**THE NATIONAL ASSEMBLY**

 **QUESTION FOR WRITTEN REPLY**

**2929. Adv A de W Alberts (FF Plus) to ask the Minister of Trade and Industry:**

**(1)Why did the investment protection agreement between South Africa and Zimbabwe not retroactively provide for the protection of the property rights of South African citizens against expropriation and/or illegal occupation before the agreement came into force;**

**Reply:**

The Bilateral Investment Treaty between South Africa and Zimbabwe is a negotiated Agreement. Furthermore, it is unusual for Agreements of this nature to have retrospective application as the guiding principle is that parties enter into such agreements with a view to addressing future events.

**(2)Whether he intends to take steps to promote the rights, and claim compensation for the losses, of South African citizens who have been prejudiced by the Zimbabwean government and/or illegal occupiers before the commencement of the agreement; if not, why not, seen against the background of the Bill of Rights contained in the Constitution of the Republic of South Africa, 1996, and relevant international law; if so, what are the relevant details;**

**Reply:**

The Republic of South Africa is responsible for enforcing rights and obligations within its own territory. Any events that take place outside the borders of the Republic are extra-territorial and remedies or redress would have to be sought in the jurisdiction where prejudice occurred. The Bill of Rights contained the Constitution of the Republic is applicable only in South Africa and has no application in Zimbabwe. The South African Government is addressing concerns of South African investors as and when they arise through the diplomatic and multilateral channels available bilaterally and regionally.

**(3)Whether he is considering legislation to bring about compensation for such disadvantaged people by way of making the confiscation of assets of the Zimbabwean government and/or responsible ministers and/or officials in South Africa possible; if not, why not, seen against the background of the Bill of Rights, as contained in the Constitution of the Republic of South Africa, 1996, and relevant international law; if so, what are the relevant details**;

**Reply:**

**The dti** respects the independence and competence of the judiciary to make determinations in that regard.

**(4)What steps is he taking regarding the current unlawful dispossession of South African citizens’ property rights in Zimbabwe by the Zimbabwean government and/or illegal occupiers?**

Under the Bilateral Investment Treaty concluded with Zimbabwe in 2009 and ratified in 2010, investors affected by measures taken by the Zimbabwean State can, after challenging such a matter in domestic courts, resort to international arbitration in order to settle any dispute. No further steps can be taken by the Government of the Republic of South Africa in that respect as the international arbitration process is independent and the rulings thereof are binding.