

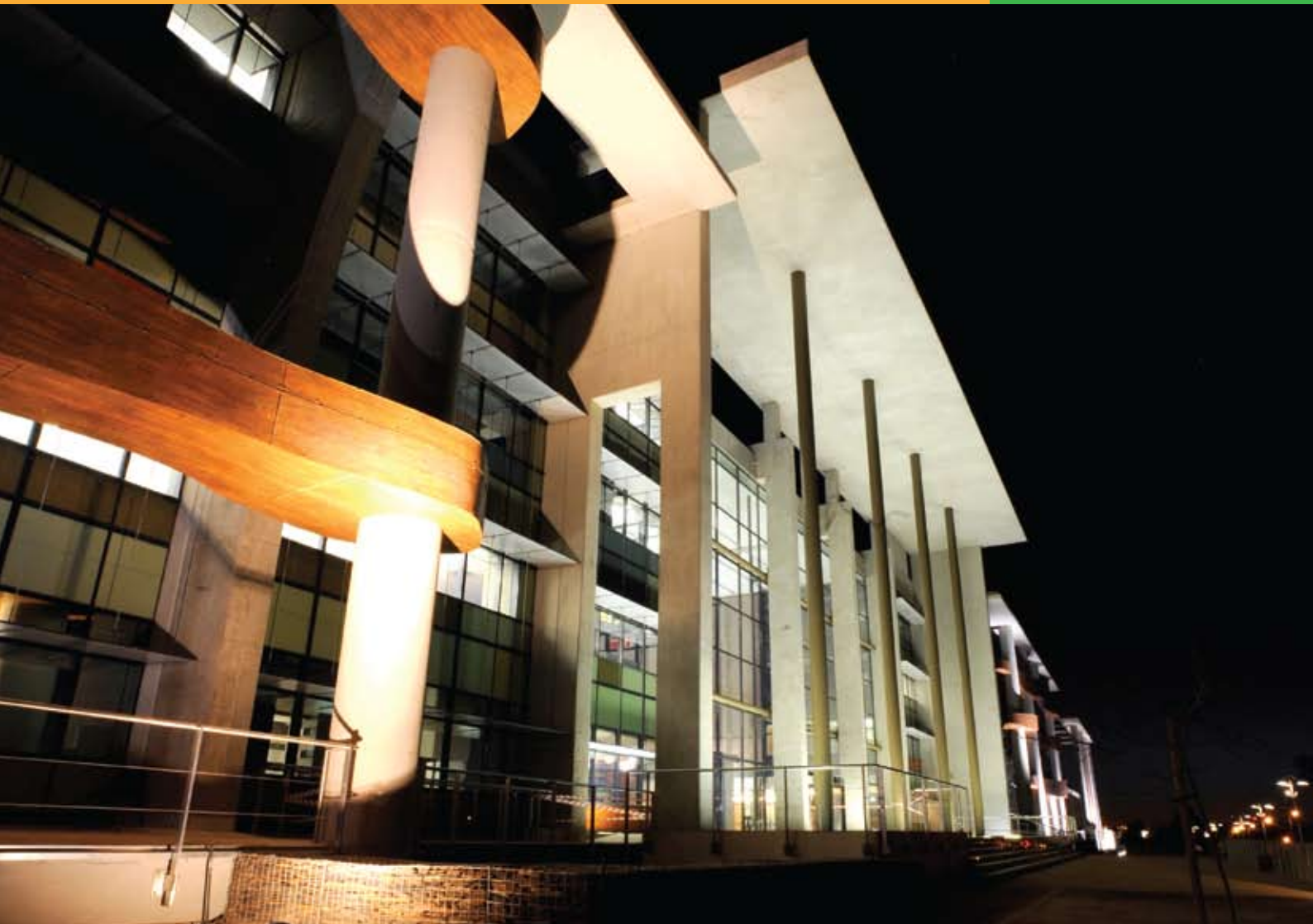
the diplomat

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Internal Newsletter of the Department of International Relations and Cooperation

December 2009



Opening of the OR Tambo building by President Jacob Zuma



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inside:



international relations
& cooperation

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA

DEAR COLLEAGUES

It is that time again when we go for a rest after long hard work during the year. In this regard, *the diplomat* team wishes all the DIRCO members a joyous and refreshing festive season. Please remember to be safe in everything you do and come back rejuvenated and ready to tackle 2010, a year that promises spectacular achievements for our country and the entire African continent through the 2010 FIFA World Cup.

Contrary to customary approach this edition of *the diplomat* is a bumper edition that is full of exciting articles and pictures meant to report and remind us of the year we had.

Enjoy it and have a blessed festive season! ■

the diplomat is an internal newsletter of the Department of International Relations and Cooperation published by the Public Diplomacy Branch.

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Disclaimer
The views expressed in this newsletter do not necessarily reflect those of the DIRCO or the editors.

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President Jacob Zuma delivering a speech during the official opening of the new Department of International Relations and Cooperation Building, Pretoria, 11 December 2009.



President Jacob Zuma with Dali Tambo unveiling the plaque. The building is named after Mr Tambo's father, OR Tambo



President Jacob Zuma being shown around the new building by Ms Bernice Africa, Chief Director: Property and Facilities Management for the Department.



The last touches being placed on the entrance wall; displaying the image and name of OR Tambo, after whom the building has been named.



OPENING OF *OR TAMBO* BUILDING BY PRESIDENT *JACOB ZUMA*

The date 11 December 2009 marks an important milestone in the history of the Department of International Relations & Cooperation. This is the day that the President of the Republic of South Africa, Dr Jacob G Zuma, officially opened the first ever building of the Department. Moreover, it was also the inauguration of its name; OR Tambo.

The building was so named due to the outstanding international relations work that OR Tambo was involved in while he was the President of the ANC.

Indeed, in President Zuma's own words, "Few leaders deserve to be honoured like OR Tambo as he was an extraordinary leader who was not only respected in the country but also by the rest of the world. He was a father to everyone who paid attention to detail and his collective thoughts made South Africa to be known to the rest of the world."

In his address President Zuma further stated that the late President of the ANC combined many skills to handle different challenges successfully. Mr. Tambo played a major role in making friends for South Africa and ensured that the organisation was supported locally and abroad by launching anti-apartheid organisations in many countries.

