibit</p> <p>4 7 is CK175 through 180.</p> <p>5 Mr. Kilowan, do you recognize the</p> <p>6 document?</p> <p>7 A I do, yes.</p> <p>8 Q Could you describe what it is?</p> <p>9 A It is a memorandum from myself to</p> <p>10 Phuthma Nhelko in March of 2007.</p> <p>11 Q Was this document prepared by you?</p> <p>12 A That is correct. Yes.</p> <p>13 Q Is this a full and accurate copy of the</p> <p>14 document?</p> <p>15 A That is correct.</p> <p>16 Q Was it prepared by you in the course of</p> <p>17 your employment at MTN?</p> <p>18 A That is correct.</p> <p>19 Q Was the document kept in the regular</p> <p>20 course of MTN's business?</p> <p>21 A That is correct.</p> <p>22 MR. FARBER: I hereby move the admission</p> |
| Page 123 | Page 125 |
| <p>1 discussion between MTN and the Iranians?</p> <p>2 A Well, the nondelivery of the full fish</p> <p>3 continued to be a discussion long after the event.</p> <p>4 I mean, so, and that is still an outstanding item</p> <p>5 between -- between MTN and Iranian, because we</p> <p>6 were given a license on that basis.</p> <p>7 Q Do you recall the specific items on the</p> <p>8 list that you saw from Saloojee?</p> <p>9 A I vaguely recollect -- the things I</p> <p>10 did -- can recollect is the Rooivalk and the G5</p> <p>11 cannon.</p> <p>12 Q What is the Rooivalk?</p> <p>13 A The Rooivalk is the equivalent of Apache</p> <p>14 helicopter.</p> <p>15 Q Do you know who made the Rooivalk?</p> <p>16 A South Africa, Denel, Armscorp in South</p> <p>17 Africa made it. They built it.</p> <p>18 Q And the name of the manufacturer was</p> <p>19 Denel?</p> <p>20 A Denel, yes.</p> <p>21 Q Let's mark this as Exhibit 7, please.</p> <p>22 (Thereupon, Exhibit Number 7 was marked for</p> | <p>1 of Exhibit 7.</p> <p>2 Q And describe what was going on around</p> <p>3 this time in March 2007.</p> <p>4 A The background to this was the fact that</p> <p>5 in 2006 the regulator, the communications</p> <p>6 regulator in Iran changed the elements of the</p> <p>7 license and business plan. In particular, the</p> <p>8 revenue base was reduced by about 40 percent, but</p> <p>9 the regulator still wanted the full minimum</p> <p>10 guaranteed revenue share amount in 2006.</p> <p>11 Now, the operations in MTN Irancell only</p> <p>12 really started in September or October 2006. And</p> <p>13 by June 2007, when we were due to pay the first</p> <p>14 guarantee revenue share, we knew that we would not</p> <p>15 have -- Irancell would not have enough money, cash</p> <p>16 in Iran.</p> <p>17 So we started the process of trying to</p> <p>18 get the regulator to change the revenue share</p> <p>19 model, even just for the first year, so that we</p> <p>20 would not face the financial hardship.</p> <p>21 The ambassador and myself went to</p> <p>22 various organizations. We went to the head of the</p> |

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| <p style="text-align: right;">Page 134</p> <p>1 on the MTN books. So we were trying to convince 2 them that we should restructure this, and they 3 were resisting us. 4 So whilst we were talking to the 5 regulator they would go behind our backs and talk 6 to the regulator and say "no, there is no problem 7 with this revenue share," and also to other 8 things. 9 So our ambassador was then now trying to 10 follow up, why are these things not moving 11 forward. So he then had meetings with, separate 12 from myself, with the Iranian officials to 13 understand what is happening. 14 Q Did the ambassador ever report to you 15 whether the issue of defense cooperation came up? 16 A Yes. That is what I report now to 17 Phuthma. 18 Q Look at the first sentence. It states, 19 I will read it. "He agrees that a commitment was 20 given by the government of South Africa through 21 IC, from our Minister of Defense." IC is who? 22 A Irene Charnley.</p> | <p style="text-align: right;">Page 136</p> <p>1 A To Dr. Mahmoudzadeh. So that was the 2 commitment that she said she got from our Minister 3 of Defense. 4 Q The next sentence says "it is not clear 5 what the exact nature and extent of the commitment 6 was, because the message was conveyed in a very 7 cryptic fashion, i.e. the ambassador was only told 8 by IC that our MOD had agreed to give them the 9 fish." 10 What is that a reference to? 11 A This is the meeting that the ambassador 12 and Irene had in his office where she had told him 13 that Minister of Defense Lekota had agreed to give 14 them the fish. 15 Q I will come back to this memo later on. 16 Let's move on for now. We will probably go just 17 another few minutes and we can take a break for 18 lunch. 19 Did -- let's go back to that September 20 through December 2004 time frame. Did MTN take 21 any efforts to influence the South African 22 position on Iranian nuclear issues?</p> |
| <p style="text-align: right;">Page 135</p> <p>1 Q When it says "he agrees?" 2 A Ambassador Saloojee. 3 Q And what did you mean when you wrote 4 that Irene Charnley gave a commitment on behalf of 5 the government of South Africa to the Minister of 6 Defense? 7 A As I said, this was -- when Irene came 8 in June or July to Iran to say to Ambassador 9 Saloojee that we will give the fish, she in fact 10 behaved as if she was representing the South 11 African government, because she was talking to 12 Minister Lekota. And now she is talking to the 13 official ambassador of South Africa, and she is 14 conveying an official government message from one 15 part of the South African government to another 16 part of the South African government. And, yet, 17 she is a private citizen. She is not a government 18 employee. 19 Q Was she an MTN executive? 20 A She was an MTN executive. 21 Q Did she also, at the time, convey that 22 message to any of the Iranians?</p> | <p style="text-align: right;">Page 137</p> <p>1 A We facilitated meetings between, for 2 example, Mr. Rowhani, who was the nuclear 3 negotiator, Iranian nuclear negotiator. We 4 facilitated a meeting with him -- for him with 5 President Mbeki in Cape Town. And we paid for the 6 hotels in Cape Town. We paid for the dinners, 7 everything. We bought presents for them. And we 8 made sure that he got to see President Thabo 9 Mbeki. 10 Q What time period was this? 11 A Outside -- that was towards the end of 12 2004. 13 Q And this was Minister Rowhani? 14 A Not minister. He was Mr. Rowhani, who 15 was the chief nuclear negotiator for Iran at the 16 International Atomic Energy Agency. 17 Q So MTN brought the Iranian nuclear 18 negotiator to South African? 19 MR. COLEMAN: Object to form. 20 THE WITNESS: We arranged for the 21 meeting. And I am not sure whether they paid 22 for it, but we paid for the hotels in Cape</p> |

35 (Pages 134 to 137)

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| <p style="text-align: right;">Page 146</p> <p>1 break.</p> <p>2 Mr. Kilowan, just before lunch we were</p> <p>3 talking about the document related to Denel and</p> <p>4 the helicopters, Exhibit 10.</p> <p>5 A That's right.</p> <p>6 Q During this time were you having ongoing</p> <p>7 discussions -- strike that.</p> <p>8 During this time were you reporting back</p> <p>9 to MTN Group headquarters about the activities in</p> <p>10 Iran?</p> <p>11 A Yes.</p> <p>12 MR. COLEMAN: Object to form. My</p> <p>13 problem with it is "this time." If you would</p> <p>14 like to change it.</p> <p>15 MR. FARBER: Sure. During -- let me</p> <p>16 rephrase the question.</p> <p>17 BY MR. FARBER:</p> <p>18 Q During the time period October to</p> <p>19 December of 2004, were you reporting back to MTN</p> <p>20 Group headquarters?</p> <p>21 A Yes.</p> <p>22 Q And were you able to take actions on</p> | <p style="text-align: right;">Page 148</p> <p>1 (Thereupon, Exhibit Number 10 was marked</p> <p>2 for identification purposes.)</p> <p>3 Q Let me show you another exhibit, if I</p> <p>4 may. For the record, this exhibit is marked CK253</p> <p>5 to 255.</p> <p>6 Mr. Kilowan, do you recognize the</p> <p>7 document?</p> <p>8 A Yes, I do.</p> <p>9 Q Could you describe what it is, please?</p> <p>10 A It is a memo from me to Irene in which I</p> <p>11 reported back on my meeting on the unmanned</p> <p>12 aircraft UAV.</p> <p>13 Q And did you prepare this memorandum?</p> <p>14 A I did, yes.</p> <p>15 Q Did you prepare it in the course of your</p> <p>16 business at MTN?</p> <p>17 A I did, yes.</p> <p>18 Q And did you keep it in the regular</p> <p>19 course of MTN's business?</p> <p>20 A I did, yes.</p> <p>21 Q And is it a true and correct copy of the</p> <p>22 document that you prepared?</p> |
| <p style="text-align: right;">Page 147</p> <p>1 your own in that time period regarding pursuing</p> <p>2 the second GSM license?</p> <p>3 A No.</p> <p>4 Q Did you have to receive instructions in</p> <p>5 terms of the actions you were going to take</p> <p>6 related to the second GSM license?</p> <p>7 A Yes. Yes.</p> <p>8 Q Who did you receive those instructions</p> <p>9 from at the time?</p> <p>10 A From Irene Charnley.</p> <p>11 Q Did you also, from time to time, in that</p> <p>12 time period talk to Phuthma Nhelko?</p> <p>13 A Very seldom. My main contact was with</p> <p>14 Irene, because she was my direct supervisor.</p> <p>15 Q Did you understand at the time whether</p> <p>16 Irene had authority to speak on behalf of the MTN</p> <p>17 Group?</p> <p>18 A Yes, she had authority. I understood</p> <p>19 that.</p> <p>20 Q How did you know that?</p> <p>21 A Because she was an executive director of</p> <p>22 the MTN Group.</p> | <p style="text-align: right;">Page 149</p> <p>1 A It is, yes.</p> <p>2 Q I move the introduction of Exhibit 10.</p> <p>3 Now, did anyone instruct you to</p> <p>4 investigate UAVs?</p> <p>5 A Yes. I reported this back to Irene, and</p> <p>6 she said I should continue and investigate what</p> <p>7 the possibilities are.</p> <p>8 Q Why did you begin to look at UAVs?</p> <p>9 A Because I was asked by Dr. Mahmoudzadeh</p> <p>10 that they are interested in UAVs.</p> <p>11 Q Did you have an understanding of why Dr.</p> <p>12 Mahmoudzadeh asked you about UAVs?</p> <p>13 A These are military -- these are military</p> <p>14 equipment, as far as my knowledge went. And he</p> <p>15 was interested from a military point of view.</p> <p>16 Q And did Dr. Mahmoudzadeh ever ask you on</p> <p>17 behalf of MTN to assist in the delivery of UAVs to</p> <p>18 Iran?</p> <p>19 A No. They didn't ask me to do that.</p> <p>20 They asked me to investigate and I -- yeah, I did</p> <p>21 it.</p> <p>22 Q Who did you meet with in your</p> |

| Page 150 | Page 152 |
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| <p>1 investigation?</p> <p>2 A At the UAV --</p> <p>3 Q Around the UAV company.</p> <p>4 A I met -- this is my report. I met with</p> <p>5 Kentron, which is in South Africa, ATE, and with a</p> <p>6 sub that is also in Centurion.</p> <p>7 Q What is Centurion?</p> <p>8 A It is an area in South Africa, between</p> <p>9 Johannesburg and Pretoria. And there is a lot of</p> <p>10 defense companies, Denel, et cetera, in that area.</p> <p>11 Q Looking at CK254, the first page, it</p> <p>12 says "Kentron, a Denel subsidiary, based in</p> <p>13 Irene." What does that mean?</p> <p>14 A Irene is a suburb of Centurion. So</p> <p>15 Denel -- Kentron was the one that developed a</p> <p>16 local version of this UAV. And as I said before,</p> <p>17 Denel is the South African armaments company.</p> <p>18 Q Did you ever tell Irene Charnley that</p> <p>19 you were investigating these UAVs?</p> <p>20 A I did.</p> <p>21 Q And what did she answer to you?</p> <p>22 A She said should I continue, and I should</p> | <p>1 Q Do you recall if frequency hopping</p> <p>2 military radios were on the list?</p> <p>3 A Yes, the radios were -- from the</p> <p>4 beginning they were interested in the radios.</p> <p>5 Q Do you recall sniper rifles were on the</p> <p>6 list?</p> <p>7 A I can't recall.</p> <p>8 Q You mentioned G5s, I believe, before.</p> <p>9 A That is correct.</p> <p>10 Q What is a G5?</p> <p>11 A It's a long range cannon, a piece of</p> <p>12 artillery equipment.</p> <p>13 Q Were they on -- the G5 cannons, were</p> <p>14 they on the list?</p> <p>15 A Yes, they were on the list.</p> <p>16 Q Do you recall whether armored personnel</p> <p>17 carriers were on the list?</p> <p>18 A No -- yeah, yeah. APCs were on the</p> <p>19 list, yes.</p> <p>20 Q Do you recall whether coastal radar</p> <p>21 systems technology were on the list?</p> <p>22 A Yes, definitely.</p> |
| Page 151 | Page 153 |
| <p>1 give her a report back, which I did.</p> <p>2 Q And this document is that report?</p> <p>3 A This is the report.</p> <p>4 Q Did you ever discuss UAVs again with Dr.</p> <p>5 Mahmoudzadeh?</p> <p>6 A No. I didn't discuss it again with him,</p> <p>7 as far as I can recollect.</p> <p>8 Q Did he ever ask you about it?</p> <p>9 A I can't recall.</p> <p>10 Q Do you know if Irene Charnley ever</p> <p>11 discussed UAVs with Dr. Mahmoudzadeh or anyone</p> <p>12 else from Iran after you prepared this memo?</p> <p>13 A I don't know.</p> <p>14 Q Do you recall any other armaments that</p> <p>15 Dr. Mahmoudzadeh discussed with MTN?</p> <p>16 A Other than the things that were on that</p> <p>17 list of items, the MO -- draft MOU, I can't recall</p> <p>18 offhand any of the discussions.</p> <p>19 Q Let me ask you about that list, if I</p> <p>20 could. Do you recall if Rooivalk helicopters were</p> <p>21 on the list?</p> <p>22 A Yes, they were on the list.</p> | <p>1 Q Do you recall if air pilot display</p> <p>2 computer chips were on the list?</p> <p>3 A Yes.</p> <p>4 Q They were?</p> <p>5 A They were on the list, yes.</p> <p>6 Q Do you recall whether there was</p> <p>7 technology from a missile development company</p> <p>8 located off the Ivory Coast, if that might be on</p> <p>9 the list?</p> <p>10 A There was -- South Africa -- it is not</p> <p>11 off the Ivory Coast. It is off the southwestern</p> <p>12 coast in South Africa, in an area called Grabouw,</p> <p>13 G-R-A-B-O-U-W. That was a missile development</p> <p>14 company for Denel.</p> <p>15 Q And their technology was on this list as</p> <p>16 well?</p> <p>17 A Yes.</p> <p>18 Q Do you recall any other defense</p> <p>19 technology that was on the list?</p> <p>20 A I can't recall off hand. There might</p> <p>21 have been smaller items, but the big items -- we</p> <p>22 started with the radios, then Hamad Aref talked</p> |

