

LEGAL UPDATE – MEDIA STATEMENT

The following statement and update in legal proceedings and wider international developments has been provided on the record to members of the press following the publication of comments made by Buta Moseme, Prime Minister Moeketsi Majoro’s press attaché, on 01 August 2021.

A spokesperson for Frazer Solar GmbH (FSG) said:

“Having spent more than two years ignoring our efforts to resolve this matter, the Government of Lesotho (GOL) and Prime Minister Majoro have finally engaged with the formal legal process. We look forward to November’s hearing and are confident of prevailing.

“We note that GOL and its partners have already suffered a setback. The Trans Caledonian Tunnel Authority (TCTA) was unsuccessful in efforts to join the existing urgent stay application (i.e. the November hearing), after claiming its royalties are protected from enforcement by sovereign immunity. FSG objected to this irregular step and TCTA backed down. TCTA will now pay FSG’s legal costs..

“Until such time as the matter is finally resolved, all identified royalties and assets remain frozen and revenues cannot be collected by GOL. Following Fitch Rating’s latest report, it is now clear that international audiences are aware of this dispute, and that the Government’s inaction is harming Lesotho’s standing.”

MEDIA BRIEFING – RECENT DEVELOPMENTS

The following information is provided to members of the press for briefing purposes, and gives an update legal and international developments concerning Lesotho.

Legal - Trans Caledonian Tunnel Authority (TCTA)

- On 27 July 2021, following an objection from FSG, a legal challenge mounted on 19 July 2021 by TCTA to join proceedings was withdrawn.
- The TCTA had argued that water royalties from the Lesotho Highlands Water Project were protected from enforcement by sovereign immunity, and applied that this be included in the Government of Lesotho’s stay application hearing.
- Frazer Solar objected to this irregular step. TCTA acknowledged Frazer Solar was correct and withdrew its application, it will now pay FSG’s legal costs for this wasted action.
- Water royalties owed to the Government of Lesotho – in addition to all other assets owned by the Government and subject to enforcement proceedings – remain frozen.

International – Fitch Ratings

- On 03 August 2021, Fitch Ratings – a leading credit rating agency – highlighted legal action against the Government of Lesotho as a risk to Lesotho’s GDP revenues, stating:
 - *“Seizure under legal proceedings in South Africa by the German company Frazer Solar of Lesotho’s foreign receipts including water royalties that South Africa pays to Lesotho, if successful, would lead to a potential 2% of GDP revenue loss.”*
- Fitch has maintained a Negative Outlook ‘B’ rating for Lesotho, resulting from high external indebtedness, deteriorating public finances and a history of political instability.
- This impact on Lesotho’s credit rating is regrettable, but could easily have been avoided had the GOL honoured its legally binding contract with FSG, or even acknowledged the legal

process resulting from its default. Any loss in GDP will hit the poorest of Lesotho, and that is something Prime Minister Majoro will have to explain to Basotho and creditors alike.

- Full report available here: <https://www.fitchratings.com/research/sovereigns/fitch-affirms-lesotho-at-b-outlook-negative-02-08-2021>