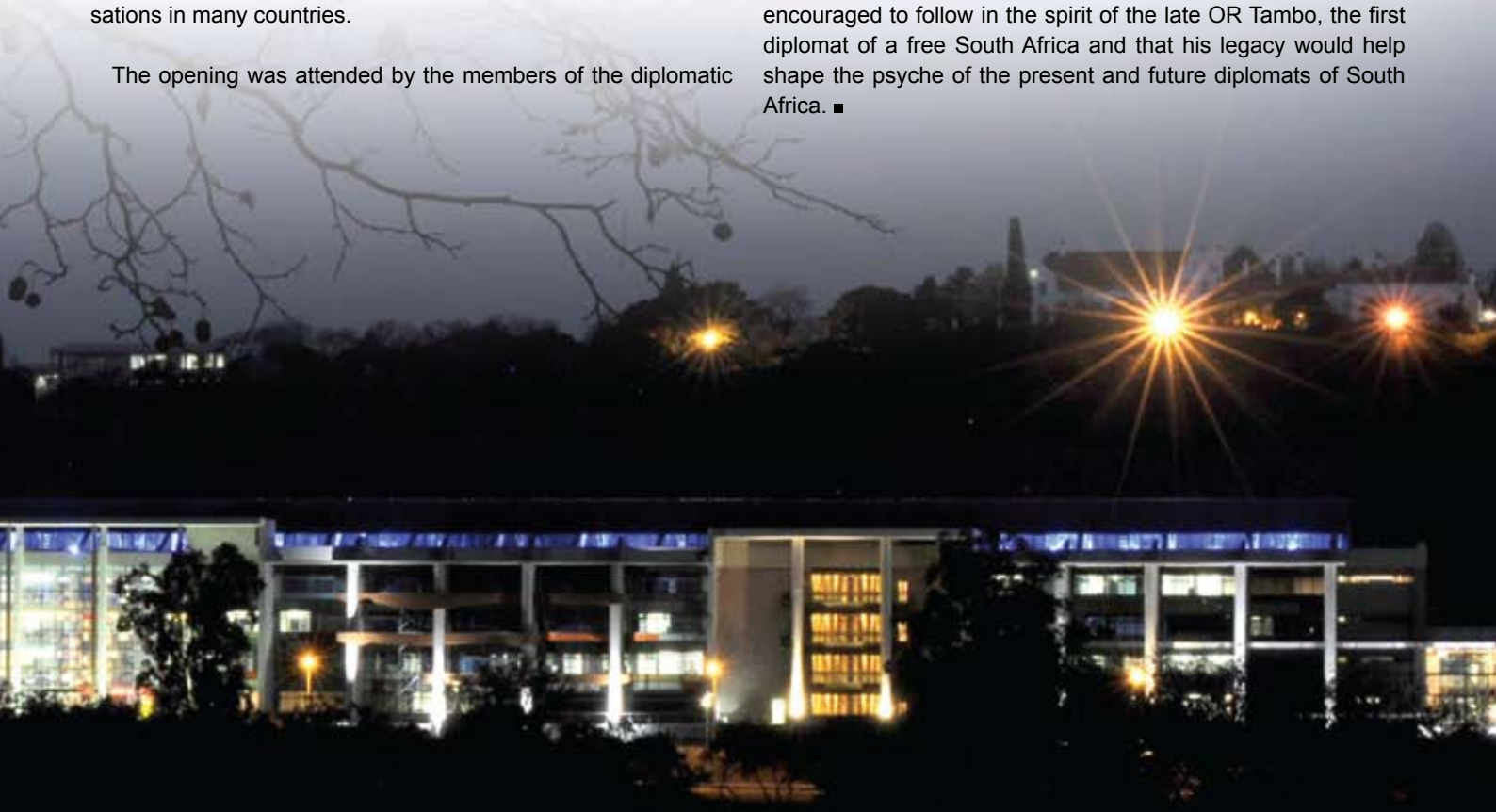
The opening was attended by the members of the diplomatic

corps; the Tambo family; private sector; the Premier of KwaZulu Natal, Dr Zweli Mkhize; former Deputy President of South Africa, Baleka Mbete; former Minister of Foreign Affairs, Dr Nkosazana Dlamini Zuma; DIRCO officials and other dignitaries.

Minister of International Relations and Cooperation, Maite Nkoana-Mashabane, said the building represents the thread and the fibre that unites the officials in the Department with one another and with the people of South Africa both domestically and abroad to ensure that we propagate SA's foreign policy with Ubuntu in mind. She said all DIRCO officials need to make their mark by contributing to our foreign policy as they are inheritors of the beautiful legacy of OR Tambo.

DIRCO's Director-General, Dr. Ayanda Ntsaluba was pleased to announce that for the first time all officials of the Department who were scattered in seven buildings around Pretoria for many years are now, for the first time, all accommodated in the new building. He elaborated that the building has been designed and built to be environmentally friendly as the water that is used is recycled. In addition, the natural environment on which the building has been built has also been retained to create a true African architectural experience.

Following the address by the President, the employees were encouraged to follow in the spirit of the late OR Tambo, the first diplomat of a free South Africa and that his legacy would help shape the psyche of the present and future diplomats of South Africa. ■



*DIRCO year end function:
Minister Maite Nkoana-Mashabane,
Deputy Minister Ebrahim Ebrahim and
Deputy Minister Sue van der Merwe*



MINISTER MAITE NKOANA-MASHABANE'S YEAR END MESSAGE

**To All Staff Members of The Department of International Relations and Cooperation –
December 11th, 2009**

**My Deputy-Ministers, Ms. Sue van der Merwe and
Mr Ebrahim Ebrahim,
Members of the Portfolio Committee on International
Relations and Cooperation,
The Director-General of the Department, Dr Ntsaluba,
The Deputy Directors-General of the Department,
Members of Senior Management,
All our Ambassadors and High Commissioners on
national duty abroad,
Our Diplomats at Missions,
All staff at Head Office,
All our workers, including our security personnel
and cleaners,
Ladies and Gentlemen**

Dear Colleagues,

As 2009 draws to a close, I wish to take this opportunity of our end of year function to sincerely thank you, from the bottom of my heart. I want you all to know that I LOVE YOU.

It has been eight hectic months of work since I started working with you all and I feel so humbled to have been received, guided and supported in the manner that provides positive energy. I want to thank each one of you, from our mothers that clean our offices, our security personnel, our drivers, our lowest ranked officials, members of senior management, my two, most dependable Deputy Ministers, and our Parliamentary Portfolio Committee members. In all your small ways, you contribute to the smooth running of this Department and the realization of its mandate.

Colleagues,

As you work and toil from all your workstations here at home and abroad, let it be known to you that our collective inputs are equal to the task at hand. We have as a Department an overall mandate to work towards the realisation of South Africa's foreign policy objectives. I am sure you will agree with me that failure is not an option.

I am impressed with our dedication and our accomplishments. I know we have had some interesting turns this year, periods

of sadness and laughter – but, what would life be without challenges? On behalf of both my Deputy Ministers, the Director General and senior management, I wish to pay tribute to your collective courage. At the same time, it is my wish that as we embrace our new home - this new beautiful building - we do so with utmost dedication to our various jobs. To our colleagues who are stationed abroad, it is my hope and wish that every effort is made to ensure that your actions out there continue to help us push back the frontiers of poverty here at home.