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| <p>1 about the Heads-up display, then the issue of the</p> <p>2 Rooivalk and the G5, and in 2006, yeah, 2006, Dr.</p> <p>3 Mahmoudzadeh and five parliamentarians went with</p> <p>4 me down to Stellenbosch --</p> <p>5 S-T-E-L-L-E-N-B-O-S-C-H -- to go and visit the</p> <p>6 company that would develop -- that were building</p> <p>7 coastal radar systems.</p> <p>8 And from the discussions there it would</p> <p>9 seem that Dr. Mahmoudzadeh had been in contact</p> <p>10 with them previously. And he wanted to see where</p> <p>11 this place was, and I took him to this place.</p> <p>12 Q Was this another meeting that MTN</p> <p>13 facilitated?</p> <p>14 A Yeah. I was the host on behalf of MTN</p> <p>15 to that particular facility.</p> <p>16 Q Did Irene Charnley instruct you to serve</p> <p>17 as the host for that meeting?</p> <p>18 A Yes. The entire visit was set up under</p> <p>19 her supervision and control.</p> <p>20 Q Any of these armaments that we were</p> <p>21 discussing on the list, did the Iranians ever</p> <p>22 express to you any interest in U.S. made</p> | <p>1 A Okay.</p> <p>2 Q Were there ongoing discussions between</p> <p>3 MTN and Sairan concerning the second GSM license</p> <p>4 in that time period?</p> <p>5 A Yes.</p> <p>6 Q What were the discussions and who were</p> <p>7 they between?</p> <p>8 MR. COLEMAN: Object to form.</p> <p>9 THE WITNESS: The discussions were</p> <p>10 mainly with Dr. Mahmoudzadeh. Sometimes I</p> <p>11 would talk to him alone. Sometimes Irene</p> <p>12 would come to Iran and we would talk to him</p> <p>13 together. And it was initially around the</p> <p>14 issue of when is Turkcell going to give their</p> <p>15 response to the instruction given by Minister</p> <p>16 Shamkani.</p> <p>17 Then the discussions were around what is</p> <p>18 happening in Parliament, the legislation, what</p> <p>19 would happen if the -- if Parliament changed</p> <p>20 the shareholding to 51/49 percent. All of</p> <p>21 those discussions was going on between Dr.</p> <p>22 Mahmoudzadeh, myself, sometimes Dr.</p> |
| Page 155 | Page 157 |
| <p>1 components of those items?</p> <p>2 A No. They never said that, because --</p> <p>3 but because we -- from my discussion with the</p> <p>4 ambassador, for example, he clearly said that</p> <p>5 South Africa will not sell anything that has</p> <p>6 American subsystems in them.</p> <p>7 So we told them, for example, the</p> <p>8 Rooivalk -- they were told they could not have the</p> <p>9 Rooivalk because it has American made software and</p> <p>10 subsystems in it.</p> <p>11 Q But how did they respond? First of all,</p> <p>12 who did you tell?</p> <p>13 MR. COLEMAN: Object to the form.</p> <p>14 THE WITNESS: I told Dr. Mahmoudzadeh.</p> <p>15 BY MR. FARBER:</p> <p>16 Q And how did he respond?</p> <p>17 A He wasn't happy, but in the end he</p> <p>18 didn't push it further with me. Maybe he spoke to</p> <p>19 someone else, but he didn't push it further with</p> <p>20 me.</p> <p>21 Q Let's move to December 2004 to May 2005</p> <p>22 time period.</p> | <p>1 Mahmoudzadeh, Irene and myself, but there was a</p> <p>2 regular conversation happening between MTN on</p> <p>3 the one side and Sairan, and to a lesser degree</p> <p>4 the Bonyad.</p> <p>5 Q And was MTN encouraging Sairan to</p> <p>6 abandon Turkcell and partner with MTN?</p> <p>7 MR. COLEMAN: Object to form.</p> <p>8 THE WITNESS: We didn't tell them</p> <p>9 abandon Turkcell. We simply said to them,</p> <p>10 "we are the best alternative, because this is</p> <p>11 what we can give you, which Turkcell cannot</p> <p>12 give you."</p> <p>13 And they are intelligent people. We</p> <p>14 didn't have to tell them in so many words.</p> <p>15 Q What did -- did you -- did MTN tell</p> <p>16 Sairan MTN could provide that Turkcell wasn't?</p> <p>17 A Yes. That is what we said to them. And</p> <p>18 by then, remember, this is now December 2004,</p> <p>19 January 2005 up to May period. By then they have</p> <p>20 already delivered our Minister of Defense to Iran.</p> <p>21 The fish had already been promised. We were now</p> <p>22 in the process of delivering the elements. So the</p> |

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1 Because this was -- because this was Iran, Phuthma
2 would have to keep the chairman at least informed
3 of what is happening in this project.

4 Q Who was the chairman at the time?

5 A Cyril Ramaphosa. I wasn't there, so I
6 don't know what exactly was said. But in terms of
7 the MTN corporate processes, that is what he would
8 have had to do.

9 Q Do you believe that Mr. Nhelko kept Mr.
10 Ramaphosa informed?

11 MR. COLEMAN: Object to form.

12 THE WITNESS: Yes. From my
13 understanding of how MTN operates, I believe
14 that he kept Cyril informed, not of the
15 details, but broadly where we are heading
16 with Iran.

17 MR. FARBER: Let me mark the next
18 exhibit.

19 (Thereupon, Exhibit Number 11 was marked for
20 identification purposes.)

21 Q We marked as Exhibit 11 CK306 through
22 307.

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1 Do you recognize the document?

2 A Yes.

3 Q What is it, please?

4 A It's a draft letter I drafted for Irene
5 Charnley's signature.

6 Q And who is the draft addressed to?

7 A To Mr. Dezfoulie.

8 Q Who is Mr. Dezfoulie?

9 A Mr. Dezfoulie -- D-E-Z-F-O-U-L-I-E -- at
10 that time was the managing director of ICI, which
11 is a Sairan subsidiary --

12 Q How was Mr. Dezfoulie involved in MTN at
13 the time?

14 A Well, he was -- he was part of the -- of
15 the Sairan team who were interacting with MTN.
16 Not very, very regularly, but we saw him as a
17 potential ally once we have the license, because
18 he was -- he looked very calm, and he didn't look
19 as the -- we didn't have the same opinion of him
20 that we had of Dr. Mahmoudzadeh, for example.

21 So we, in 2004, we invited him to come
22 to South Africa to come and look at our network

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1 and so on. When he could not come again in 2005,
2 we again extended the invitation to him.

3 Q Did Mr. Dezfoulie have any involvement
4 at ICI in telecommunications issues?

5 A Yes, because they had a joint venture at
6 that time that was responsible for installing
7 BTS's, base stations for the Iran mobile company.
8 So he was -- he was responsible for, and his
9 people were responsible for managing that
10 contract. So they had some experience with
11 telecommunications at that time.

12 Q Did you have an understanding from
13 talking to Mr. Dezfoulie about why ICI was in the
14 telecommunication business?

15 A Well, they were preparing for -- they
16 were -- remember, they were the consortium members
17 with Turkcell in the second license. So they were
18 preparing -- they were skilling their people up in
19 preparation for the authorization of that license.
20 So ICI was working with Turkcell on that second
21 license.

22 Q Do you recall whether this letter that

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1 we marked as Exhibit 11 was ever finalized?

2 A No. He never went to South Africa on
3 the -- as a result of this letter. I don't think
4 we actually, in fact, sent it to him at the time.

5 Q Let me shift to the event of May 2005,
6 if I could. Do you recall whether Irene Charnley
7 visited Tehran in May 2005?

8 A Yes, she did.

9 Q What do you recall happened during that
10 visit?

11 A Well, we visited Dr. Mahmoudzadeh. We
12 visited the ambassador. We visited Mr.
13 Ghorbanoghli. We visited Mr. Mokhber. Because at
14 that stage, the legislation around -- the
15 legislation around the shareholding in the mobile
16 operator license -- in the mobile operator
17 license, the shareholding in that, and the
18 processes that was beginning to be finalized.

19 And we had been talking to Dr.
20 Mahmoudzadeh to say, okay, how do they -- how will
21 they shape this legislation.

22 It is also during this time that we, as

42 (Pages 162 to 165)

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1 I said, we had a meeting with Mr. Ghorbanoghli in
 2 his office. And then Irene invited him to dinner,
 3 in the evening, late in the evening on that date.
 4 He wasn't very keen to go out to a public place
 5 for dinner with us as a government official. So
 6 we finally agreed that he would come to my house
 7 where I was staying in Tehran at the time. He
 8 came. We had a discussion. Irene, you know, was
 9 very appreciative of the work he had been doing in
 10 assisting us on the political side.

11 And she said to him "look, we are now
 12 entering a very delicate phase. We would really
 13 appreciate all your assistance that you can give
 14 us. And, of course, when we get the license we
 15 will be very happy to thank you in the appropriate
 16 way for your assistance." And he said, "okay,
 17 that is fine. That is good. I will continue to
 18 do my best, as I have done in the past." And then
 19 he left. That was the end of the meeting.

20 Q When Ms. Charnley said to Mr.
 21 Ghorbanoghli "we will thank you in the appropriate
 22 way," did you have an understanding of what that

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1 meant?

2 A Yes.

3 Q What did it mean?

4 A It means that we would pay him some
 5 money at some point in time in the future.

6 Q From your observations of Mr.
 7 Ghorbanoghli, what did you understand he heard
 8 when she said that?

9 MR. COLEMAN: Object to form.

10 THE WITNESS: Well, he heard -- whatever
 11 he heard on that night, you know, we didn't
 12 discuss that. But subsequently to that
 13 meeting, he made it very clear to me what he
 14 understood Irene to be saying.

15 Q What is that?

16 A And that is that he would get some
 17 monetary compensation when he get the license.

18 Q Do you recall when he told you that?

19 A Must have been a month, month or two
 20 later.

21 Q Do you recall where you were meeting
 22 when he told this to you?

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1 A We met at a restaurant in Tehran, not at
 2 his office.

3 Q At that point, a month, two months
 4 later, did he ask you to specify the exact amount
 5 that he would get?

6 A No. He did ask me when will he get it.
 7 I said "you will get it when we get the license."
 8 It's fully a success-based transaction. He was
 9 happy with that.

10 So when -- and this is May. In June we
 11 go and sign the -- MTN signs the MOU. He then at
 12 that time, roundabout that time after we signed
 13 the MOU, said "look we should start talking about
 14 compen- --

15 (Interruption by the court reporter.)

16 A About the compensation. I said "we
 17 don't have the license yet."

18 We continued to meet. And at the
 19 beginning of September 2005 he then called for a
 20 dinner meeting. Again, we met at the restaurant
 21 in Tehran. He said to me "this thing is going to
 22 happen. You're going to get your license, because

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1 Turkcell is going to be pushed out. We need to
 2 talk about my compensation. You must remember
 3 that I am the one who did a lot of the work."

4 Again, I said "we will deal with it."

5 So from about a month, two months after the
 6 meeting in my house, he was fully committed to the
 7 fact that he was going to get some money.

8 Q When he had this conversation with you,
 9 two months after the dinner meeting with Irene
 10 Charnley, did you report that back to Irene?

11 A Yes.

12 Q What did she say?

13 A She said "well, you have to wait. You
 14 will have to wait until we get the license." And
 15 I agreed with her. I mean, you can't make any
 16 payments until you have the license.

17 Q After the meeting you had with
 18 Ghorbanoghli in September, did you report that
 19 back to Irene?

20 A Yes.

21 Q And what did she say?

22 A She said "we will -- you must tell him

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1 to be patient. We will take care of him once the
2 license process is finalized."

3 Q When she said to you "we will take care
4 of him," what did you understand that to mean?

5 A I understood that we will pay him money
6 once we get the license.

7 Q Let's move forward to the May/June 2005
8 time period. You had mentioned an MOU. What
9 exactly was that and when did it happen?

10 A Well, towards the end of May, and I
11 think it was after the Single Article Act or the
12 Irancell Act was passed, in our discussions with
13 Dr. Mahmoudzadeh he said, "look, there is going to
14 be a requirement that by a certain date either
15 Turkcell and its local partners, or the local
16 partners with a foreign -- another foreign partner
17 must submit a letter to Dr. Fardis to say that
18 they are ready to work in accordance with the
19 Turkcell business plan. They are willing to
20 accept 49 percent equity for the foreign partner,"
21 and there was a third one, which I can't recall
22 now offhand.

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1 So we started discussing what is
2 happening on the Turkcell side. He said to us
3 "look, Turkcell is not going to be allowed to make
4 that deadline. Because they, as Turkcell's local
5 partners, are in control of whether or not
6 Turkcell will meet deadlines.

7 Q They being Sairan?

8 A Being Sairan. They are in control of
9 that process. If Turkcell wants them to sign the
10 document, they can easily refuse or delay signing
11 that document, which will make it impossible for
12 Turkcell to meet the deadlines.

13 So in the beginning of June he said the
14 date has been set for, I think it was the 24th of
15 June 2005, or the 25th, which was a Saturday, that
16 letter had to be submitted to Dr. Fardis' office.
17 On the 25th it had to be submitted to his office.
18 So he said to me "communicate this back to Irene,
19 and let them start preparing for this meeting."

20 One of the things -- so as June
21 progressed, we had one or two meetings where we
22 discussed the, sort of, who should be there at

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1 that meeting, and they need to share with us the
2 Turkcell business plan, so that we can make a
3 commitment, because they said they want us to make
4 a commitment that we will accept the Turkcell
5 business plan with a 28.1 percent revenue share,
6 and that we will accept the 49 percent equity, and
7 that we will help them with the financial
8 obligations, their financial obligations.

9 One of the things they said -- that
10 Dr. Mahmoudzadeh said to me is "your people must
11 come with a board resolution authorizing you to do
12 this, so that we don't have any confusion
13 afterwards whether or not you were properly
14 authorized to do this transaction."

15 On that basis we started preparing the
16 board -- the company secretary started preparing
17 the board resolutions. I started preparing for
18 visas for those people who didn't have visas to
19 come to Iran. So that would have taken us about a
20 week, week and a half before the 25th of June, to
21 get all those things ready, 10 days, at least,
22 beforehand.

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1 Q Did Dr. Mahmoudzadeh give you a copy of
2 the Turkcell business plan?

3 A Well, on the day -- what happened was
4 everyone outside Iran arrived on Friday the 24th
5 of June 2004. We -- first we went to the Bonyad
6 offices.

7 Q You said 2004.

8 A Sorry, 2005. We first went to the
9 Bonyad offices where we discussed, where they put
10 on the table, you know, they are -- they have
11 51 percent. The license is worth so many
12 billions, but they only want us to pay
13 300 million, et cetera, et cetera. And so they
14 wanted us to commit to paying the full everything.
15 We discussed the fact that they wanted us to
16 accept the Turkcell business plan, et cetera.

17 So from there we went to the Sairan
18 offices where we met our technical people.

19 Q Let me interrupt. Who from MTN was part
20 of this group?

21 A It was Irene, Phuthma, Rob Nisbet,
22 Charles Wheeler. They came -- they were the

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|---|---|
| <p>1 And Sairan, similarly, has a number of</p> <p>2 subsidiary companies that are primarily focused on</p> <p>3 the defense procurement activities, but also they</p> <p>4 had like companies that manufactured handsets,</p> <p>5 fixed line handsets or chip cards, access cards</p> <p>6 and things like that.</p> <p>7 So we were basically telling them</p> <p>8 "you're important people and we would like to work</p> <p>9 with you."</p> <p>10 Q And what was the purpose of this letter?</p> <p>11 Why did you draft it?</p> <p>12 A Well, you will remember when I reported</p> <p>13 in June, at the end of June back to Irene I said</p> <p>14 "you asked me to raise the issue of MTN providing</p> <p>15 financial assistance to Sairan and Bonyad on --</p> <p>16 for the license for their obligations." So this</p> <p>17 was now formalizing. Previously it was a</p> <p>18 discussion. This is now formalizing their</p> <p>19 discussion and inviting Mr. Forouzadeh to come to</p> <p>20 South Africa to continue those discussions.</p> <p>21 Q Let me focus you on the bottom of the</p> <p>22 first page of the letter, where it says "the two</p> | <p>1 A "The nature and extent of the</p> <p>2 cooperation between your esteemed organizations</p> <p>3 and the MTN Group in current and future</p> <p>4 telecommunications projects in Iran."</p> <p>5 Q What did you mean by that?</p> <p>6 A That was in relation to the third mobile</p> <p>7 operator. If we could not get into this thing,</p> <p>8 then we would look at the third operator.</p> <p>9 Q Were you also having discussions with</p> <p>10 the Bonyad and with Sairan about other</p> <p>11 cooperation?</p> <p>12 A Not in the telecommunications field.</p> <p>13 Q Outside of the telecommunications field?</p> <p>14 A Yeah. The issue of defense and</p> <p>15 political support that we would give to Sairan and</p> <p>16 Bonyad.</p> <p>17 Q Did Forouzadah and Mahmoudzadeh take</p> <p>18 this trip that --</p> <p>19 A No, they didn't.</p> <p>20 Q Why not?</p> <p>21 A Because the events then again overtook</p> <p>22 us. We then started focusing on with Dr.</p> |
| Page 199 | Page 201 |
| <p>1 key discussion points are." Why don't you read</p> <p>2 the first one into the record.</p> <p>3 A "The nature and extent of financial</p> <p>4 assistance that the MTN Group could provide to the</p> <p>5 Iranian partners in the second mobile license in</p> <p>6 Iran."</p> <p>7 Q What did you mean by that when you wrote</p> <p>8 it?</p> <p>9 A At that stage we were ready to finance</p> <p>10 them, to act as a financier for their financial</p> <p>11 51 percent. As I said, the thinking was that we</p> <p>12 could then create a special purpose vehicle in</p> <p>13 which we could then have joint equity on the</p> <p>14 Iranian side. So we could create a Iranian entity</p> <p>15 who would then form a joint venture with Sairan</p> <p>16 and Bonyad around that 51 percent.</p> <p>17 So we were looking at who would we then</p> <p>18 approach to be our Iranian front in relation to</p> <p>19 this 51 percent and the financing that we were</p> <p>20 giving to them.</p> <p>21 Q Turn over to the next page. Could you</p> <p>22 read number two into the record?</p> | <p>1 Mahmoudzadeh on the modalities of moving Turkcell</p> <p>2 completely out of the license.</p> <p>3 Q Let me take you back a month for a</p> <p>4 moment to June of 2005. You described these</p> <p>5 meetings at Sairan and IEI . When the MTN</p> <p>6 delegation was in Tehran, did any members of the</p> <p>7 delegation have the opportunity to meet with</p> <p>8 Ambassador Saloojee?</p> <p>9 A I mean, we had dinner at his house. The</p> <p>10 Friday night, because the next morning, Saturday</p> <p>11 morning, they -- no, we didn't, because we were at</p> <p>12 Bonyad. I don't know. I can't recall where we --</p> <p>13 they came from the airport, went to Bonyad, went</p> <p>14 to Sairan back to Bonyad. No, we didn't meet at</p> <p>15 that time with him.</p> <p>16 Q Were there meetings around that time in</p> <p>17 June or July with Ambassador Saloojee?</p> <p>18 A About early July, before the second week</p> <p>19 of July Irene was in -- Phuthma was in Iran again.</p> <p>20 Q Could you tell me what happened when</p> <p>21 they -- when they got together with Ambassador</p> <p>22 Saloojee? First, who got -- who was at the</p> |

| Page 202 | Page 204 |
|---|--|
| <p>1 meeting with the ambassador?</p> <p>2 A There was a dinner at his house, at his</p> <p>3 residence. It was Irene, Phuthma, myself, and the</p> <p>4 ambassador. We had dinner.</p> <p>5 At that meeting Irene made the same</p> <p>6 speech that she made to Ambassador Ghorbanoghli a</p> <p>7 few months ago in May. She said, "look, you have</p> <p>8 done a lot of work, hard work. We really</p> <p>9 appreciate it. And we want this license, so we</p> <p>10 would really appreciate your assistance. And if</p> <p>11 we get the license, we will look after you."</p> <p>12 He immediately said, "no, I don't want</p> <p>13 anything extra. This is my job. I am doing my</p> <p>14 job." And he left it like that.</p> <p>15 Q And when Irene said to Ambassador</p> <p>16 Saloojee "we will take care of you," what did you</p> <p>17 understand that to mean?</p> <p>18 A The same thing as with Ghorbanoghli, we</p> <p>19 will pay him.</p> <p>20 Q Did you have an impression of what</p> <p>21 Ambassador Saloojee understood it to mean?</p> <p>22 A He said to us "I don't want anything."</p> | <p>1 these deadlines. If they can't meet these</p> <p>2 deadlines, then the local partners have the right</p> <p>3 to go to the second runner up operator and</p> <p>4 negotiate with them. And I think the final date</p> <p>5 for all of these things to be in place from</p> <p>6 Turkcell's side was the 4th of September.</p> <p>7 So during July, August the discussions</p> <p>8 are happening, I guess, with Turkcell. I wasn't</p> <p>9 party to their discussions. And the discussion is</p> <p>10 happening between me, Dr. Mahmoudzadeh. Irene is</p> <p>11 in Iran. Phuthma is in Iran. And the discussion</p> <p>12 is "what are you doing, Dr. Mahmoudzadeh?"</p> <p>13 He says, "no, no, no, don't worry.</p> <p>14 Turkcell will not make it. They will not make it.</p> <p>15 We will make sure they don't make it, that they</p> <p>16 don't meet those deadlines." What they did, how</p> <p>17 they did it, I don't know.</p> <p>18 What we did pick up in the newspapers is</p> <p>19 there was an issue around the fact they said,</p> <p>20 well, Turkcell has taken their bid bond back.</p> <p>21 Then they said Turkcell did not deposit the</p> <p>22 300 million euro for the bank guaranty in Bank</p> |
| Page 203 | Page 205 |
| <p>1 So It means he knew they were offering him money.</p> <p>2 He said "I don't want it. This is my job."</p> <p>3 Q Was Mr. Nhelko in the room when --</p> <p>4 A Yes, he was at the dinner table.</p> <p>5 Q Did you discuss this offer with Irene or</p> <p>6 Phuthma afterwards, that night or the next day?</p> <p>7 A I don't recall. I mean, because, I</p> <p>8 think -- no, we didn't, because he said, no, we</p> <p>9 all just left like that. We didn't discuss it</p> <p>10 again.</p> <p>11 Q Thank you. Moving back to July. Did</p> <p>12 there come a time -- what happened next?</p> <p>13 A A lot of things. The short answer.</p> <p>14 Q What happened next with --</p> <p>15 A I mean, specifically what happened next</p> <p>16 with what?</p> <p>17 Q With -- did you continue your</p> <p>18 discussions with Mahmoudzadeh?</p> <p>19 A Yes. Now it is July -- remember, it is</p> <p>20 July, Parliament has passed legislation. There is</p> <p>21 this processed document that has come up that said</p> <p>22 you must meet these deadlines. Turkcell must meet</p> | <p>1 Melli. Turkcell would come out and deny it. So</p> <p>2 we were following the newspapers, and at the same</p> <p>3 time Dr. Mahmoudzadeh was saying to us, "don't</p> <p>4 worry, this thing is under control. They will not</p> <p>5 make the 4th of September."</p> <p>6 So our information about what was</p> <p>7 happening inside their meetings mainly came from</p> <p>8 what the newspapers were saying. Dr. Mahmoudzadeh</p> <p>9 was not letting on as to exactly what they were</p> <p>10 doing inside -- inside their discussions.</p> <p>11 So by the beginning of September, I</p> <p>12 think, a day or two before the 4th of September I</p> <p>13 went -- he called me and said I must come to his</p> <p>14 office. I went to his office. He said "the 4th</p> <p>15 of September is the deadline. Turkcell is not</p> <p>16 going to make it. You must come to Iran -- your</p> <p>17 people must come to Iran to negotiate."</p> <p>18 Q Were you privy to the written</p> <p>19 communications between Turkcell and their Iranian</p> <p>20 partners?</p> <p>21 A No. They didn't give it to us at that</p> <p>22 stage. So we agreed, then, that we would give it</p> |

| Page 290 | Page 292 |
|--|---|
| <p>1 the fact there would be technical</p> <p>2 subcommittees constituted, memorandum of</p> <p>3 understanding would be signed around defense</p> <p>4 and agreements and procurement, et cetera.</p> <p>5 BY MR. FARBER:</p> <p>6 Q Were the promises also involving what we</p> <p>7 previously called "the fish?"</p> <p>8 A That is correct.</p> <p>9 Q And did Minister Lekota have anything to</p> <p>10 do with MTN activities in the telecom space?</p> <p>11 A No.</p> <p>12 Q Did anyone from MTN talk to Ambassador</p> <p>13 Saloojee about being a reference for MTN in this</p> <p>14 FIPPA application?</p> <p>15 A I spoke to him.</p> <p>16 Q What did you ask him? What did he say?</p> <p>17 A I asked him whether we could put his</p> <p>18 name on as a reference. He said "yes, fine."</p> <p>19 Q Was there any discussion with Ambassador</p> <p>20 Saloojee?</p> <p>21 A No.</p> <p>22 Q When did MTN actually receive the</p> | <p>1 I then asked Dr. Fardis "what is the</p> <p>2 problem?" Dr. Fardis then showed me a letter in</p> <p>3 Farsi. He said this letter came from the Ministry</p> <p>4 of Foreign Affairs to him. And they said that he</p> <p>5 cannot issue this license to MTN Irancell until</p> <p>6 after the vote at the International Atomic Energy</p> <p>7 Agency. This was in November 2005.</p> <p>8 Q And what did -- when Dr. Fardis</p> <p>9 explained to you what was in this letter, how did</p> <p>10 you respond?</p> <p>11 A I was very upset. I said but, "you</p> <p>12 know, this has nothing to do. We've complied</p> <p>13 fully with all the requirements." There was no</p> <p>14 condition that said we should wait til after the</p> <p>15 IAE meeting.</p> <p>16 I left his office. I called -- first I</p> <p>17 called Ambassador Saloojee, and I said to him he</p> <p>18 needs to talk to the president and he needs to</p> <p>19 talk to Abdul Minty to find out what is going to</p> <p>20 happen at the IAE. He asked me why. Then I</p> <p>21 explained to him what happened -- just transpired</p> <p>22 in Dr. Fardis' office.</p> |
| Page 291 | Page 293 |
| <p>1 license from the Iranian ministry?</p> <p>2 A 27th November 2005.</p> <p>3 Q Was there a date earlier that MTN was</p> <p>4 promised the license by the Ministry of</p> <p>5 Communication?</p> <p>6 A 20th of November 2005.</p> <p>7 Q So on November 20, 2005 where were you?</p> <p>8 A I was in Iran, and I went with</p> <p>9 Mr. Dezfoulie to Dr. Fardis' office to go get the</p> <p>10 license.</p> <p>11 Q And did you get the license on</p> <p>12 November 20?</p> <p>13 A No.</p> <p>14 Q What happened?</p> <p>15 A When we got to Dr. Fardis' office he and</p> <p>16 Mr. Dezfoulie was engaged in a discussion in</p> <p>17 Farsi. I could see Mr. Dezfoulie was not very</p> <p>18 happy, so I asked him "what is happening here"?</p> <p>19 Because all I came for was this one page, the</p> <p>20 license. And he said, no, Dr. Fardis told him</p> <p>21 that there is a problem with him issuing the</p> <p>22 license on the date.</p> | <p>1 He said, "okay, I will see what I can</p> <p>2 find out." I then called Irene, and Irene</p> <p>3 exploded. And she was very unhappy.</p> <p>4 So I went back into Dr. Fardis' office.</p> <p>5 I said "look, we are not happy. We object to this</p> <p>6 condition," but he said "look, I can't do</p> <p>7 anything. I have an instruction from the Ministry</p> <p>8 of Foreign Affairs."</p> <p>9 Q Did he explain to you what the Ministry</p> <p>10 of Foreign Affairs was waiting for?</p> <p>11 A Was waiting for the South African vote</p> <p>12 at the IAEA.</p> <p>13 Q And did Dr. Fardis tell you how the</p> <p>14 Ministry of Foreign Affairs wanted South Africa to</p> <p>15 vote at the IAEA?</p> <p>16 A No, he didn't tell me.</p> <p>17 Q Did you have an understanding of what he</p> <p>18 meant when the Iranian said a vote at the IAEA?</p> <p>19 A Yes, I had an understanding.</p> <p>20 Q What was your understanding?</p> <p>21 A My understanding was either we had to</p> <p>22 abstain or we had to vote against -- at that stage</p> |

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1 the question was whether the Iranian file should
2 be transferred from the IAEA to the UN Security
3 Council. And so we either had to abstain or vote
4 against it.

5 Q When you say the Iranian file, is that
6 the Iranian nuclear file?

7 A That is correct. Yes. So --

8 Q Had MTN invested money in Iran by
9 November 20, 2005?

10 A Yes. 450 million euros.

11 Q You described how you talked to Irene
12 and you went back to Dr. Fardis. What happened
13 next?

14 A The rest of that week -- well, obviously
15 we didn't get the license on the 20th. And I went
16 to Ambassador Saloojee's house. We had
17 discussions. He was talking to Abdul in Geneva,
18 in Vienna. He was talking to the president's
19 office. Irene was calling me constantly asking me
20 what is happening, asking me to do all sorts of
21 things, which I couldn't do.