Colleagues,
Today is not the day for long speeches, but a day to reflect on the road we have travelled together since May. As we close our shared chapter of 2009, I wish to remind you that our country looks up to us, to play our role in making the lives of our own better. Do also remember that 2010 will bring with it its fair share of challenges, let alone the FIFA World Cup that will demand our collective effort to make it a success.

I know the Christmas mood is already upon us and we cannot wait to have a good time with our loved ones. How I wish we

could all be closing shop – but as you know, in our kind of work, there is no such a time as a normal holiday. For those of you, who will take time off, please enjoy your period of festivities responsibly because we still need you back here next year.

It is also during this time of the year that we have to remember some of our colleagues that passed on. May we please include their families in our prayers. As we ready ourselves for our Christmas and New Year celebrations, allow me to remind you of the dangers of this period of the year.

Please “Don’t drink and Drive. Arrive Alive” And if you are not sure, “please use a condom”.

Colleagues,
Enjoy your Christmas and let us meet in the New Year with a renewed resolve to work harder for the benefit of our own country.

I thank you! ■





SOUTH AFRICA- NIGERIA: 10 YEAR ANNIVERSARY CELEBRATION OF THE BNC 1999 - 2009



President Jacob Zuma receiving a courtesy call from Dr Goodluck Jonathan, Vice President of the Federal Republic of Nigeria in Cape Town.



SA-Nigeria Women's Forum led by Chief Director: Gender, Ruby Marks.



The Nigerian Speaker of Parliament, Honourable Bankole Dimeji, speaking IN the South African Parliament.

South Africa and Nigeria enjoy strong and cordial political relations that were formally established in 1994, when diplomatic ties were restored. Bilateral co-operation between South Africa and Nigeria is structured within the framework of the South Africa-Nigeria Bi-National Commission (BNC) which focuses on a number of sectoral areas where both countries stand to benefit. The Bi-National Commission between South Africa and Nigeria was launched in Abuja on 4 October 1999 under the co-chairmanship of the Former Deputy and Vice Presidents of South Africa and Nigeria, respectively. The main objective underpinning the BNC is to create a solid foundation for building a strategic bilateral partnership that would be of mutual interest to both countries.

The activities to celebrate the 10th Anniversary of the BNC between the two countries were held in South Africa from 24 – 29 October 2009. These were sports activities, civil society groups, educational exchanges, joint Parliamentary activities and a women's forum. Nigeria hosted the following activities from 13 – 14 November 2009: a youth forum, trade exhibition, business round table; fashion show and the gala dinner.

The celebrations started with sporting activities held on 24 October 2009 at the Performance Centre at the University of Pretoria. At this event, Jay-Jay Okocha, the Nigerian soccer legend offered an hour long coaching clinic for about 15 boys of ages ranging from 13 – 18. Also, there was a gymnast display by the tambourine SA Gymnasts all of whom compete globally.

On 26 October 2009, Deputy President Kgalema Motlanthe announced the commencement of the Anniversary Celebrations during an Interview on Morning Live at the SABC studios in Pretoria.

The Minister of Women, Children and Persons with Disabili-

ties of the Republic of South Africa, Ms Nolutshando Mayende-Sibiya, Minister of Women Affairs and Social Development of the Federal Republic of Nigeria, Mrs Salamatu H Suleiman, held a meeting at the Union Buildings in Pretoria, South Africa on 26 October 2009, during the 10th year anniversary celebrations of the South Africa-Nigeria Bi-National Commission (BNC), with the intent to establish bilateral cooperation between the two countries in the field of women's development.

The Department of Basic Education together with Microsoft South Africa successfully arranged video conferencing on 26 October 2009 for three scholars and three teachers on both sides to present projects and share their knowledge about their countries. The South African Deputy Minister of Basic Education and the Nigerian Minister of Education graced the event.

As part of the 10th year anniversary celebrations of the BNC Civil Society, activities were held on 26 - 27 October 2009 at the University of Limpopo, KwaZulu-Natal (Pietermaritzburg) and UNISA in Pretoria. Consultations were conducted in a form of seminars attended by both South African and the Nigerian academics, business, NGO's and students.

The objectives of the civil society activities was to create a platform for civil society to deliberate on the achievements and the challenges of the relationship between South Africa and Nigeria and to chart a way forward on how to further strengthen the bilateral relations. Issues such as perceptions, leadership, identity, governance, education, trade and investment and information technology were also discussed.

The Parliamentary activities hosted by the Speaker of Parliament of the Republic of South Africa, Mr. Max Sisulu were held on 28-29 October 2009 in Cape Town. The consultations and information sharing were conducted under the following Committees in Parliament: Defence and Military Veterans, Trade and Industry, International Relations and Cooperation and Women, Children and Persons with Disabilities.

The Speaker of Parliament of the Republic of South Africa hosted a Gala Dinner on 29 October 2009 in honour of the Speaker of Parliament of the Federal Republic of Nigeria and his delegation.

In Nigeria, the following activities took place; round table discussions, fashion show, trade exhibition and gala dinner from 13 – 14 December 2009.

On the second day, the Deputy President of the Republic of South Africa addressed the Business Round Table and in his address he acknowledged and complimented the long economic relations between South Africa and Nigeria. He further announced that the two countries should be proud to celebrate the achievements made as far during the period of the BNC in the field of Tourism, Education, Health, Energy, Gas, Trade and Industry.

THE BUSINESS ROUND TABLE WAS OPENED BY H.E DR GOODLUCK JONATHAN, THE VICE PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA ON THE FIRST DAY. THE BUSINESS ROUND TABLE DISCUSSIONS WERE DIVIDED IN FOUR SYNDICATES HANDLING THE FOLLOWING TOPICS:

- Doing Business in South Africa,
- Banking, Investment and Financial Services
- Infrastructure, Mining and Energy
- Tourism and Hospitality.

A fashion show which was a collaboration of South African designers and models took place on 13 November 2009. Three designers from both countries with five models from each country showcased their finest, elegant garments as a collaborative and exchange experience in the field of fashion. South African participation was made possible by the Department of Arts and Culture which worked together with MTV. The fashion show was expected to be aired on MTV Base on 6 and/ or 11 December 2009.

The gala dinner took place on 14 November 2009, and was the last event to mark the celebrations for this important milestone in the relations between the two countries. Musical performances were done by the South African artist, Judith Sephuma, Nigerian artist, Dede Mabiaku and the Kalafrika band. In between the event, the Nigerian comedians entertained the guest by sharing Nigerian jokes taking a poke at their culture. ■



Nigeria-South Africa collaborate on women's affairs

A Women's Forum was held at the Union Buildings in Pretoria on 26 October 2009 as part of the celebration of the 10th Anniversary of the Nigeria-South Africa Bi-National Commission. The Woman's Forum was facilitated by the Chief Director, Gender of the Department of International Relations and Co-operation.