22 Q What was she asking you to do?

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1 A Like I must go and insist that they must
2 give me the license, those sort of things. So --
3 and she was also -- she said she is also calling
4 the president's office, Thabo Mbeki's office. She
5 is calling Essop Pahad. She is calling Nkosa
6 Dlanani-Zuma, the Minister of Foreign Affairs at
7 the time, and -- to say to all of them, "look, you
8 must now help us because the license is not being
9 issued."

10 So that -- from the 20th to the 24th,
11 25th was a terrible time, because everyone wanted
12 to know from me when will they give the license,
13 and I didn't have any control over that process.

14 Q Do you know what happened at the IAEA?

15 A We abstained. South Africa abstained at
16 that particular vote.

17 Q And do you believe that MTN had any role
18 in shaping that vote?

19 A No. I -- I would not say that they
20 shaped the vote, but we essentially put a lot of
21 pressure. But I think in the end, President Thabo
22 Mbeki said to Minty he must vote in the best

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1 interest of South Africa.

2 Q Do you know whether there had been any
3 prior votes at the IAEA involving South Africa in
4 the 2005 time period?

5 A I can't really -- I can't really recall.

6 But this was a critical one. You know, this was
7 shortly after the P5 Plus One presented their
8 proposals, which were rejected by -- by Iran. So
9 that November 2005 vote was a critical vote for
10 the Iranians.

11 Q And the P5 Plus One, you referred to it
12 before. What is that?

13 A It's the permanent -- five permanent
14 members of the UN Security Council, plus Germany.

15 So I don't recall that there were any
16 real critical votes before that at the I- -- this
17 one was critical.

18 And the point was that Dr. Fardis, very
19 specifically mentioned, that the granting of the
20 license is linked to the way in which South Africa
21 would vote.

22 Q This wasn't the first time that the

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1 issue of IAEA votes by South Africa had come up in
2 your conversations with the Iranian, was it?

3 A No, because the issue of the support on
4 the nuclear file was a constant theme since the
5 middle of 2004.

6 MR. COLEMAN: Object to the form. Move
7 to strike.

8 BY MR. FARBER:

9 Q Between November 20th and November 24,
10 did you have an impression of what would happen to
11 the MTN license for the second GSM in Iran if
12 South Africa voted against the Iranian interest?

13 A We would not have been granted that
14 license.

15 Q And I believe you testified a moment ago
16 that -- well, how did South Africa vote?

17 A They abstained.

18 Q And what happened after that?

19 A On the 25th or the 26th Dr. Fardis'
20 office called me and said we can come and get the
21 license the next day, which was on the 27th of
22 November.

75 (Pages 294 to 297)

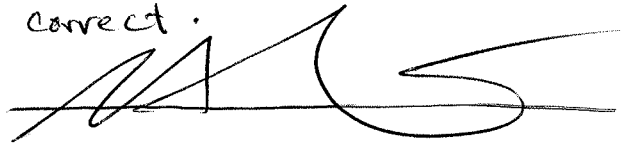
| Page 298 | Page 300 |
|--|--|
| <p>1 Q And what happened on the 27th of</p> <p>2 November?</p> <p>3 A We were given the license; we signed it</p> <p>4 and we were given the license.</p> <p>5 Q Do you believe that the Iranians</p> <p>6 conditioned the granting of a license on how South</p> <p>7 Africa voted at the IAEA?</p> <p>8 A Yes.</p> <p>9 Q Why do you believe that?</p> <p>10 A Because I was told that by Dr. Fardis.</p> <p>11 Q Prior to November 20th, who raised the</p> <p>12 issue of South Africa's position on Iranian</p> <p>13 nuclear issues?</p> <p>14 A When prior? Look, Dr. Rowhani went to</p> <p>15 South Africa. Motakki went to South Africa.</p> <p>16 Larijani went to South Africa.</p> <p>17 (Interruption by the court reporter.)</p> <p>18 A Minister Motakki, the Foreign -- the</p> <p>19 Minister of Foreign Affairs. This is all during</p> <p>20 2004 and 2005.</p> <p>21 As I said, the issue of the Iranian</p> <p>22 nuclear file, South Africa and MTN was a constant</p> | <p>1 she was speaking to them.</p> <p>2 Q What else did she tell you that she said</p> <p>3 to the president's office?</p> <p>4 A She said that, you know, "these Iranians</p> <p>5 are crazy. They now don't want to give us the</p> <p>6 license before the vote."</p> <p>7 Q And who at MTN told the Iranians in that</p> <p>8 '04/'05 time period that MTN could influence the</p> <p>9 South Africa vote?</p> <p>10 A Irene, Irene Charnley.</p> <p>11 Q And do you recall her saying it on more</p> <p>12 than one occasion?</p> <p>13 A Yes, to Dr. Mahmoudzadeh mainly.</p> <p>14 Q Okay.</p> <p>15 (Thereupon, Exhibit Number 31 was marked for</p> <p>16 identification purposes.)</p> <p>17 Q For the record, we marked as Exhibit 31</p> <p>18 Bates CK836 to 860.</p> <p>19 Mr. Kilowan, do you recognize this</p> <p>20 document?</p> <p>21 A Yes, I do.</p> <p>22 Q Please describe it.</p> |
| Page 299 | Page 301 |
| <p>1 and regular theme throughout that period.</p> <p>2 Q And the issues were all linked together,</p> <p>3 South Africa's vote on the Iranian nuclear file</p> <p>4 and the MTN license?</p> <p>5 A Yes. The support of South Africa on the</p> <p>6 nuclear file. Whether it translated into you</p> <p>7 should vote in this way or not, but the support of</p> <p>8 South Africa on the Iranian nuclear file. Because</p> <p>9 that is what MTN told the Iranians we can deliver.</p> <p>10 We can deliver support on the nuclear file. So</p> <p>11 from that point on it was linked, constantly</p> <p>12 linked.</p> <p>13 Q And do you know if Ms. Charnley, in that</p> <p>14 November 2004 time period that we have just been</p> <p>15 discussing --</p> <p>16 A 2005?</p> <p>17 Q 2005. Thank you. I will start again.</p> <p>18 Do you know whether Ms. Charnley, in --</p> <p>19 between November 20th and November 24, 2005, ever</p> <p>20 spoke to President Mbeki about this issue?</p> <p>21 A She told me that she spoke to him or to</p> <p>22 his office. I'm not sure, but she told me that</p> | <p>1 A It is a report to the MTN board, main</p> <p>2 board in December 2006, on developments in the</p> <p>3 Middle East and Iran.</p> <p>4 Q Did you prepare this document?</p> <p>5 A I participated with other MTN staff in</p> <p>6 preparing this.</p> <p>7 Q Does this appear to be a full -- did you</p> <p>8 keep a copy of this report in your files?</p> <p>9 A I did, yes.</p> <p>10 Q Does this appear to be a complete and</p> <p>11 accurate copy of that report?</p> <p>12 A That is correct.</p> <p>13 Q Was this kept by you in the regular</p> <p>14 course of your business at MTN?</p> <p>15 A That is correct.</p> <p>16 Q Was it maintained by you as an MTN</p> <p>17 business record?</p> <p>18 A That is correct.</p> <p>19 Q Move the admission of Exhibit 31.</p> <p>20 I would like to focus your attention on</p> <p>21 page 850, if you can look on the bottom numbering.</p> <p>22 A Yeah.</p> |

I CERTIFY THIS IS A TRUE AND
ACCURATE TRANSCRIPT FURTHER DEPONENT SAYETH NOT.

THE WITNESS

I hereby declare under penalty of perjury that
the foregoing is true and correct.

DATE: 14 MAY 2012
DISTRICT OF COLUMBIA



Sworn and subscribed to before me this
_____ day of _____, 2012.

Personally known _____ or
I.D. _____

_____.

Notary Public in and for
the District of Columbia at
Large. My Commission Expires:
July 12, 2016

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NO. 1:12-CV-00479

_____X

TURKCELL ILETISIM HIZMETLERI, A.S.
Turkcell Plaza Mesrutiyet Caddesi No. 7134430
Tepibasi, Istanbul, Turkey

EAST ASIAN CONSORTIUM, B.V.
Rokin 55, 1012 KK, Amsterdam, the Netherlands,

Plaintiffs,

v.

MTN, LTD.,
Private Bag 9955, Cresta 2118
South Africa,

MTN, INTERNATIONAL (MAURITIUS) LTD.,

Defendants.

_____x

Continued Deposition of
Christian Kilowan
Tuesday, May 1, 2012
9:06 a.m.

VOLUME II

Reported by: Randi J. Garcia

Ref: 7272

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1 respected in Iran.

2 Q So at the time in 2006 MTN was paying an
3 official of the Interior of Ministry?

4 A Yes.

5 Q Is this a document that -- Exhibit 34
6 that we are looking at -- that was prepared by
7 you?

8 A That's correct, yes.

9 Q Okay. And was it kept by you in your
10 business records for MTN?

11 A That's correct.

12 Q Okay. And was it kept in the ordinary
13 course of your business as an MTN business record?

14 A That's correct.

15 Q Okay. Move the admission of Exhibit 34.

16 Let me focus you on the first bullet on
17 the document. First of all, did you send this
18 document to anybody?

19 A I sent it to Phuthma.

20 Q Okay. Did Irene also see a copy, that
21 you're aware of?

22 A I don't -- I don't think so because -- I

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1 don't know, I mean, whether Phuthma showed it to
2 her, but I did not send it to her. I sent it to
3 Phuthma only.

4 Q Okay. And you wrote, "Remind the
5 president of Iran that the South African
6 government still retains a keen interest in the
7 welfare of South Africa companies in the Islamic
8 Republic of Iran."

9 What did you mean by that?

10 A Remember that our president had a
11 discussion with President Ahmadinejad in September
12 2005 at the UN.

13 Q In New York?

14 A In New York, yes, on MTN.

15 Q Right.

16 A At that time there was also Sasol that
17 was operating in Iran. So the point that I said
18 Phuthma should make, or the president of South
19 Africa should make is that we had that meeting. I
20 didn't walk away as the president -- away from
21 these companies. They are South African
22 companies. And we support these companies.

Page 352

1 Q And were you trying to suggest to
2 Phuthma that he recommend to the president of
3 South Africa -- the president of South Africa
4 remind the Iranian president or Iranian officials
5 of the importance of MTN to the South African
6 government?

7 MR. COLEMAN: Object to the form.

8 THE WITNESS: No. I was asking Phuthma
9 to raise this because Phuthma was going to be
10 on that delegation. I was asking Phuthma to
11 raise it with -- to -- because, obviously,
12 Phuthma could not say things in that meeting
13 without forewarning our president that he is
14 going to raise this issue, you see. So from
15 a basic matter of protocol, he couldn't do --
16 he couldn't raise anything unless he had
17 already cleared that with our president.

18 BY MR. FARBER:

19 Q Thank you. Okay. Other than Irene
20 Charnley and Mr. Nhelko, what other officers and
21 directors of the MTN Group in South Africa knew
22 about Project Snooker?

Page 353

1 MR. COLEMAN: Object to the form.

2 THE WITNESS: The entire board, because,
3 you know, if you remember on the board
4 resolutions, it says "Project Snooker." So
5 the board knew about Project Snooker and what
6 Project Snooker was in terms of MTN's entry
7 into the second mobile license.

8 BY MR. FARBER:

9 Q Was Mr. Dabengwa on the board at the
10 time?

11 A He was, yes.

12 Q Was Mr. Ramaphosa the chairman of the
13 board at the time?

14 A He was, yes.

15 Q And what members of the board -- strike
16 that.

17 Okay. We talked yesterday about a meeting
18 that Irene Charnley had with Mr. Ghorbanoghli, a
19 dinner meeting, where she said words to the effect
20 of, "we will take care of you." Do you recall that
21 testimony?

22 A Yes, I do.

12 (Pages 350 to 353)

Page 354

1 Q Following the award of the license, did
2 Mr. Ghorbanoghli ever come back to MTN regarding
3 that issue?

4 A Yes, he did.

5 Q When did that occur?

6 A Well, that occurred sometime in the
7 middle of 2006, or before the end of the second
8 quarter of 2006, in any event. He first
9 approached me and to say that -- to ask me what is
10 happening. "You now have the license, you recall
11 what Irene promised me, what is happening?"

12 So I said, "I will talk to Irene, and I
13 will come back to you." I spoke to Irene about it.

14 Now, to understand the context, I should
15 just take a step back, if you don't mind --

16 Q Please.

17 A -- to November 2005. After we had now
18 received the license the 27th of November, Irene
19 and Phuthma came to Iran, and we had a meeting
20 with -- we were going to have the first board
21 meeting of -- of the MTN Irancell board.
22 And on our way to Dr. Mahmoudzadeh's office we were

Page 355

1 talking in general about what are the implications
2 of this license for MTN, you know, what do we need
3 to do, how do we need to progress this license.
4 And one of the points in discussion that came up
5 -- that was raised by Irene, in fact, was the
6 issue of the compensation to both Ambassador
7 Ghorbanoghli and Ambassador Saloojee. Phuthma
8 said, "well, Saloojee didn't want anything. So
9 should we really" --

10 (Interruption by the court reporter.)

11 A And Irene said, "look, he worked hard.
12 He worked as hard as Ambassador Ghorbanoghli, so I
13 think we should also make allowance for him." And
14 we then discussed how would we do this because
15 both of them were government officials in their
16 respective governments.

17 Q Both of who, Saloojee --

18 A Saloojee and Ghorbanoghli. At that time
19 Ghorbanoghli was still working for the Foreign
20 Affairs Ministry. So Irene then asked me to think
21 about how we could do this, how we could structure
22 the payments so that there would be no comeback.

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1 And I said, "okay, I'll think about it."

2 So we left it at that in November 2005,
3 but it was clearly on our agenda as to do going
4 forward.

5 So when Ambassador Ghorbanoghli came to me
6 in 2006, I then went back to Irene and said, "Look,
7 now, this guy wants the money. What should we do?"

8 So Irene said, "look, we are having lots
9 of problems. We are still not sure that we really
10 are going to make it because these people are
11 putting all sorts of pressures on us at that time.
12 Let's -- you keep him on the slow burner until we
13 are -- we've gone through this project, the project
14 phase of the installation of the network, so that --
15 and in any event, if we give you money now, we are
16 not sure that he is going to continue to support us
17 because now he's got this money. But if he is kept
18 on the slow burner, if there are any political
19 issues that we need his assistance on, we could say
20 to him, you know, this is all towards getting that
21 money that we've promised you."

22 So that's what I then did. I had regular

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1 meetings with him, lunches, just to keep it -- to
2 keep talking to him about this thing and saying to
3 him, "we are busy. Our lawyers are looking at the
4 agreement. How do we draft this agreement? Who are
5 the parties going to be to this agreement," et
6 cetera, et cetera.

7 Q So were the idea of these payments your
8 idea that you recommended to Irene and Phuthma, or
9 was it their idea to recommend to you or how --

10 A Irene made the -- Irene proposed the
11 payments to Ambassador Ghorbanoghli in the house
12 without any prompting on my side.

13 I mean, I must tell you I was actually
14 surprised when she made that promise, because I
15 thought that my house was being monitored, and for
16 her to make this promise in my house was not a good
17 idea. And I told her afterwards, but, you know, she
18 was my boss. So I said, okay. We will have to deal
19 with it in a very sensitive manner. But It didn't
20 come from me, no.

21 Q Was Irene on the board of MTN Group at
22 the time that this happened?

13 (Pages 354 to 357)

Page 358

1 A Yes. She was the commercial director at
2 the time.

3 Q And was Phuthma on the board?

4 A Yes. He was the president and CEO of
5 the -- of MTN.

6 Q So whose decision was it to promise
7 payments to Ghorbanoghli in exchange for his help?

8 MR. COLEMAN: Object to the form.

9 THE WITNESS: That was Irene, and
10 Phuthma certainly supported it.

11 BY MR. FARBER:

12 Q And whose decision was it to promise
13 payments to Saloojee in exchange for his help?

14 MR. COLEMAN: Object to the form.

15 THE WITNESS: That was Irene supported
16 by Phuthma.

17 BY MR. FARBER:

18 Q Okay. So picking up on the discussions
19 with Ghorbanoghli, you mentioned that he now came
20 to you, things were put on a slow burner. What
21 happened next?

22 A By about, I think September,

Page 359

1 October 2006, he started to become really agitated
2 because he said he wanted the money to buy a house
3 in South Africa because, I think, at that stage of
4 --

5 Q Let me focus you on -- I think I asked
6 the question about Ghorbanoghli.

7 A That's right. Yes.

8 Q Okay. Please go ahead.

9 A At that stage he told me he wanted to
10 buy a house for his son who was studying in South
11 Africa. His eldest daughter was also studying in
12 South Africa at the same time. So he wanted to
13 buy a house for them.

14 I then -- I then communicated that to
15 Irene, and Irene said, "Okay. Start preparing a
16 consultancy agreement." So I prepared a consultancy
17 agreement which was substantively the same as the
18 one that we had signed with Dr. Riahi.

19 Q Would it have been personal to
20 Dr. Ghorbanoghli?

21 A Yes. Yeah.

22 Q And by that I mean -- let me ask a

Page 360

1 clearer question.

2 A Yeah.

3 Q The draft consultancy agreement you
4 prepared --

5 A Yes.

6 Q -- was that between MTN and
7 Dr. Ghorbanoghli individually?

8 A Yes.

9 Q Okay.

10 A Yes. So I prepared the draft. I sent
11 it to Irene, e-mailed it to Irene. Irene had a
12 look at it. She made some changes. Then I'm not
13 sure whether she suggested or whether Ambassador
14 Ghorbanoghli suggested that we -- instead of his
15 name, we put in the name of a company. And I
16 asked him what company, and he gave me the name of
17 Aristo Oil Consultancy, or something in Dubai,
18 which is owned by a friend of his in Dubai.

19 So by -- in November 2006, Ambassador
20 Ghorbanoghli came to South Africa. I also went to
21 South Africa. We met outside the MTN offices. We
22 finalized the terms of the agreement and the amount.

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1 Q What was the amount of the agreement, if
2 you remember?

3 A 400,000 U.S. dollars. I then
4 communicated that to Irene, and Irene was delaying
5 signing the agreement. So finally I said to
6 Ambassador Ghorbanoghli, "You get
7 Mr. Hosseinzadeh" -- H-O-S-S-E-I-N-Z-A-D-E-H --
8 "who was the MD of Aristo, you get him to sign it.
9 I will initial it as a witness for MTN, and then I
10 will send that to Irene. Because this might then
11 make her more comfortable that they have signed
12 the agreement already."

13 And, indeed, that had the desired effect
14 because Irene said, "okay, I will sign it, but I
15 will not give them a copy of this agreement." And
16 that's what she did. She didn't give them a copy.

17 So in December 2006 I was in South
18 Africa, and we were then discussing how the actual
19 payment is going to be made to Aristo, in other
20 words, who would sign off on the invoice if the
21 invoice come. I had a -- Irene and myself had this
22 discussion in her office. Then she said to me,

14 (Pages 358 to 361)

| | |
|--|---|
| <p style="text-align: right;">Page 362</p> <p>1 "look, I know Phuthma. Phuthma was always part of 2 these discussions, but I know him. If ever this 3 thing backfires, he is going to be the first one to 4 deny it, that he authorized this. So I want you to 5 get an authorization from him to me that I can do 6 this." 7 So I drafted a memorandum for Phuthma's 8 signature, in which I then said, he gives Irene 9 permission to finalize the contracts with the 10 consultants and the payments. I took it -- I walked 11 to his office, I took -- gave it to him. I said, 12 "Irene wants you to sign it." He read it, and he 13 signed it, gave it back to me. So I gave it to 14 Irene. So on that basis Irene was then happy to 15 proceed. 16 And then in the beginning of 2007, the 17 invoice was generated, and again she said, "I'm not 18 signing this invoice for payment. Take it to 19 Phuthma." So I took it to Phuthma. Phuthma 20 authorized it for payment, and then I took it to the 21 finance department to do the transfer. 22 Q Okay. Let me show you the following</p> | <p style="text-align: right;">Page 364</p> <p>1 records at MTN? 2 A I did, yes. 3 Q And is this a true and authentic copy of 4 the document that you prepared? 5 A Yes. 6 Q Move the admission of Exhibit 35. 7 Let me show you another document. 8 (Thereupon, Exhibit Number 36 was marked for 9 identification purposes.) 10 BY MR. FARBER: 11 Q And do you recognize -- and for the 12 record, we've marked as Exhibit 36 Bates Numbers 13 CK6560 through 6561. 14 Do you recognize this document? 15 A I do, yes. 16 Q And what is it? 17 A It's the memorandum that I prepared for 18 Phuthma's signature to authorize Irene to finalize 19 the consultancy agreements. 20 Q Is this the memorandum you were just 21 describing in your testimony? 22 A That is correct, yes.</p> |
| <p style="text-align: right;">Page 363</p> <p>1 document. 2 (Thereupon, Exhibit Number 35 was marked for 3 identification purposes.) 4 BY MR. FARBER: 5 Q And let me state for the record we've 6 marked as Exhibit 35 Bates Numbers CK138 through 7 152 and 1 through 10 as one composite exhibit. 8 Mr. Kilowan, do you recognize this 9 document? 10 A I do, yes. 11 Q And what is it? 12 A It's the agreement for the consulting 13 services between MTN International Mauritius and 14 Aristo Oil International. 15 Q And was this the agreement that you were 16 just describing in your testimony? 17 A Yes. 18 Q And did you participate in the 19 preparation of this agreement? 20 A Yes, I participate -- I prepared it. 21 Q Okay. And did you keep -- maintain and 22 keep a copy of this document in your business</p> | <p style="text-align: right;">Page 365</p> <p>1 Q Is there a signature on the memorandum? 2 A That is correct, yes. 3 Q And whose signature is it? 4 A It's Phuthma Nhelko's signature. 5 Q Okay. And were you present when he 6 signed this memo? 7 A Yes. 8 Q Okay. And did you maintain a copy of 9 this memo in your files? 10 A I did, yes. 11 Q Did you main- -- is this a true and 12 correct copy of the memorandum you maintained in 13 your files? 14 A Yes. That is correct. 15 Q And did you maintain it as an MTN 16 business record in your files? 17 A I did, yes. 18 Q Move the admission of Exhibit 36. 19 Now, we talked about Aristo Oil. Did you 20 know who Aristo Oil was? 21 A Not until I was told by Ambassador 22 Ghorbanoghli to use the name of the company.</p> |

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1 Q Did Aristo Oil ever perform any services
2 for MTN related to -- prior to January 2007?

3 A No.

4 Q Did Aristo Oil ever provide any services
5 to MTN after 2007?

6 A No.

7 Q Would you agree that the contract
8 between MTN and Aristo Oil was a sham consulting
9 agreement?

10 MR. COLEMAN: Objection to form.

11 THE WITNESS: Yes.

12 BY MR. FARBER:

13 Q Why did MTN enter into the contract with
14 Aristo Oil, if you know?

15 A That's for the sole purpose to pay
16 Ambassador Ghorbanoghli.

17 Q Okay. And you mentioned that after --
18 in your earlier testimony that after you -- after
19 Mr. Nhelko approved of the contract, you walked
20 over to the finance department. Where did that
21 take place?

22 A In South Africa, in Johannesburg.

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1 Q Okay. Did Irene instruct you as to how
2 MTN would negotiate with Ghorbanoghli?

3 A Yes.

4 Q How many conversations do you recall you
5 had with Irene about this?

6 A I must have had five or six
7 conversations with her about this particular
8 issue.

9 Q Did she ever tell you she was talking to
10 Nhelko about this issue, the payment to
11 Ghorbanoghli?

12 A No. By -- in December 2006, Irene and
13 Phuthma were not really on talking terms. So once
14 she had this authorization, she didn't discuss it
15 any further with Phuthma, as far as I know.

16 Q Okay. And this authorization is the
17 memo you're referring, to Exhibit 36?

18 A 36, yes.

19 MR. FARBER: Let me mark this as the
20 next exhibit.

21 (Thereupon, Exhibit Number 37 was marked for
22 identification purposes.)

Page 367

1 Q And do you know if MTN ever paid the
2 \$400,000?

3 A Yes. Ambassador Ghorbanoghli confirmed
4 to me that they received the money in Dubai.

5 Q Okay. And when you say "they received
6 the money in Dubai," who was the "they"?

7 A Well, it was deposited into the account
8 of Aristo Oil, for Mr. Ghorbanoghli's benefit.

9 Q And do you know why the currency for the
10 payment was in dollars?

11 A That was the accepted currency between
12 MTN and Ambassador Ghorbanoghli at the time.

13 Q Okay. And did Ghorbanoghli discuss that
14 amount with you?

15 A He discussed the amount with me. He
16 wanted more, and I negotiated it down to 400,000.

17 Q Did Ghorbanoghli, to your knowledge,
18 ever discuss the amount with Irene?

19 A No, not directly. It was discussed I
20 would give Irene feedback, say, this is what he
21 wants, and Irene would say, no, go back and
22 negotiate more with him.

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1 BY MR. FARBER:

2 Q Just for the record, we've marked as
3 Exhibit 37 CK5895 through 5897.

4 Mr. Kilowan, do you recognize the
5 document?

6 A I do, yes.

7 Q And what is it, please?

8 A It's the Aristo Oil invoice for the
9 amount of 400,000 U.S. dollars to MTN
10 International.

11 Q And you referenced an invoice earlier in
12 your testimony. Is this that invoice?

13 A That is correct.

14 Q Okay. How did you receive the invoice?

15 A The -- there was a bit of a back and
16 forth about the invoice because Irene wanted it in
17 a specific form. Mr. Hosseinzadeh didn't really
18 understand exactly what she wanted.

19 So in the end, I helped him to put
20 together the invoice, the format of the invoice,
21 because she wanted the address of the office in
22 Dubai, et cetera, et cetera, to appear on the

16 (Pages 366 to 369)

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1 And that is what I then communicated again
2 to Phuthma. I -- because he had been sending me
3 SMSs, and I had been forwarding those SMSs to
4 Phuthma.

5 Q Ghorbanoghli had been sending --

6 A Sending me SMSs, and I had been
7 forwarding them to Phuthma at the time.

8 By this time -- I mean, you must also
9 remember that Irene left MTN in April of 2007. So
10 Irene was no longer in MTN, and I was reporting
11 directly to Phuthma. So all of these contracts, et
12 cetera, et cetera, all of these payments, Phuthma
13 was dealing with it now directly.

14 So he is fully aware of whatever happened
15 around the payments and what, you know, the
16 difficulties that I was facing in Iran at the time.

17 Q Phuthma was on the board of MTN Group at
18 the time?

19 A Yes, he was.

20 Q Did he ever tell you he was advising the
21 board of MTN Group about what was going on?

22 MR. COLEMAN: Objection to form.

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1 THE WITNESS: No, he didn't tell me that
2 he was advising the board.

3 BY MR. FARBER:

4 Q Okay. Did Ghorbanoghli ever discuss
5 with you buying a house in Dubai?

6 A No, he didn't.

7 Q Now let's talk about Ambassador
8 Saloojee. Was there a point in time where
9 Ambassador Saloojee approached MTN about payment?

10 A Yes. This was in the beginning. Again,
11 what happened was that while we were toward the
12 end of 2007 to 2006, beginning 2007, while we were
13 finalizing Ambassador Ghorbanoghli's contract and
14 the payments, Ambassador Ghorbanoghli went to
15 Ambassador Saloojee, and he told him that I am
16 going to get this money from MTN.

17 Ambassador Saloojee then -- when I had
18 dinner with him that day or the next day, he said
19 that Ambassador Ghorbanoghli came to his house the
20 previous night and told him this. And then
21 Ambassador Saloojee said, "Look, I'm thinking of, at
22 the end of my posting in Iran, of not taking another

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1 posting. So I want to" -- because his posting was
2 going to end, I think, early in 2008.

3 "I want to buy a house in Pretoria, and I
4 want to send my wife and daughters to South Africa
5 so that they can -- they can return at the beginning
6 of the school term," which is in January," so that
7 they don't miss anything in terms of their
8 schooling. Can you ask Irene -- they have offered
9 me something last year, and I said no, but can you
10 ask Irene to -- whether they would be prepared to
11 give me money to buy the house."

12 And I communicated that to Irene, and
13 Irene said to me, "Yeah, no problem. How much is
14 it?" And we converted the 1.4, 1.2 million rent to
15 dollars, and it came to about \$200,000.

16 So Irene said, "Yes, okay, finalize the
17 contract with him, and let's organize for the
18 payment to be made."

19 Unfortunately, Irene then left at the end
20 of March 2007, but I continued to have this
21 discussion with Ambassador Saloojee. He then said
22 to me in April 2 -- "Look, I need that money now

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1 because we've found a house, we've found everything.
2 Can you help me?"

3 I said, "Look, there is a bit of overlap
4 between Irene leaving and Phuthma taking over fully
5 in Iran. Let me talk to Irene."

6 And I spoke to Irene, I said, "Look, can
7 you make a plan?" So I said to Ambassador Saloojee,
8 "I can give you the money on the condition that you
9 pay me back the money when MTN pays you."

10 And we agreed on that. We shook hands on
11 it. I transferred the money for him in April 2007,
12 and he bought the house.

13 Q Okay. Did Mr. Nhelko know about these
14 discussions?

15 A Yes, because -- well, again, Irene told
16 me that she told Phuthma about these discussions,
17 and I had no reason to doubt that she actually
18 discussed it with Phuthma.