The Forum was led by the Minister of Women, Children and Persons with Disabilities in South Africa, Honourable Noluthando Mayende-Sibiya and the Minister of Women Affairs of the Federal Republic of Nigeria, Honourable Alhaji S.H. Sulaiman.

It was attended by Ambassadors and government officials and women in civil society from the two countries. From the South African side, this included the South African Women in Dialogue, (SAWID) and the Progressive Women's Movement.

The Forum discussed a number of challenges facing women in the two countries. Amongst other things, the discussions covered the challenge of harmful traditional practices, representation of women in politics and decision-making position, women economic empowerment and social challenges of health and education.

Participants shared their experiences on the programmes that are being implemented to improve the status and promote the rights of women in their respective countries.

Minister Mayende-Sibiya and Minister Sulaiman signed a Letter of Intent committing to work towards the development of a Memorandum of Understanding focusing on Women and Gender issues between the two countries.

The Memorandum of Understanding is expected to be presented at the meeting of the Bi-National Commission in 2011. ■

Diplomatic protection: The case of Kaunda and Von Abo.

Contradictory or complementary?

The implications for the Chief Directorate: Consular Services of the Department of International Relations and Cooperation

BACKGROUND

The end of Apartheid culminated in the lifting of travel bans and sanctions, providing an opportunity for South Africans, individuals and companies to travel and explore business opportunities abroad. On many occasions, individuals and corporations, having encountered some form of challenge with the host state approached the SA Government for Diplomatic Protection. For the purpose of this paper, diplomatic protection is defined “as a mechanism by which a state can protect its subjects, both natural persons and corporations and their property abroad against another state in respect of an injury caused by a wrongful act or omission” (JGS De Wet; OC-SLA, RO092/06). Inclusive in this definition, is the expropriation of property without compensation.

THREE COURT RULINGS, TWO CONTRADICTORY OUTCOMES ON ONE DEFINING ISSUE: DIPLOMATIC PROTECTION.

Post 1994, the SA Government has been inundated with requests from SA nationals, in their private capacity and in defence of business interests, for diplomatic protection against foreign states. This paper aims to compare the main thrust of the Von Abo judgement vis-a-vis, the judgement of the Kaunda case, as per Annexure A. It will then proceed with analysing the implications for the Government, with particular reference to The Chief Directorate: Consular Services of the Department of International Relations and Cooperation (DIRCO).

As a point of departure and for reference to the discussion below, it must be mentioned that a decision made by the highest court in the land, the Constitutional Court, represents the state of law in the country and sets a precedent for all future matters pertaining to the issue. In this regard, reference is made to the decision of the Constitutional Court on diplomatic protection in the Kaunda case.

We begin by comparing the verdicts on diplomatic protection in the Kaunda and Von Abo cases. The Majority Judgement in Kaunda, delivered by Chaskalson CJ clearly, summarised by Du Plessis, in South African Nationals Abroad and their right to Diplomatic Protection: Lessons from the ‘mercenaries case’ sets forth that,

• “An individual citizen cannot claim a right to diplomatic protection from his or her national state in terms of international law.

• When the human rights of an individual have been violated, as judged in terms of the minimum standards of international human rights law, it is the prerogative of the state of which that individual is a national to either grant or refuse diplomatic protection to that individual.

• International law imposes no duty on states to provide diplomatic protection to their nationals should they not wish to do so.” However, “South African citizens were entitled to request the government for protection under international law against the wrongful acts of a foreign state.”

“In addition to the above the citizen is entitled to have the request considered and responded to appropriately.”

ACCORDING TO THE VON ABO JUDGEMENT:

• “the failure of the respondents to rationally, appropriately and in good faith consider, decide and deal with the applicant’s application for diplomatic protection in respect of the violation of his rights by the Government of Zimbabwe is inconsistent with the Constitution, 1996 and invalid.”

• Furthermore, “the applicant has the right to diplomatic protection from the respondents in respect of the violation of his rights by the Government of Zimbabwe.”

• It further declared that “the respondents have a Constitutional obligation to provide diplomatic protection to the applicant in respect of the violation of his rights by the Government of Zimbabwe.”

In all cases prior to Von Abo, all decisions on diplomatic protection were seen as constituting an aspect of foreign policy, and essentially as a function of the executive, stemming from the Kaunda judgement. The court stated that a “decision as to whether, and if so, what protection should be given is an aspect of foreign policy which is essentially the function of the Executive.”

This discretion was to some extent eroded when the Von Abo ruling declared that the Government must “take all necessary steps to have the applications of violations of his rights by the Government of Zimbabwe remedied.” In essence this instruction is viewed as interference on the autonomy and the discretion given to the Executive in matters concerning foreign policy.

Tladi, Principal State law Advisor to the DIRCO, in a paper entitled *The Right to Diplomatic Protection, the Von Abo decision and One Big Can of Worms: Eroding Clarity of Kaunda*, (2009, Stellenbosch Law Review) compares the Von Abo judgement with that of the Kaunda judgement. According to this author there are several contradictions and inconsistencies between the two judgements. Tladi uses International Law and refers to various sources to back his analyses. It is beyond the scope of the author of this paper to provide a legal analysis of the decision. Nevertheless, the paper proceeds from the assumption that the two judgements can be read consistently with one another.

The Von Abo judgment, does however add a new dimension to all requests for diplomatic protection. Prior to Von Abo, the Kaunda ruling set a precedent and modus operandi for DIRCO on matters pertaining to requests for diplomatic protection. The order of the High Court referred to above, has implications for the Government (of the Republic of South Africa) with particular reference to the modus operandi of the Chief Directorate: Consular Services of DIRCO, serving as a nodal point for all requests for diplomatic protection.

What are the implications of the High Court Decision in terms of pending and future requests for diplomatic protection? What is the implication on procedures and policies? What in essence is the way forward? It is to these questions, that this paper now turns its attention.

IMPLICATIONS

The SA Government according to the High Court decision “failed to rationally, appropriately and in good faith consider, decide and deal with the applicant’s application for diplomatic protection in respect of the violation of his rights by the Government of Zimbabwe is inconsistent with the Constitution.”

Following the verdict, the Government was given 60 days “to have (Von Abo) violation of his rights by the Government of Zimbabwe remedied.” To give effect to this, the Government was ordered to report to the court, by way of affidavit, within the same period as to what steps it had taken.