19 Q Did Irene authorize you to reach an
20 agreement with Ambassador Saloojee?

21 A Yes, she did.

22 MR. COLEMAN: Object to the form. Move

21 (Pages 386 to 389)

Page 390

1 to strike.

2 BY MR. FARBER:

3 Q What did Irene tell you --

4 A She told me --

5 Q -- in response to Ambassador Saloojee's
6 request?

7 A She told me to do the same consulting
8 agreement that I did for Ambassador Ghorbanoghli
9 and just change the amount from 400,000 to
10 200,000.

11 Q Did she tell you to do it through Aristo
12 Oil?

13 A No. It was directly with Ambassador
14 Saloojee.

15 Q Okay. Was such an agreement entered
16 into?

17 A No. We never signed that agreement.

18 Q Do you know why not?

19 A Because Irene then left, so by the time
20 it was finished, I gave it to her, I send it to
21 her, she didn't sign it while she was still at
22 MTN. By the time she left, I had made the

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1 payment, and I -- on the basis that she told me
2 she had given this to Phuthma, I assumed that
3 Phuthma would finalize it and would sign it.

4 Q Once Irene left when -- did you ever
5 raise this with Phuthma directly?

6 A No. I raised it with him in, I think
7 about June, May or June when he came to Iran, and
8 Ambassador Saloojee thanked him for, you know, the
9 help that MTN gave him because that was consistent
10 with his understanding that this is something that
11 MTN is going to give him, and he will then give it
12 back to me.

13 Q Whose understanding? I'm sorry.

14 A Ambassador Saloojee's understanding. So
15 after that Phuthma asked me what is it that he
16 thanked me about? I said, "Well, you remember
17 that we agreed that we are going to pay him some
18 money, and I made that payment already."

19 Q What did Phuthma say to you?

20 A Phuthma said, "Well, you know, Irene
21 should not have given you permission to do it,
22 and" -- but, he said, "Okay. It's done now.

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1 Let's do a contract for him." And that contract
2 I'd been following up with him on a regular basis
3 to say, "Okay. You need to sign this thing." He
4 had it with him. I said, "You need to sign it,"
5 and he delayed signing the contract.

6 Q Did he tell you -- did Phuthma tell you
7 why he was delaying?

8 A His view was that we should wait until
9 the end of 2007 to see what sort of assistance
10 Ambassador Saloojee would continue to give us. So
11 it was the same approach that we took with
12 Ambassador Ghorbanoghli to say, "We won't finalize
13 it in the middle of the year. We will finalize it
14 at the end of the year," to see what assistance he
15 had actually rendered throughout the year so that
16 we pay for value that we received from Ambassador
17 Saloojee.

18 Q And did Phuthma tell you that?

19 A Yeah, he told me that. Yeah.

20 Q And do you know if Phuthma ever advised
21 the board in 2007 about the payment to Saloojee?

22 A I don't know whether he did.

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1 Q Okay. And when you say that -- you
2 testified a moment ago that you made the payment
3 to Saloojee. Did you make it on behalf of MTN?

4 A That was my understanding.

5 Q And what did you expect was going to
6 happen next?

7 A That we would finalize the contract with
8 Ambassador Saloojee, we will pay him the 200,000
9 U.S. dollars, and he would repay my money.

10 Q Okay. And that was the money you had
11 forwarded to him?

12 A That is correct. Yes.

13 Q Was there a particular need at the time
14 that the payment was made to Saloojee to make the
15 payment then as opposed to later?

16 A Yes, because he had found a house, and
17 the attorneys, transferring attorneys were saying
18 to him he must put the -- because he said he is
19 not going to take a mortgage bond, so he wanted to
20 pay for it cash. He contributed about 400,000,
21 and I contributed the 1.2 million. So the
22 attorney said, "If it's a case transaction, you

22 (Pages 390 to 393)

Page 394

1 need to deposit the money into our account before
2 the end of April."

3 Q And where did you send the money?

4 A I sent it to his attorneys.

5 (Thereupon, Exhibit Number 40 was marked for
6 identification purposes.)

7 BY MR. FARBER:

8 Q For the record, we marked as Exhibit 40
9 CK5 -- excuse me, CK6562 to 6563.

10 Mr. Kilowan, do you recognize this
11 document?

12 A Yes, I do.

13 Q And what is it?

14 A It's a printout of my money builder
15 account at ABSA Bank, A-B-S-A.

16 Q And do you recognize what the
17 transaction is reflected on this printout?

18 A Yes.

19 Q What is it?

20 A If you look at the -- on the date the
21 26th of April 2007, teller transfer debit, there
22 was an amount of 1.4 million transferred out of my

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1 was stored on my computer.

2 Q Okay. And is this a true and correct
3 copy of the document that you maintain?

4 A Yes, it is.

5 MR. FARBER: Okay. Move the admission
6 of Exhibit 40.

7 (Thereupon, Exhibit Number 41 was marked for
8 identification purposes.)

9 BY MR. FARBER:

10 Q And for the record, we've marked as
11 Exhibit 41 Bates CK6557 to 6559.

12 Mr. Kilowan, do you recognize the
13 document?

14 A Yes, I do.

15 Q And what is it?

16 A It is a letter from Gildenhuis,
17 G-I-L-D-E-N-H-U-Y-S, Lessing, L-E-S-S-I-N-G,
18 Malatji, M-A-L-A-T-J-I.

19 Q And who is the letter to?

20 A To Ambassador Saloojee regarding the
21 transfer of the property from the previous owners
22 into the name of Ambassador Saloojee.

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1 account on that day.

2 Q And what currency was that 1.4 million?

3 A A rand. It's an African rand.

4 Q And at the time approximately how many
5 dollars do you recall it being?

6 A 200,000 U.S. dollars.

7 Q Okay. Is this the transfer that you
8 were talking about earlier?

9 A That is correct. Yes.

10 Q Did Ambassador Saloojee ever tell you at
11 the time around this transfer whether he
12 understood the money being transferred as coming
13 from you as opposed to MTN?

14 A Well, the understanding was that I am
15 simply advancing him money that he was expecting
16 to receive from MTN.

17 Q Okay. Did you keep this in your
18 personal records?

19 A That's correct. Yes.

20 Q Did you keep this in your MTN file?

21 A No. No, I don't think it was in my MTN
22 file. I can't recall where, but it was just -- it

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1 Q And whose signature is on the bottom
2 there?

3 A On the right bottom above the date 25
4 May is Ambassador Saloojee.

5 Q Do you recognize Ambassador Saloojee's
6 signature?

7 A Yes.

8 Q Have you seen it before?

9 A Yes, I have seen it before.

10 Q Okay. Did you ever receive a copy of
11 this document?

12 A He gave me a copy of this document in, I
13 think, December 2010. He gave me a copy of this
14 document.

15 Q And why did Ambassador Saloojee give you
16 a copy of this document?

17 A Because in November 2010 he had gone to
18 South Africa, specifically to see Phuthma Nhelko
19 about the repayment of this 1.4 million. And
20 Ambassador Saloojee then informed me that Phuthma
21 said I should -- I should bring all the supporting
22 documents to show that I, in fact, transferred

23 (Pages 394 to 397)

| | |
|--|---|
| <p style="text-align: right;">Page 418</p> <p>1 general contractors as general contractors.</p> <p>2 Q Let me bring you back -- I'm sorry, if I</p> <p>3 may interrupt -- to the black projects and Project</p> <p>4 Distant Thunder.</p> <p>5 A Yeah.</p> <p>6 Q So you mentioned that there was a</p> <p>7 connection between that trip of the</p> <p>8 parliamentarians --</p> <p>9 A Yes.</p> <p>10 Q -- to South Africa. What were the other</p> <p>11 types of projects, black projects in Project</p> <p>12 Distant Thunder?</p> <p>13 A I can't recall offhand, but I recall</p> <p>14 that was a, sort of -- the major thrust is to</p> <p>15 embed us into the political environment in Iran.</p> <p>16 Q Okay. And did you discuss the black</p> <p>17 projects or Project Distant Thunder with Irene?</p> <p>18 A Not with Irene but with Phuthma.</p> <p>19 Q Okay. And do you recall Phuthma's</p> <p>20 reaction to these -- in these discussions? What</p> <p>21 did he tell you?</p> <p>22 A I can't recall exactly what he said,</p> | <p style="text-align: right;">Page 420</p> <p>1 elements of Project Distant Thunder.</p> <p>2 Q Okay. Did you prepare this?</p> <p>3 A I did, yes.</p> <p>4 Q And did you keep it in your business</p> <p>5 records at MTN?</p> <p>6 A Yes, I did.</p> <p>7 Q And was it maintained by you as an MTN</p> <p>8 business record?</p> <p>9 A That's correct.</p> <p>10 Q Is this a true and accurate copy of the</p> <p>11 document you maintained in your files?</p> <p>12 A That is correct.</p> <p>13 Q I move the admission of Exhibit 44.</p> <p>14 Let me focus you on item number three,</p> <p>15 black initiatives --</p> <p>16 A Yeah.</p> <p>17 Q -- on the CK196, if you see that.</p> <p>18 A Yeah, I see that.</p> <p>19 Q When you wrote, "It is imperative</p> <p>20 that MTN re-" -- well, did you write, "It is</p> <p>21 imperative that MTN remains always informed of the</p> <p>22 deepest and highest political developments and</p> |
| <p style="text-align: right;">Page 419</p> <p>1 but, you know, he didn't disapprove. Okay. But</p> <p>2 his view was that I should rather focus on the</p> <p>3 Gray Project area, which was the establishment of</p> <p>4 the MTN foundation in Iran through which we</p> <p>5 could -- we could influence the general public</p> <p>6 because we would do educational projects, we would</p> <p>7 do bursaries, et cetera, et cetera, et cetera,</p> <p>8 bursaries for students, B-U-R-S-A-R-I-E-S, for</p> <p>9 students. And in that way we would cement MTN's</p> <p>10 position in Iran amongst the general population.</p> <p>11 MR. FARBER: Introduce the following</p> <p>12 document.</p> <p>13 (Thereupon, Exhibit Number 44 was marked for</p> <p>14 identification purposes.)</p> <p>15 BY MR. FARBER:</p> <p>16 Q For the record, Exhibit 44 is Bates</p> <p>17 marked CK189 to 199.</p> <p>18 Mr. Kilowan, do you recognize the</p> <p>19 document?</p> <p>20 A Yes, I do.</p> <p>21 Q And what is it?</p> <p>22 A It is the document that motivates the</p> | <p style="text-align: right;">Page 421</p> <p>1 thinking in the country"?</p> <p>2 A Yes, I did.</p> <p>3 Q And what country were you referring to?</p> <p>4 A Iran.</p> <p>5 Q Okay. And what did you mean by that?</p> <p>6 A I meant that we had to have information</p> <p>7 that were both in the public domain as well as</p> <p>8 background information that shapes things that</p> <p>9 come up in the public domain.</p> <p>10 Q Okay. And turning over to the next</p> <p>11 page, if you could read the second paragraph. Did</p> <p>12 you write, "It will be absolutely essential that</p> <p>13 the identity of any and all people who supply</p> <p>14 sensitive, political, heads-up information be kept</p> <p>15 secret"?</p> <p>16 A I did write that, yes.</p> <p>17 Q And what did you mean by that?</p> <p>18 A It basically meant that we couldn't run</p> <p>19 the risk of anybody who is working with us under</p> <p>20 the Black Project section, that their identity</p> <p>21 would be made known to the Iranian authorities.</p> <p>22 Q Okay. And what was the sensitive</p> |

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1 political information MTN was looking for?

2 A Well, the -- because there are many
3 different divergent groupings in Iran, who at some
4 stage or the other has the upper hand and can
5 shape decisions like, for example,
6 nationalization, or if the government is going to
7 change FIPPA legislation, which would have an
8 impact on our license that we had, or if the -- if
9 the tensions between Iran and the U.S. playing out
10 inside Iran could result in a war, for example,
11 between America and Iran. We needed to be two or
12 three steps ahead of all of these things.

13 So, you know, we needed really to go deep
14 into the Iranian establishment to get the inside
15 discussions.

16 Q Were you recommending that MTN pay
17 consultants in the Iranian government for this
18 information?

19 A Yes.

20 MR. COLEMAN: Object to the form.

21 THE WITNESS: Yes.

22 BY MR. FARBER:

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1 were government officials at the time?

2 A They worked for the government
3 organizations, yes.

4 Q And do you remember any of their names?

5 A No. I do but I don't want to disclose
6 the names.

7 Q Okay. Are they still currently with the
8 government in Iran?

9 A I don't know.

10 Q Okay. Did anybody at MTN approve the
11 engagement of these six people?

12 A Yes.

13 Q Who at MTN approved it?

14 A Irene approved that.

15 Q Did you discuss it with Phuthma?

16 A I can't recall that I discussed it with
17 him, no.

18 Q Do you know if the payments to these
19 people were made in -- in Iran?

20 A It was made in Iran by myself in U.S.
21 dollars.

22 Q In U.S. dollars?

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1 Q Okay. Did you propose a budget for
2 these black operations?

3 A I did, yes.

4 Q How much was it?

5 A It was \$200,000.

6 Q And in your memo it states, "These funds
7 should be kept in an account outside the country."
8 Why did you write that?

9 A Because we didn't want visibility of
10 those money in Iran in the MTN accounts. And it
11 would be easier to make payments, for example, in
12 Dubai to people rather than in Iran.

13 Q Is that similar to the Aristo Oil
14 agreement that we looked at earlier?

15 MR. COLEMAN: Objection to form.

16 THE WITNESS: That is correct. That is
17 correct, yes. Can I just say, under this
18 black -- I did, in fact, engage six people
19 under this heading to gather information, and
20 we paid them.

21 BY MR. FARBER:

22 Q Who -- do you remember if any of them

Page 425

1 A Yeah.

2 Q And were any of the payments made
3 through companies in Dubai?

4 A No.

5 Q They were all in Tehran?

6 A In Tehran, yeah.

7 Q And the currency was all U.S. dollars?

8 A Yeah.

9 Q Sitting here today, do you recall any of
10 the government entities for which these
11 individuals worked?

12 A Yes, but, again, I would rather not
13 disclose those government entities.

14 Q Can you simply name the ministries?

15 A Ministry of Information, Ministry of
16 Intelligence.

17 Q Okay. Ministry of Information and
18 Ministry of Intelligence?

19 A Yes.

20 Q Was there anybody in the Defense
21 Ministry?

22 A No.

30 (Pages 422 to 425)

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1 Q Was there anybody else in the Foreign
2 Ministry other than Ghorbanoghli, which we've
3 discussed?

4 A No. No.

5 Q Were these payments in cash?

6 A Yes.

7 Q And where was the cash obtained from?

8 A From the MTN bank account in Tehran.

9 Q Okay. And was there a special account
10 in the MTN bank account in Iran for these
11 payments?

12 A No. It was part of the normal money
13 that was transferred to support the office in
14 Iran.

15 Q Okay. And where was that money
16 transferred from?

17 A From MTN International Mauritius.

18 Q And was that done with the approval of
19 MTN Group?

20 A Yes. Irene Charnley was fully aware of
21 it.

22 Q Okay. And when the cash payments --

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1 Q Okay. So the document starts out
2 describing a briefing that Saloojee gave you.

3 A That's correct.

4 Q And what was that briefing about?

5 A It was about the visits of Mr. Larijani
6 and Minister Motakki to South Africa.

7 Q Okay. And who was Larijani at the time?

8 A At the time Mr. Larijani, I think 2007,
9 he might have been a speaker of Parliament in
10 2007. At some stage he was the Supreme Leader's
11 representative.

12 Q Take a look at the first paragraph.

13 A Yeah, secretary of the -- yeah, he is
14 the -- he was both the speaker of Parliament as
15 well as the secretary of The National Security
16 Council.

17 Q Okay. And who was Mr. Mottaki at the
18 time?

19 A The Minister of Foreign Affairs of Iran.

20 Q And why was -- do you know why Saloojee
21 was talking to you about Larijani's visit?

22 A Because this was as a result of -- well,

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1 MR. COLEMAN: On the last question,
2 object to the form. Move to strike.

3 BY MR. FARBER:

4 Q Were the cash payments in dollars or in
5 Iranian rial?

6 A In dollars. We had rial and dollar
7 account. I withdrew --

8 (Interruption by the court reporter.)

9 A We had rial and a dollar account.

10 Q So you were able to withdraw dollars
11 from the dollar account and pay in dollars?

12 A Yes.

13 Q Thank you. Okay. Let me take you back
14 to Exhibit 7, if I could. I think we've
15 previously established, when we talked about this
16 document yesterday, this was a document that you
17 wrote?

18 A That's correct.

19 Q And does the document reflect your
20 understanding of the events that were taking place
21 in and around March 2007?

22 A That is correct.

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1 this was shortly before another vote on the
2 nuclear program, and I think this was at the UN
3 Security Council. Yeah. And the question was how
4 was Africa going to vote at the UN Security
5 Council.

6 And because of, you know, our close
7 linkage around the nuclear issue -- when I say our,
8 I mean MTN, and Ambassador Saloojee on the nuclear
9 issue, he briefed me, and said, "Look, these things
10 are going to happen, and it may have an impact on
11 MTN in Iran."

12 Q Did Saloojee recommend to you anything
13 MTN should do?

14 A Yeah. He said I should -- I should give
15 Irene a heads up. I should let Irene know so that
16 Irene can go and talk to our president --

17 Q What did you --

18 A -- and find out what are they going to
19 do about -- what are they going to do at the UN
20 Security Council.

21 Q What did you do?

22 A I contacted Irene, I said, "Look, this

31 (Pages 426 to 429)

Page 446

1 remember I flew to South Africa to discuss it with
2 him. I arrived in the morning and I flew out of
3 South Africa again back to Tehran in the evening.

4 Q What were the discussions with?

5 A What is it that we going to do. Because
6 by this stage Irene is not around. He doesn't
7 have the ability to go and approach the South
8 African government. So how are we going to deal
9 with the fall-out of all of these things.

10 We didn't really come to a conclusion on
11 it because, you know, his view is like, we will have
12 to talk to our local partners and see what we can do
13 with them. And that was the end.

14 Q Okay. Turning to Paragraph 4, you
15 wrote, "The ambassador agrees that this matter
16 must be finalized and is now going to do the
17 following." Did Ambassador Saloojee tell you why
18 the matter needed to be finalized?

19 A It was -- it needed to be finalized
20 because it was going to impact on MTN and MTN's
21 presence in Iran. So, you know, in a sense, on
22 the defense -- these defense issues, the

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1 ambassador was a spectator to the issues of
2 defense.

3 Q A?

4 A A spectator.

5 Q Spectator?

6 A Yeah. I mean, he did not drive because
7 he did not believe in supplying arms to Iran. So
8 he did not take a very active role on the defense
9 matters. Even when they submitted the MOU after
10 the visit of the Minister of Defense, Iran
11 submitted the MOU after that visit, he said,
12 "Okay, I need to send it to the guys," but I'm
13 sure that the other missions in the region --
14 because what they do is they send that MOU to all
15 of the missions in the Middle East, including
16 Israel. And he said to me, "I'm sure our mission
17 in Israel is going to come back and say, "no ways
18 will you supply these things to the Iranians."

19 So he basically said, "Look, this issue of
20 defense is your baby as MTN. You need to make sure
21 it gets resolved."

22 Q Was that true?

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1 A Yes, of course, it was true.

2 Q Was the defense cooperation initiative
3 driven by MTN or driven by Saloojee?

4 A By MTN.

5 Q 4B, if you're looking at the memo, "He
6 and I will then develop a memorandum with clear
7 deliverables that I see will have to -- I see
8 Irene Charnley will have to take to our minister
9 of defense, because she is the one who initially
10 obtained his commitment, and get him to commit in
11 writing to at least establish these permanent
12 joint technical committees."

13 Did you write that in 2007?

14 A I did, yes.

15 Q And was this something -- a task you and
16 Saloojee discussed doing?

17 A Yes.

18 Q Did you do it?

19 A I can't remember whether we actually did
20 it but I did speak to Irene. At that time I'm not
21 sure -- I think Irene was already out of the MTN,
22 and I seem to recall that Dr. Mahmoudzadeh was

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1 then going to go to South Africa to go and talk to
2 the minister of -- our Minister of Defense.

3 And Phuthma then asked Irene to arrange
4 for that meeting. Whether it happened or not, I'm
5 not sure. Yes, it did, because afterwards Irene
6 told me that she organized for Dr. Mahmoudzadeh to
7 go and see Minister Lekota.

8 Q And at the bottom of that paragraph you
9 wrote, "In this process we should get a clearer
10 indication whether the fish that was promised to
11 the Iranians is the same fish that our Minister of
12 Defense promised to Irene Charnley."

13 Who made the promise to the Iranians?

14 A Irene communicated that the Minister of
15 Defense is prepared to give the fish to the
16 Iranians. Ambassador Saloojee communicated that
17 to the Iranian Minister of Defense.

18 At the dinner the South African Minister
19 of Defense confirmed that there will be defense
20 cooperation, and everybody understood that the fish
21 is all of these defense cooperation elements.

22 Q But in this memo, in 2007, did you --

36 (Pages 446 to 449)

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1 government regarding votes at the IAEA?

2 MR. COLEMAN: I object to the form.

3 BY MR. FARBER:

4 Q Let me -- I'll rephrase.

5 In exchange for obtaining the second GSM
6 license, did MTN make any commitments to the Iranian
7 government regarding votes at the IAEA?

8 MR. COLEMAN: Again. Object to the
9 form.

10 THE WITNESS: They made commitments that
11 they would get the support of the South
12 African government regarding the nuclear file
13 at the IAEA.

14 BY MR. FARBER:

15 Q Did MTN take any actions to implement
16 those commitments?

17 A Yes.

18 Q And what were those actions?

19 A It supported and funded visits to South
20 Africa by members of the Iranian nuclear
21 negotiating team. It continuously discussed
22 and -- these matters with the office of the

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1 president of South Africa, different, various
2 ministers in South Africa. And they -- MTN
3 impressed upon the government of South Africa the
4 importance of the support of the South African
5 government on the Iranian nuclear file for MTN.

6 Q Did MTN understand that these actions
7 were the reason it obtained the second GSM license
8 in place of Turkcell?

9 A Yes.

10 MR. COLEMAN: Object to form.

11 THE WITNESS: We did.

12 BY MR. FARBER:

13 Q Okay. In exchange for obtaining the
14 second GSM license, did MTN make any promises or
15 commitments to the Iranian government regarding
16 weapons or arms?

17 THE WITNESS: Yes.

18 MR. COLEMAN: Object to the form.

19 BY MR. FARBER:

20 Q And what were those?

21 A Those were, first of all, bringing the
22 minister of -- taking the Minister of Defense of

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1 South Africa to Iran, making promises that
2 committees would be established to review the type
3 and nature of weapons that would be supplied to
4 Iran and committing to Sairan, which is the
5 Iranian armaments company, that MTN would support
6 them in all defense related matters.

7 Q Did MTN also communicate to the Iranians
8 that they would be able to deliver the fish?

9 A MTN did communicate the delivery of the
10 fish from Ms. Irene Charnley via Ambassador
11 Saloojee to the Minister of Defense in Iran.

12 Q Did MTN understand that these actions
13 were also the reason that it obtained the second
14 GSM license in place of Turkcell?

15 MR. COLEMAN: Object to the form.

16 THE WITNESS: It did so, yeah.

17 BY MR. FARBER:

18 Q In exchange for obtaining the second GSM
19 license, did MTN make any offers to pay any
20 government -- Iranian government officials?

21 A Yes.

22 MR. COLEMAN: Object to the form.

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1 BY MR. FARBER:

2 Q What commitments were made?

3 A That there would be financial
4 compensation at the end of the licensing process.

5 Q And was that a commitment made to
6 Minister Ghorbanoghli?

7 A That is correct. Yes.

8 Q Okay. And did MTN, along the way, make
9 other payments to other Iranian government
10 officials?

11 A The consultancy agreements with
12 Dr. Riahi, we made payments to him also.

13 Q Okay. And he was a minister -- he was
14 an employee of the Ministry of the Interior?

15 A That's correct.

16 Q And there were six other Iranian
17 government officials that MTN made payments to
18 later on, is that correct?

19 A That is correct. Yes.

20 Q And did MTN understand that these
21 actions were part of the reason it obtained the
22 second GSM license in place of Turkcell?

39 (Pages 458 to 461)

| Page 462 | Page 464 |
|---|--|
| <p>1 A Which actions?</p> <p>2 MR. COLEMAN: Object to the form.</p> <p>3 THE WITNESS: Which actions?</p> <p>4 BY MR. FARBER:</p> <p>5 Q You're correct. Thank you for</p> <p>6 clarifying the question.</p> <p>7 Did MTN understand that its commitments to</p> <p>8 pay Ghorbanoghli were part of the reason it obtained</p> <p>9 the second GSM license in place of Turkcell?</p> <p>10 MR. COLEMAN: Object to form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. FARBER:</p> <p>13 Q In exchange for obtaining the second GSM</p> <p>14 license, did MTN make offers to pay any South</p> <p>15 African government officials?</p> <p>16 A Yes.</p> <p>17 MR. COLEMAN: Object to form.</p> <p>18 BY MR. FARBER:</p> <p>19 Q And were those the payments you talked</p> <p>20 about to Ambassador Saloojee?</p> <p>21 A That is correct. Yes.</p> <p>22 Q And did MTN understand that the payment</p> | <p>1 Q Did Mr. Nisbet, the CFO, also make those</p> <p>2 warnings to MTN?</p> <p>3 A He did, yeah.</p> <p>4 Q And did you have an understanding of</p> <p>5 whether these payments were critical to MTN</p> <p>6 obtaining the second GSM license in place of</p> <p>7 Turkcell?</p> <p>8 A That is correct. Yes.</p> <p>9 MR. COLEMAN: Object to form.</p> <p>10 BY MR. FARBER:</p> <p>11 Q And who were the persons at the MTN</p> <p>12 Group who were the architects of this strategy?</p> <p>13 MR. COLEMAN: Object to form.</p> <p>14 THE WITNESS: Ms. Irene Charnley, with</p> <p>15 the permission by Mr. Phuthma Nhelko.</p> <p>16 MR. FARBER: Okay. Why don't we take a</p> <p>17 break for lunch. We can pick up this</p> <p>18 afternoon with the cross-exam.</p> <p>19 MR. COLEMAN: Before we go off the</p> <p>20 record --</p> <p>21 MR. FARBER: Yes.</p> <p>22 MR. COLEMAN: -- direct examination is</p> |
| Page 463 | Page 465 |
| <p>1 to Saloojee was part of the way in which it was</p> <p>2 able to obtain the second GSM license in Iran in</p> <p>3 place of Turkcell?</p> <p>4 A That's correct. Yes.</p> <p>5 MR. COLEMAN: Object to form.</p> <p>6 BY MR. FARBER:</p> <p>7 Q And in exchange for obtaining the second</p> <p>8 GSM license, did MTN make offers to pay its</p> <p>9 Iranian partners for their share of the Irancell</p> <p>10 partnership?</p> <p>11 A That is correct. Yeah.</p> <p>12 MR. COLEMAN: Object to form.</p> <p>13 BY MR. FARBER:</p> <p>14 Q And what actions did MTN take to make</p> <p>15 those payments?</p> <p>16 A It entered into various loan agreements</p> <p>17 between MTN, Irancell, IEDC and MTN.</p> <p>18 Q And at the time it entered into those</p> <p>19 loans agreements, did you warn others at MTN that</p> <p>20 the Iranians had no intention of repaying those</p> <p>21 loans?</p> <p>22 A I did, yes.</p> | <p>1 finished? Are you tendering the witness?</p> <p>2 MR. FARBER: Well, for now. Well, let</p> <p>3 me state for the record, obviously we've</p> <p>4 asked for lots of documents from MTN, none of</p> <p>5 which have been delivered, so we are unable</p> <p>6 to continue and complete our examination of</p> <p>7 the witness. We will keep our direct</p> <p>8 examination open. We will stop at this time,</p> <p>9 both for lunch and to let your cross-exam</p> <p>10 begin. But should the witness be available</p> <p>11 in the jurisdiction at some future point in</p> <p>12 time -- we are not aware of any such point --</p> <p>13 but if such a point does arise, we will</p> <p>14 reconvene and recontinue the direct</p> <p>15 examination at that time.</p> <p>16 MR. COLEMAN: Okay. So just to be</p> <p>17 clear, cross-examination will start when we</p> <p>18 come back from this break?</p> <p>19 MR. MCCAFFREY: Correct.</p> <p>20 MR. FARBER: Correct. Based upon the</p> <p>21 direct examination that has occurred today.</p> <p>22 MR. COLEMAN: Thank you.</p> |

40 (Pages 462 to 465)

Page 618

1 I CERTIFY THIS IS A TRUE AND
2 ACCURATE TRANSCRIPT FURTHER DEPONENT SAYETH NOT.

3 _____

4

5 THE WITNESS

6 *I hereby declare under penalty of perjury that*
7 *the foregoing is true and correct.*

8 DATE: 14-5-2012



9 DISTRICT OF COLUMBIA

10 Sworn and subscribed to before me this
11 _____ day of _____, 2012.

12

13

14 Personally known _____ or

15 I.D. _____

16 _____.