IMPLICATION 1: THE NEED FOR CLEAR POLICY TO SET A STANDARD

As mentioned previously, until the Von Abo Ruling, all requests for diplomatic protection were measured against the findings of the Kaunda case, with the appointment of an ad hoc task team. Recognising the shortfalls of the Government in dealing

with the requests of Van Abo, it has become apparent that a set of concrete guidelines or policy on procedure with requests for diplomatic protection must be established. This is particularly important with requests for protection by Corporations as well as in matters concerning ownership of property abroad. The approach of Consular Services to the decision and the “remedy” provided to Van Abo will certainly be used as a litmus test and will provide a precedent on all future cases in this regard. It is for this reason, that every application is carefully considered and scrutinised and to further endeavour that matters do not reach a point where litigation is required.

IMPLICATION 2: ANTICIPATING A FLOOD OF REQUESTS FOR DIPLOMATIC PROTECTION

The Chief Directorate: Consular Services, operates in an environment where there are unrealistic expectations from citizens, pertaining to what Government can and cannot do. The Von Abo Judgement serves to reinforce and exacerbate these unrealistic expectations. The Chief Directorate can certainly foresee a rise in requests for diplomatic protection, as it is and remains the only entry point for all requests, coupled with the fact that investments by SA individuals and Corporations have spread across the continent.

Against this backdrop, the creation of a policy supported by the Executive becomes indispensable. As a possible recommendation, The Chief Directorate could consider appointing a more permanent structure such as a Secretariat to research and co-ordinate all requests for diplomatic protection. Such measures are integral, considering that the Von Abo ruling was based on the fact that Government could not show that due process was followed and did not document its actions.

IMPLICATION 3: RECORD KEEPING

According To Section 33 of The Constitution of The Republic Of South Africa (1996), “Everyone has a right to administrative action that is lawful, reasonable and procedurally fair,” and further states that “everyone whose rights have been adversely affected by administrative action has the right to be given reasons.” The citizen’s right to information is further enshrined in the Access to Information Act. Bearing this in mind, the Government cannot afford a repeat of the actions that led to the Von Abo Ruling. As a remedy, it is recommended that a system is created whereby all documents be maintained, both on hard and soft copy and a further register be maintained of all:

- Policy Documents
- Case Documents
- Research Documents
- Minutes of Meetings etc

In essence, one needs to create a “paper trail” Encompassing this should be the creation of an electronic database for all matters relating to diplomatic protection. This process will go a long way in ensuring that all required information is easily accessible and available.

IMPLICATION 4: SIGNING OF BILATERAL INVESTMENT PROTECTION AGREEMENTS

Following the Von Abo ruling, South African Citizens with farming interests in Zimbabwe, have written a memorandum of requests for diplomatic protection against the violation of their property rights. The question to ask is whether the Govern-

(Turn to page 12)



▲ South Africa's stand at the Tourism Fair in Argentina ▲

SOUTH AFRICA'S PARTICIPATION AT THE INTERNATIONAL TOURISM AND TRADE FAIR (FIT) IN BUENOS AIRES.

The South African Embassy, with assistance from the South African Department of Trade and Industry (the dti), was privileged to be part of around 1700 exhibitors that participated in this year's International Tourism Trade Fair for Latin America (FIT) that was held in Buenos Aires, Argentina, on 14 - 17 November 2009. Around 50 countries participated in this year's FIT and the South African stand at this Expo served to promote the country as an attractive tourist destination, while also profiling its readiness to host the forthcoming 2010 FIFA World Cup.

The South African stand comprised of exhibitors (largely tourism boards) from various South African provinces (i.e. Eastern Cape, Gauteng, KwaZulu-Natal, North-West, Western Cape, Limpopo, and Northern Cape), as well as Argentine tour operators (including two local FIFA accredited tour operators) that provide the actual packages for Argentine tourists planning to visit South Africa, especially in the context of the 2010 FIFA World Cup.

South Africa's participation at the FIT was graced with the presence of three MEC's: one from KwaZulu-Natal Province, Ms Nomusa Dube - MEC for Local Government and Traditional Affairs and two from the Northern Cape Province, Ms Pauline Williams - MEC for Sports, Arts and Culture, and Mr Alvin Botes - MEC for Social Services and Population Devel-

opment. The South African stand attracted a high volume of media and public, and that provided the visiting South African delegates with an opportunity to interact with the local media thereby highlighting key issues around South Africa's preparedness to host the World Cup next year. Of note was the presence in our stand of a eight-member Maskandi group from Clermont in KwaZulu-Natal known as Vumile no Jikelele, which helped to provide, through their brilliant and lively performances, the visitors to the South African stand with a glimpse of South African culture and the kind of diverse entertainment that will be available during the 2010 World Cup. The Mission is grateful to the Government of KwaZulu-Natal Province for assisting with key inputs for South Africa's participation at the FIT, including the provision of the excellent Maskandi group, Vumile no Jikelele.

On Monday, 16 November 2009, the Mission, in collaboration with the Province of KwaZulu-Natal, hosted a cocktail reception where the MEC Nomusa Dube and Ambassador Tony Leon had an opportunity to outline the country's readiness to receive tourists from South America next year and beyond. During his speech, Ambassador Leon indicated that despite the steady increase of tourists from South America to South Africa there is still room for improvement. He said, "There is, in my view, a huge potential to attract South American visitors to our shores. Although last year registered a 9% increase in



▲ Ambassador Leon with South African delegates during FIT cocktail reception

South American visitors to South Africa, this Continent's total of 55.201 visitors represents barely 0.5% of our global total. "Brazil leads the way with 35.669 and Argentina is in second place, somewhat behind at 8.704 visitors in 2008.

Four Argentines also won fully-paid-for return air-tickets to South Africa, inclusive of one week accommodation and ground transport services in both Gauteng and KwaZulu-Natal Provinces. As such, the Mission would like to thank the South African Airways, Johannesburg Tourism Company and Kwa-Zulu-Natal Tourism for providing this excellent opportunity to, hopefully, first time visitors to our country.

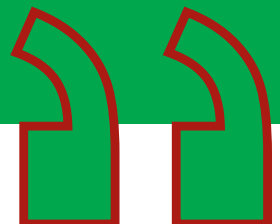
It is the Mission's view, and that of the visiting South African delegates, that South Africa's first-ever participation in this year's FIT was a resounding success given the fact that the country had one of the most visible and most visited stands at this Expo. The FIT is considered one of the most important tourism trade fairs in South America, and it could be likened to South Africa's annual Tourism INDABA, as well as other popular international tourism fairs such FITUR in Madrid, the recently held World Travel Market in London and ITB in Berlin. The FIT Expo this year attracted around 82.702 visitors in comparison to last year's 80.324 visitors.

Finally, **the dti** is also thanked for their continued support and for partnering with the Mission in this initiative that was designed to contribute towards the country's broader objectives, which, among others, include: creating jobs, fighting poverty, and stimulating economic growth.

▲ Contributed by the South African Embassy in Buenos Aires, Argentina. ■



▲ The Maskandi Group performing during the fair ▼



(From page 9)

ment is in a position to consider the requests and if not, what can be done to prevent litigation on this matter in the future. Aside from the obvious fiscal pressure on the Government, there are political nuances which require consideration. An analysis of readings on the Von Abo case reveals that the applicant approached the court in the absence of other avenues of recourse.

The initial options considered by the applicant pertained to addressing the matter before the International Convention on the Settlement of Investment Disputes (ICSID). SA is not a member of ICSID. At the time of the application, an Interdepartmental Working Group was charged with investigating the possibility of SA becoming Party to ICSID. In order to safeguard against oversimplifying this matter, it is recognised that acceding to such a Convention would have an impact on the Government. Reports released by the Department of Trade and Industry (DTI) reveal that acceding to such a Convention would affect domestic policies and place great fiscal pressure on the Government.

The second option lay in the mechanisms provided by a Bilateral Investment and Protection Agreement (BIPA). However, at that point in time, the BIPA with Zimbabwe was only in a draft form and there were a number of outstanding issues that required negotiation. According to OCSLA the relevance of BIPA in such a context is that it would allow for the investor to take up the investment dispute directly with the host government, through clearly defined dispute resolution mechanisms. Hence, the request for diplomatic protection would be minimised or mitigated.

Against this background, it makes sense for SA to negotiate such agreements, as a long term remedy, in an effort to afford protection against the expropriation of property. This is of particular importance in countries where SA investments exist, with particular reference to Africa. In order not to oversimplify this issue, it is recognised that there are risks associated with the signing of such an agreement. Economic considerations will play an important role in deciding whether SA will seek a BIPA with other countries or not. Following the judgment, it is interesting to note that the SA Government, recognising the value of such an agreement has began a process of concluding a BIPA with Zimbabwe. Although the deadline for concluding the agreement was end of June, it has not as yet been finalised.

IMPLICATION 5: CO-ORDINATION

Continuing with the actions and reactions of the Government, the modus operandi in handling the Von Abo requests, reveals a procedural deficit, due to the lack or absence of co-ordination between the various respondents representing Government. In light of the fact that there are overlapping responsibilities between the responding Departments, no party is spared from the implications of the judgement, whether it is financial or procedural. In this light, co-ordination between the concerned Government Departments is of utmost importance. This is paramount to ensure smooth communication, prevent inconsistencies and to ensure that all matters are dealt with in a professional manner and lastly to further uphold the name of

the Government of the Republic.

As an illustration, co-ordination is required to ensure that the BIPA is entered into force. Essentially a function of the DTI, but with equally important interest for DIRCO, the signing of such an agreement would ease the burden of requests for diplomatic protection on matters related to the expropriation of property of individuals and Corporations. In addition, as the custodian of all matters concerning diplomatic protection, DIRCO, is first in the line of fire and at the receiving end of all negative publicity in the Media as we are seen as the main custodian of all matters relating to foreign countries by the public. Hence in moving forward, the processes in dealing with all requests for diplomatic protection must be streamlined.

IMPLICATION 6: THE NEED TO EDUCATE THE PUBLIC

There is a saying that goes, "prevention is better than cure." In this regard, there is a need to address the causes, rather than the symptoms. One is required to ask what the root causes of requests for diplomatic protection are. A majority of the requests for diplomatic protection thus far pertain to the expropriation of property by foreign governments. Bearing this in mind, it makes sense for Government to educate the public on the risks associated with foreign investments, with particular reference to the limitation on the type of assistance Government can provide in the event that investors encounter challenges with foreign Governments.

In this context, it is recommended that as DIRCO serves as the nodal point for all requests pertaining to diplomatic protection, the Department take the initiative to engage with the DTI, to devise ways to educate potential investors on the associated risks with investing abroad. A mini booklet/pamphlet containing the basic information could be handed out to potential investors. A further action to be taken in this regard is through engagements with the Banks and Investment houses, which source the capital for investors and for whom there is a shared risk in ensuring that the loans provided to investors are repaid.

In addition, as a means of communicating Government's policy, broadcast media should be considered, as a platform to holding panel discussions with all stakeholders, on the issues of diplomatic protection. The key message in this context is that an information deficit exists. The current condition serves as a breeding ground for high and unrealistic expectations to be formed by the public. Government finds itself in a position where it must meet these unrealistic expectations, with limited "remedies." A scenario such as this will only place a greater burden on the Government, especially DIRCO.

CONCLUSION

Overall, the implications of the Von Abo Judgement do not require only short term remedies for the applicant itself but rather a long term approach to set a standard that is realistic and manageable for the Government on all matters pertaining to requests for Diplomatic Protection by SA nationals and

Corporations. In light of the fact that this judgment stands to open a floodgate of requests for diplomatic protection, with the use of terms such as “governments obligation” and a nationals “right to diplomatic protection” in the ruling, all action must be taken with urgency. The ad hoc approach to dealing with such requests is no longer sufficient and only serves to provide further challenges. As a concluding remark, it is fundamentally important, that the approach of the Government on the issue of diplomatic protection provides a remedy to the current challenge and further sets a “manageable” precedent for all future requests for diplomatic protection. ■



ANNEXURE A

DATE	AUGUST 2004	JULY 2005	JULY 2008
EVENT	CONSTITUTIONAL COURT: Kaunda V President of South Africa and Others	HIGH COURT: Van Zyl & Others v Government of the Republic of South Africa and Others	HIGH COURT: Crawford Lindsay Von Abo v President of Republic of South Africa
RULING ON DIPLOMATIC PROTECTION	<ul style="list-style-type: none"> • The right to diplomatic protection belongs exclusively to the State. • Citizens of South Africa have a right to apply for diplomatic protection under International Law. • The Government has a constitutional obligation to rationally consider the request. • The request cannot be arbitrarily refused. • The decision as to whether diplomatic protection is granted or not is an executive decision • The State must show that due process and consideration was followed. 	<ul style="list-style-type: none"> • Concurrence with the Kaunda v President of South Africa and Others. • There is no legal duty on SA Government to provide diplomatic protection, stemming from International Law or the Constitution. • “The extension of such protection and the nature thereof, is within the sole discretion of the State or nationality of the natural or juristic person requesting such protection...” • Material and foreign policy considerations and the sensitive nature & impact on foreign relations may also be a determinant. 	<ul style="list-style-type: none"> • Based on the finding that the Government failed to respond appropriately and dealt with the request for diplomatic protection in bad faith and irrationally, the court ruled that: • The Applicant has a right to diplomatic protection and the respondents a concomitant Constitutional obligation to provide such protection.



DIRCO'S MEN'S SYMPOSIUM

The Men's Symposium held on 27 November 2009 drew a favourable crowd among men in the Department and this was hailed as a positive sign by both the organisers and the invited guests.

The consensus from those who attended the event was that the good attendance was a reflection that men, especially at DIRCO, are willing to be agents of change, to transform the mentality that despises women to that of a notion that believes that men and women are equal partners and that they are equally in need of each other.