17

18

19 Notary Public in and for
20 the District of Columbia at
21 Large. My Commission Expires:
22 July 12, 2016

Errata Sheet*Turkcell Iletisim Hizmetleri v. MTN, Ltd.*

Witness: Christian Kilowan

| Page | Line | From | To |
|------|-------|---|---|
| 7 | 18 | Yes. | Yes. But not a practicing one. |
| 12 | 17 | LLP | LLB |
| 12 | 21 | to – we met | to help her with a problem she had – we met |
| 13 | 12 | in Africa responsible | in South Africa. I was responsible |
| 13 | 17 | '97 I joined | In 1997 I joined |
| 13 | 18 | a group industrial relations officer. | the Group Industrial Relations Manager. |
| 13 | 22 | to MTN in | to the MTN Group in |
| 14 | 8 | inter-e-mails | e-mails |
| 14 | 18 | told, | still |
| 14 | 19 | UNIVERSAL CHANGE: Nhelko | UNIVERSAL CHANGE: Nhleko |
| 14 | 19 | Later, in | Later at the beginning |
| 15 | 16 | method | matter |
| 16 | 15 | MTN contacted me | them |
| 16 | 16-17 | were acting on behalf of the people who contacted, and the people said they | |
| 17 | 1 | Chamber | Economic |
| 17 | 2 | Commerce | Department |
| 17 | 20 | This January, | This January. |
| 18 | 4 | January | February |
| 18 | 8 | the | their |
| 19 | 9 | When | Then |
| 20 | 7 | as a source -- strikes a source | -- strikes an Ace |
| 21 | 1 | UNIVERSAL CHANGE: Phuthma | UNIVERSAL CHANGE: Phuthuma |
| 21 | 14 | 24th | |
| 22 | 1 | MTN / Irancell | MTN Irancell |
| 22 | 2 | February -- January, | |
| 25 | 18 | til' | till |
| 27 | 8 | negotiate settlement | negotiate a settlement |
| 27 | 21 | Johhnic | Johnnic |
| 28 | 11 | Botswana | Bophutatswana |
| 28 | 18 | on the other | on other |
| 28 | 22 | after 1992, '93. | 1994 |
| 29 | 2 | African | The African |
| 29 | 17 | Early | In the |
| 30 | 19 | CEO | President and CEO |
| 33 | 11 | there was -- the | there was at the |

| Page | Line | From | To |
|------|-------|---------------------------------|---|
| 33 | 15 | parties | partners |
| 34 | 15 | MTC. Now | MTC, now |
| 35 | 3 | Well, the I | Well, I |
| 37 | 4 | rescued | helped |
| 39 | 1 | 2004, | 2004 or |
| 39 | 7 | the director general in Iran, | a director general in Iran in the Iranian Ministry of Foreign Affairs |
| 39 | 10 | affairs, activities | affairs activities |
| 44 | 9 | for missile | for their missile |
| 44 | 13 | some other | a similar |
| 46 | 20 | I said | He said |
| 47 | 21 | thing would might -- might | thing might |
| 48 | 16 | -- you will -- | |
| 51 | 10 | airport being -- coming into -- | airport management contract being questioned |
| 51 | 13 | constitutionally | constitutionally permissible |
| 51 | 20 | spelled that | spelled out that |
| 53 | 4-5 | and the -- | |
| 53 | 8 | license? | license. |
| 53 | 11 | -- and | about |
| 54 | 11 | the -- the | |
| 54 | 15 | about -- | about the work to be done in Iran |
| 54 | 20 | -- that was | |
| 56 | 15 | in the -- | |
| 56 | 22 | in international | in the international |
| 57 | 8 | time, Irene and the ANC, but... | time. |
| 58 | 10 | -- Irene -- well, | |
| 59 | 11 | to do, tell | to do, they then needed to tell |
| 60 | 18-19 | have moved | move |
| 60 | 21 | when | |
| 60 | 22 | focus on | focused on |
| 62 | 19 | Through the -- the | The |
| 65 | 20 | the -- the -- the | the |
| 66 | 13 | I know this is the -- | this is |
| 67 | 2 | Africa | South Africa |
| 67 | 13 | if MTN could -- could | MTN could |
| 69 | 13 | ourselves | herself |
| 78 | 6 | minister | ministers |
| 80 | 7 | You could pay. You could | We could pay. We could |
| 82 | 19 | partners. | partners did. |
| 82 | 22 | where | were that |
| 86 | 7 | defense nuclear | defense and nuclear |
| 87 | 17 | Nkosa Dlamani-Zuma, N-K-O-S-A, | Nkosazana Dlamani-Zuma, N-K-O-S-A-Z-A-N-A, |
| 88 | 18 | could do to | could to |

| Page | Line | From | To |
|------|-------|--|--|
| 92 | 18 | deflesh | give flesh |
| 94 | 9 | Procurement | Sales |
| 98 | 17 | 35 percent -- | |
| 100 | 7 | the -- to | |
| 100 | 11 | saw newspaper | received |
| 100 | 12 | condition that they must have met, a | condition and that they have given a |
| 101 | 20 | 2007 | 2004 |
| 102 | 21 | -- they then | |
| 102 | 22 | meeting where | meeting with the ambassador where |
| 103 | 10 | the defense | the ministry of defense |
| 103 | 11 | Victoria | Pretoria |
| 103 | 19-20 | the Minister of Defense, with | |
| 104 | 3 | Convention of | Conventional |
| 105 | 10 | in the same -- | |
| 105 | 16 | this will -- | |
| 105 | 17-18 | But I didn't say to him, yes, we will -- also, | Also, |
| 109 | 5-6 | Foreign Affairs | Defense |
| 109 | 21 | So -- and | And |
| 111 | 7 | you deliver | |
| 113 | 8-9 | -- Irene -- to | |
| 115 | 20 | name | domain |
| 116 | 2 | to International | to the International |
| 120 | 14 | will | would |
| 120 | 16 | will | would |
| 120 | 19 | today they | today as far as I know they |
| 123 | 13 | of Apache | of the Apache |
| 123 | 16 | Armscorp | Arm Scor |
| 125 | 14 | guarantee revenue share, | guaranteed revenue share amount, |
| 127 | 14 | this -- | |
| 129 | 22 | under | in |
| 130 | 22 | assigning | signing |
| 133 | 4 | have | had |
| 134 | 1 | on the MTN books. | in the MTN books |
| 137 | 11-12 | Outside -- that was towards the end of 2004. | That was towards the end of 2004 or beginning of 2005. |
| 138 | 12 | a | the |
| 139 | 16 | profile | file |
| 140 | 12 | him | them |
| 142 | 18 | I | she |
| 142 | 20 | helicopters, | helicopters |
| 144 | 21 | She said that she was -- she said, I | I |

| Page | Line | From | To |
|------|-------|---|--|
| 149 | 9 | Dr. Mahmoudzadeh | Mr. Vafaie |
| 149 | 11-12 | Dr. Mahmoudzadeh | Mr. Vafaie |
| 150 | 6 | sub | subsidiary of SAAB |
| 151 | 17 | the MO -- | |
| 155 | 3 | but because we -- | |
| 157 | 19 | they have | MTN had |
| 158 | 13-14 | they constantly -- Turkcell -- then one | they came out constantly about Turkcell -- one |
| 159 | 1 | caught up | got |
| 161 | 4 | with Irene, and she would say, | |
| 161 | 9 | true, no, | true, or no, |
| 163 | 16 | Not very very | Not very |
| 163 | 19 | as the -- | as if he was going to be a problem |
| 164 | 1-2 | come again in 2005 we again extended | come, again in 2005, we extended |
| 164 | 19 | authorization | operationalization |
| 165 | 14-18 | that stage, the legislation around -- the legislation around the shareholding in the second mobile operator license -- in the mobile operator license, the shareholding in that, and the process that | that stage, the legislation around the shareholding in the second mobile and the process around that |
| 165 | 22 | It is also during this time that we, as | As |
| 166 | 3 | late in the evening on that date. | on that day. |
| 166 | 8 | Irene, you know, was | Irene was |
| 167 | 17 | he get | MTN got |
| 167 | 19 | month, a month or | month or |
| 168 | 10 | May. In June we | May 2005. In June 2005 |
| 168 | 11 | go and sign the -- | |
| 168 | 13 | MOU, said | MOU, he said |
| 169 | 13 | you have to wait. You | he has to wait. He |
| 171 | 14 | set for, | set, |
| 171 | 15 | Saturday, | Saturday, on which |
| 173 | 10 | you know, they are -- | the fact that |
| 173 | 14 | paying the full everything | paying everything |
| 174 | 2 | Newton | Hilton |
| 181 | 8 | -- these -- these | |
| 182 | 5-6 | Before we went to the -- before | Before |
| 184 | 4 | MOU that between | MOU. Between |
| 184 | 7 | of beating it | of 'panel beating' it |
| 185 | 4 | cart | cot |
| 185 | 4 | sweating | swearing |

| Page | Line | From | To |
|------|-------|------------------------------------|---|
| 185 | 6 | filing | draft |
| 185 | 17 | with -- because | with one of the guys from ICI -- because |
| 187 | 21-22 | newspaper articles | reports |
| 188 | 12 | the letter was -- | |
| 190 | 11 | Turkcell's -- | |
| 191 | 1 | a couple weeks after the June 2005 | a week after the 24 June 2005 |
| 191 | 4 | from -- because | from disaster because |
| 191 | 8 | supposedly -- so | supposedly already in so |
| 192 | 4 | was able -- he | |
| 192 | 19 | still and | still in and |
| 194 | 12 | Because it was -- the | Because the |
| 194 | 18-19 | the latest | a later |
| 194 | 21 | is -- it is, but he | was clear he |
| 195 | 15 | them the | them support in the |
| 198 | 18 | their | that |
| 199 | 14 | a Iranian | an Iranian |
| 203 | 21 | processed | process |
| 205 | 12-13 | I went -- | |
| 206 | 2 | either | |
| 208 | 12 | we need to be -- | |
| 209 | 6 | no, they | no, |
| 214 | 15 | need" -- because | need" this is because |
| 214 | 22 | legal -- | legal people -- |
| 215 | 1 | legals | legal people, |
| 216 | 2 | I said | He said |
| 216 | 10 | you | we |
| 216 | 11 | Mahmoudzadeh, look, you, | Mahmoudzadeh said, look, I |
| 220 | 7 | a different operations | at a different operation. |
| 220 | 8 | operator. | |
| 220 | 18 | group -- he | group chief operating officer -- he |
| 226 | 22 | being -- and | being allowed in and |
| 227 | 8 | process was | process that was |
| 227 | 18 | telling that | telling him that |
| 227 | 19 | to -- remember | to come. Remember MTN will need these items |
| 233 | 6 | Me -- up | Up |
| 235 | 20 | him | me |
| 238 | 17 | license fee, | money, |
| 239 | 3 | standard bank | Standard Bank |
| 239 | 4 | standard bank | Standard Bank |
| 239 | 21 | 20 | 100 |
| 241 | 8 | that -- what | that they will repay us. What |

| Page | Line | From | To |
|------|-----------|---------------------------------------|---|
| 249 | 13 | the -- yes | the negotiations yes |
| 253 | 1 | MTN was, first | MTN, first |
| 253 | 2 | pro rata | pro rata to the |
| 265 | 12 | pivotal | privy to the fact |
| 268 | 19 | the profits | |
| 269 | 20 | their -- and | their tender response and |
| 270 | 3 | revenue -- your | |
| 271 | 15 | of -- I | of talk about this. I |
| 274 | 3 | going | working |
| 275 | 6 | what | that |
| 279 | 14 | Irancell, MTN | Irancell MTN |
| 280 | 2 | 1A, 1B loan | 1A, loan |
| 280 | 6 | we would be | we |
| 283 | 18 | what | who |
| 292 | 12 | do. | do with us. |
| 292 | 15 | IAE | IAEA |
| 292 | 20 | IAE | IAEA |
| 294 | 17 | in Geneva, | |
| 295 | 5 | Nkosa | Nkosazana |
| 296 | 16 | the I | the IAEA |
| 299 | 8 | file. | file was required. |
| 318 | 17 | was -- in | was earlier on in 2005 |
| 319 | 10 | the -- of the | the project showing we could deliver of the |
| 321 | 3 | the -- on a nuclear -- so | the agreement on a nuclear settlement so |
| 322 | 19 | both | bills |
| 324 | 16- 17 | the -- you know, | |
| 325 | 21 | just -- guys | just say the guys |
| 325 | 21 | going. | going well. |
| 335 | 3-4 | went out to the marketing company, | |
| 335 | 7 | can -- filtering | can, photo filtering |
| 339 | 10 | having by somebody | having with somebody |
| 341 | 19 | time was -- | time, -- |
| 347 | 16 | 2006 | 2007 |
| 348 | 14 | these | his |
| 349 | 2 | 2006 | 2007 |
| 352 | 11 | with -- to -- because | with President Mbeki because |
| 356 | 15 | you | him |
| 386 | 2 | I -- because | I did it because |
| 387 | 11 | beginning. | beginning of 2007. |
| 387 | 12 | end of 2007 to 2006 | end of 2006 |
| 388 | 14 | 1.4, 1.2 million rent | 1.4 million Rand |
| 388 | 22 | April 2 -- | April 2007 |
| 393 | 8 | the 200,000 | the US \$200,000 |

| Page | Line | From | To |
|------|------|--------------------------------|-----------------------------|
| 393 | 21 | the 1.2 | the R1.4 |
| 393 | 22 | case | cash |
| 395 | 2 | an | in South |
| 414 | 21 | that | her |
| 432 | 12 | that matter | that the matter |
| 432 | 17 | delayed | delinked |
| 440 | 21 | litigating | mitigating |
| 441 | 3 | course | cause |
| 452 | 7 | and | at |
| 452 | 10 | for | from |
| 454 | 21 | administration | registration |
| 455 | 4 | 2006 -- I said | |
| 459 | 1 | , different, various | , and different or various |
| 473 | 15 | what | who |
| 486 | 2-3 | their inter say | they were inter se |
| 495 | 17 | it | |
| 504 | 8 | a | our |
| 513 | 7 | elements, | elements were, |
| 521 | 1 | of | |
| 535 | 20 | language | linkage |
| 546 | 4 | a | the |
| 552 | 13 | site | side |
| 568 | 21 | would included | would have included |
| 572 | 4 | put | |
| 575 | 10 | Mehrambad -- M-E-H-R-A-M-B-A-D | Mirdamad -- M-I-R-D-A-M-A-D |
| 592 | 17 | Mahmoud -- | Mahmoudzadeh |
| 598 | 12 | disagreed | agreed |
| 601 | 4 | was ready | was already |
| 631 | 15 | in where | to which |
| 631 | 17 | the | there |
| 635 | 17 | inside | MCI |
| 648 | 1 | Mister -- | Mister Pishevar, |
| 648 | 2 | my -- he | my it is possible. He |
| 649 | 21 | There | If it |
| 649 | 21 | possible in | possible then in |
| 649 | 22 | letter from | letter could come |
| 650 | 13 | lett- -- | letter -- |
| 650 | 19 | seem | seen |
| 669 | 13 | 3 Ellis Lane | 3 Alice Lane |
| 669 | 14 | 3 Ellis Lane | 3 Alice Lane |
| 675 | 12 | the | a |
| 676 | 2 | to | to the |
| 680 | 6 | the -- | the shrine. |
| 680 | 9 | a -- | an office |