The symposium was the culmination of the 16 Days of Activism Against Abuse of Women and Children and was organised by the Gender Chief Directorate under the banner of its Chief Director, Ms Ruby Marks. With the theme "Men as Partners for Gender Equality", Ms Marks told the audience the event was a step to create dialogue among men about gender issues in the Department.

"Men always think of gender equality as a loss for them, loss of respect from their partners and as heads of the family," Ms Marks reminded the audience, telling them that the idea behind the symposium is to bury such beliefs and find ways and means of how to develop the envisaged change among men.

The invited guests, who included the outspoken gender activist Mr Mbulelo Botha, shared their knowledge and experiences, ranging from stereotyping of women and men in society and the rise of the progressive man. Guest speakers

included DDG Mr Mxolisi Nkosi, Mr Xolisa Mabhongo, Chief Director: Multilateral Branch, Dr Grace Khunou, Ambassador van Tonder, Dumisani Rebombo and Dr Tiny Mhinga. Topics tackled included men as change agents, men as partners, men's health and men as parents.

Ms Marks had to assure the men that the symposium was not meant either to shame or blame men but that they were invited to attend solely to find solutions to the challenges imposed by society. She said those in attendance represented those who live and believe in gender equality and are aware of the male role in such circumstances. She told the audience that both men and women were socialised into certain roles and those responsible were their parents mothers and fathers and that the symposium's objective was to deconstruct such roles. She mentioned what is known as the three Ps for men; provide, protect and profess and three Cs for women; cook, clean and care.

The guests on the programme had one thing in common; they all agreed that the patriarchal system had created the man that is biased against woman, treating her as a junior partner in the society. Mr Nkosi reminded the audience that even the field of diplomacy, one of the oldest professions, was once the exclusive domain for men and also noting that because of the patriarchal system during the apartheid period women had to endure what is known as the triple oppression; race, gender and class. Black women bore the brunt of this horror.



▲ Ambassador EM Sigwale signs the pledge in support of men as partners for gender equality.



▲ The guest speakers from left to right: Mr Mbuyiselo Botha; Dr T Mhinga; Dr Grace Khunou and Mr Dumisani Rebombo.

Mr Botha said men must take comfort to the fact that they are not responsible for their upbringing, in relation to how they view and treat women, and mostly the fact that there is a lack of role models for young men means they struggle to find their identity. “Many a young men don’t know what it means to be a man. Boys need bonding with their fathers,” said Mr Botha, adding that this could go a long way in closing the gap between men and women.

Mr Botha said men are the same everywhere; the difference is class. As he put it, violence among men is not a coincidence ‘as they have been brought up with the belief that violence is a normal way of life’, noting how boys are not allowed to cry because that is a ‘woman thing’. They are only allowed to show emotional anger. Mr Dumisani Rebombo concurred with this, saying men always have to conform to gender norms and show toughness. And with the power they possess they are responsible for the spread of HIV and worse still, as Dr Tiny Mhinga noted, compared to women who find it easy to reveal their HIV status, men normally hide their status and this adds to the spread of the virus. However, Mr Botha said the problem was that there has never been focus on men as a group and now is the time to look at this as a solution to both their violent nature and the arresting of HIV.

Mr Nkosi emphasised that men at DIRCO have a role to play, as agents and catalysts to create space for women. This they could do by spreading word against the abuse of women. He noted the importance of using the 1955 Freedom Charter as guidelines for such a change as it affirmed the role of women in society. “The Freedom Charter states clearly that women should be treated with dignity and respect and the basis of that is building a non-racial, non-sexist South Africa,” noted Mr Nkosi.

One approach to deal with gender disparities is to get rid of the barrier that arrest men to reach out to their female counterparts. Fear might be such barrier. As Mr Rebombo said, “men cannot imagine losing their privileges and status.” Men should be convinced that accommodating women in their lives would mean sacrificing some of their privileges and empowering women would mean empowering themselves. Moreover, as Mr Rebombo said, it was high time that men allow women

to be their mentors. Mr Mabhungo believed that if men think progressively this would free them and make them better humans, saying men have the responsibility to give women space. He said the new man goes against the flow, changing nappies and teaching young boys the values of empowering women. He called on all branches at DIRCO to find champions of gender equality. “We need a men’s forum to implement our progressive ideas.”


Amb van Tonder pointed to the fact that domestic violence destroys the core of the family, affecting the notion behind South Africa’s foreign relations policy, explaining that international relations is the extension of human relations which could be interpreted as meaning a better family a better South Africa, a better Africa and a better world, and men should play a critical role in this regard

COMMISSIONS THAT WERE SET UP AMONG THE AUDIENCE PRESENTED RECOMMENDATIONS AS A WAY FORWARD AT DIRCO:

- a) the establishment of a monitoring committee at DIRCO to track the upward mobility of women, as there was agreement that one of the challenges of the Department were gender inequalities.
- b) review all policies at DIRCO so as to ensure that they are gender sensitive.
- c) to share successful gender practices at DIRCO to be shared with other Departments and nationally
- d) the establishment of a Men’s Forum for debates on issues relating to gender equality and equity at DIRCO.
- e) the ‘take a girl child to work programme’ needs to be supplemented by a ‘boy child’ programme

(Turn page)

DIRCO Pledge




Brothers ...


- ...who stand for responsible parenting
- ...who stand for responsible behavior
- ...who do the right thing
- ...who stand for life
- ...who stand for gender equality

OFFICE OF THE DIRECTOR-GENERAL
CHIEF DIRECTORATE: GENDER

international relations & cooperations







Above: The pledge that committed men as partners for gender equality was signed by the Director-General, all DDG's and men who attended the men's symposium.

MISSIONS ACTIVITIES



The South African Embassy in Portugal celebrated Heritage Day and Ambassador Profit Mclean's farewell ceremony on 19 November 2009.

The Language Unit assisted at the AUDITOR-GENERAL (AG) Governing Body Conference held during 14 - 19 Nov in CT. The DIRCO Interpreters were invited to render their services.



From Left to Right:

Ms Cecilia Iturralde (Spanish), Mrs Nombembe, Mr Terence Nombembe (The Auditor-General), Mrs Theresa Marx (French), Mr Ebrahim Abramjee (Arabic) and Miss Elsabe Joubert (French)



Doctor Khumalo and Ambassador Tony Leon on 07-15 October 2009 to popularise the 2010 FIFA World Cup

VISIT TO ARGENTINA AND URUGUAY BY THEOPHILUS DOCTOR KHUMALO

The South African Missions in Argentina and Uruguay hosted Mr Doctor Khumalo, one of the five 2010 FIFA World Cup Ambassadors, with a view to help profile, in both countries, South Africa's readiness to host the forthcoming FIFA World Cup tournament. During his stay in both countries, Mr Khumalo had an opportunity to interact with the media, the youth and the public in general about South Africa's preparedness to host the first-ever World Cup on African soil.

Mr Khumalo further conducted football coaching clinics where he was able to impart his football skills to the local youth while also ensuring that the youth was able to understand the South African culture and the way of life. He also had an opportunity to meet with the local football federations.

He further attended two 2010 FIFA World Cup qualifying matches, one between Argentina and Peru (in River Plate Stadium, Buenos Aires) on 10 October 2009 and another between Uruguay and Argentina (in Centenario

Stadium, Montevideo) on 14 October 2009. Both teams have since qualified for the World Cup, joining other South American national teams such as Brazil, Chile and Paraguay.

Mr Khumalo's visit was a great success especially since it was easy for the local public to recognise him because he used to play for one of the Argentine professional football league clubs in 1995 known as Ferrocarril Oeste Athletic Club before his transfer to the USA's Columbus Crew football club in 1996.

The Missions in Argentina and Uruguay are grateful for the assistance provided by the African Legacy Office of the 2010 FIFA World Cup Organising Committee in ensuring that Mr Khumalo's visit became possible. ■



Doctor Khumalo (orange cap) conducting football coaching in one of the clinics



South Africa Champions of the First Africa Youth Cup 2009

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Several discussions, with the Mexican National Sports Commission (CONADE) and the Mexican Football Federation, aimed at exploring opportunities to promote the 2010 FIFA World Cup TM in Mexico were held. The discussions culminated with the organisation of the first Africa Youth Cup Soccer tournament in Mexico. The tournament was a multilateral effort that witnessed seven African countries represented by embassies in Mexico working in tandem to build relations with the two abovementioned Mexican institutions as well as schools in Mexico City.

The South African Embassy was successful in promoting the idea of the youth soccer tournament which was designed to achieve two main objectives: to promote the 2010 World Cup, and to utilise the opportunity to promote African cultures in Mexico through sport and education. The tournament took place from 10-14 November 2009.

The ten participating teams were constituted by teenagers of ages 14 and 15 years old, from private and public schools as well as soccer colleges in Mexico City. Every team was adopted by an African country represented by an Embassy in Mexico. There were two teams representing Mexico and South Africa, and were classified as A and B.

The teams played in the colours of the national team of each country. South Africa A won the first prize of the tournament making themselves the first champions of the tournament. Mexico A won the second prize.

The Mexican Football Federation welcomed the idea of the soccer tournament and undertook to use this opportunity as a first step towards the establishment of a long term people-to-people relations between Mexico and the African countries. The federation expressed interest in organising the tourna-

ment as an annual event provided there are sufficient sponsors. The Embassy believes that this soccer tournament will complement the annual Africa Week events organised by the Mexican Foreign Ministry

The long-term vision of the tournament is to see African teams coming to Mexico to participate in the tournament, and Mexican teams travelling to Africa to play friendly matches in Africa. The parents of the players were pleased with the initiative and expressed hope that their young boys will travel to Africa and learn more about the continent.

The African Embassies were, as part of the tournament, requested to visit the adopted schools in order to promote their culture. The Embassy visited two schools that represented South Africa. A Mexican academic and researcher, Dr Elisa Velazquez, was requested by the Embassy to make a presentation about the role and contribution of African descendants in Mexico. Dr Velazquez informed the students and teachers about the important contribution of the African descendants in the construction of the ancient and modern architectural structures in Mexico. She also emphasised the presence of the African influence on Mexican culture, dance and music.

The presence of Mr Philemon Masinga and the 2010 official mascot added value to the strengthening of relations between Mexico and South Africa in the area of sport. Mr Masinga was requested by the Mission and the Mexican people to assist in making the tournament an annual event which will help in extending the scope of cooperation between Africa and Mexico.

The tournament strengthened relations between African countries represented in Mexico. Many participating countries contributed with gifts such as paintings typical of African arts. The Mission is confident that the event was a milestone that will help cultivate fertile ground for future multilateral cooperation between the African countries in Mexico. ■



President Armando Guebeza of Mozambique is receiving the 2010 FIFA World Cup trophy from FIFA and showing it off to the people of Mozambique at the Mozambique airport as part of the FIFA Trophy Tour.



High Commissioner Moopeloa welcomes the Mbombela 2010 Coordinating Team in attendance of the Mission's Football Friday Launch.

2010 FIFA World Cup Fever Hits Mozambique!



“As Africans we are not used to high walls and security gates because everything we own is shared amongst the community.”

When the Executive Mayor of the Mbombela District, Mr. Lassy Chiwayo highlighted this to the guests that were in attendance of the High Commission of South Africa's Football Friday Launch in Mozambique, he was reiterating the view of the South African Government that as much as South Africa is hosting the 2010 FIFA World Cup, in essence, the tournament belongs to the whole continent.

The 2010 FIFA World Cup project team of Public Diplomacy recently conducted a working trip to Maputo, Mozambique to support the South African High Commission with the launch of Football Friday and also in welcoming the 2010 FIFA World Cup Trophy tour to Mozambique., This is part of Public Diplomacy's continued initiative to support Missions in promoting the 2010 FIFA World Cup.

South Africa's High Commissioner to Mozambique, Dikgang Moopeloa said most of the activities the mission is involved in are in conjunction with the Mbombela Municipality,

(Nelspruit) in Mpumalanga, which is one of South Africa's host cities for the 2010 FIFA World Cup. The High Commission envisions that the activities towards the World Cup and beyond will enhance tourism, sporting and economic diplomacy for South Africa, SADC and of course, the continent. Beyond 2010, the High Commission, through the initiatives of the South African Government, has identified the need to promote South Africa's national sports teams.

The Mbombela Municipality has put in place infrastructure in order to be able to host thousands of fans from across the world. The Executive Mayor assured the guests that the people of Nelspruit are also preparing their homes to host the real soccer die-hearts in the spirit of Ubuntu. In addition, the SADC region is working together to offer accommodation to the many soccer fans..

As our Local Organising Committee has consistently said, the opportunities presented by the 2010 FIFA World Cup go far beyond the World Cup. The legacy of 2010 is an opportunity in itself. ■

Ke Nako! Africa, Now is the Time!

LRPs admiring Exhibition Stand 3 which is part of the Exhibition Stands that were prepared by the Public Diplomacy 2010 Project Team for the South African High Commission in Mozambique's Exhibition room.



Another magnificent exhibition stand prepared by the Public Diplomacy 2010 Project Team.

Where were you?



South Africa A champions of the First Africa Youth Cup in Mexico 2009. Also in the picture with a blue cap Mr Theo Malherbe, Counsellor and with the 2010 T-shirt, Mr Lwando Mpepho, First Secretary both from the SA Embassy IT