

**IN THE HIGH COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)**

Case No: CC332/2005

THE STATE

versus

1. DANIEL GEIGES

(A 67 year old male Swiss citizen and permanent South African resident,
residing at 525 Ysterhout Drive, Randburg)
(hereinafter referred to as Accused No 1)

2. GERHARD WISSER

(A 66 year old male German citizen and permanent South African resident,
residing at 30 Chesam Road, Bryanston)
(hereinafter referred to as Accused No 2)

3. DANIEL GEIGES and GERHARD WISSER

Directors of **KRISCH ENGINEERING CO (PROPRIETARY) LIMITED**
(Registration number 1971/001/681/07),
cited as representatives of the said body in terms of
section 332(2) of Act 51 of 1977

INDICTMENT

The Special Director of Public Prosecutions in the Priority Crimes Litigation Unit in the Office of the National Director of Public Prosecutions, who as such prosecutes for and on behalf of the State in terms of sections 5(2)(c), 13(1)(c) and 24(3) of the National Prosecuting Authority Act, No 32 of 1998 (as amended), presents to the Court that the Accused are guilty of the crimes of:

COUNT 1

Contravening Section 13(2)(b), read with Sections 1, 26(1)(c), 26(1)(iii) of the Non-Proliferation of Weapons of Mass Destruction Act, No 87 of 1993, read with Government Notice R1790, dated 14 October 1994, published in Government Gazette No 16021 Schedule A III List of Nuclear-Related Dual-Use Controlled Goods Quote 1. Industrial Equipment 1.1 and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A- Import, transit holding and export of flow forming machine

In that during the period November 2000 to December 2001 and at or near Vanderbijlpark in the district of Vanderbijlpark and/or Randburg in the district of Randburg and/or Johannesburg in the district of Johannesburg and/or Durban in the district of Durban, the accused unlawfully and intentionally imported or caused to import, held in transit and exported or re-exported or caused to be exported goods which may contribute to the design, development, production, deployment, maintenance or use of weapons of mass destruction, to wit spin-forming and flow forming machines which:

- (a) according to the machine manufacturer's technical specification, can be equipped with "numerical control" units or computer control; and
- (b) with two or more axes that can be coordinated simultaneously for "contouring control"

namely a Denn Model RL 400/2 flow-forming machine, serial number 6319 / 6318

without a permit issued by the South African Council for the Non-Proliferation of Weapons of Mass Destruction.

FIRST ALTERNATIVE TO COUNT 1

Contravening Section 18(2)(a) of the Riotous Assemblies Act No 17 of 1956, read with Section 13(2)(b), read with Sections 1, 26(1)(c), 26(1)(iii) of the Non-

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Proliferation of Weapons of Mass Destruction Act, No 87 of 1993, read with Government Notice R1790, dated 14 October 1994, published in Government Gazette No 16021 Schedule A III List of Nuclear-Related Dual-Use Controlled Goods Quote 1. Industrial Equipment 1.1 and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Conspiracy to import, hold in transit and export a flow forming machine

In that during the period November 2000 to January 2002 and at Randburg in the district of Randburg and Vanderbijlpark in the district of Vanderbijlpark and at places in the United Arab Emirates, Switzerland and the Federal Republic of Germany, the accused unlawfully and intentionally conspired with Johan Andries Muller Meyer and Ali Reza and/or other persons at Gulf Technical Industries, United Arab Emirates and others to aid or procure the commission of the offence as set out in count 1 above.

SECOND ALTERNATIVE TO COUNT 1

Contravening Section 18(2)(b) of the Riotous Assemblies Act No 17 of 1956, read with Section 13(2)(b), read with Sections 1, 26(1)(c), 26(1)(iii) of the Non-Proliferation of Weapons of Mass Destruction Act, No 87 of 1993, read with Government Notice R1790, dated 14 October 1994, published in Government Gazette No 16021 Schedule A III List of Nuclear-Related Dual-Use Controlled Goods Quote 1. Industrial Equipment 1.1 and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Incitement to import, hold in transit and export a flow forming machine

In that during the period November 2000 to January 2002 and at Randburg in the district of Randburg and Vanderbijlpark in the district of Vanderbijlpark and at places in the United Arab Emirates, Switzerland and the Federal Republic of Germany, the accused unlawfully and intentionally incited, instigated and/or commanded Johan



Andries Muller Meyer to procure the commission of the offence as set out in count 1 above.

COUNT 2

Contravening Section 34(1)(r), read with Sections 1, 54(3), 56(1)(d), 56(2)(c) of the Nuclear Energy Act, No. 46 of 1999, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and (ii) and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Manufacture and other activities relating to nuclear related equipment or material

In that during the period 24 February 2000 to 1 September 2004 and at or near Vanderbijlpark in the district of Vanderbijlpark and at or near Randburg in the district of Randburg the accused unlawfully and intentionally manufactured or otherwise produced, imported, acquired, used or attempted to dispose of nuclear related equipment or material, to wit:

- (4) *“Plants for the separation of Isotopes of uranium and equipment, other than analytical Instruments, especially designed or prepared therefor*
- (1) *Gas centrifuges and assemblies and components especially designed or prepared to use in gas centrifuges, including especially designed or prepared auxiliary systems., equipment and components for gas centrifuge plants, including -*
- (c) (i) *feed systems and product and tails withdrawal systems;*
(ii) *machine header piping systems “*

without the written authorisation of the Minister of Minerals and Energy.

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FIRST ALTERNATIVE TO COUNT 2

Contravening Section 18(2)(a) of the Riotous Assemblies Act No 17 of 1956, read with Section 34(1)(r), read with Sections 1, 54(3), 56(1)(d), 56(2)(c) of the Nuclear Energy Act, No. 46 of 1999, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and (ii) and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Conspiracy to manufacture nuclear related equipment and material

In that during the period 24 February 2000 to 1 September 2004 and at or near Randburg in the district of Randburg and at or near Vanderbijlpark in the district of Vanderbijlpark and at places in the United Arab Emirates, Switzerland, the Federal Republic of Germany and Turkey, the accused unlawfully and intentionally conspired with Leonard Jack Harvey, Johan Andries Muller (JAM) Meyer, André Smit, Buhary Seyed Abu Tahir, Gotthard Lerch, Abdul Qadeer Khan and others to aid or procure the commission of the offence of manufacturing or otherwise producing, importing, acquiring, possessing, using or disposing of the nuclear related equipment and material as described in Count 2 above.

SECOND ALTERNATIVE TO COUNT 2

Contravening Section 18(2)(b) of the Riotous Assemblies Act No 17 of 1956, read with Section 34(1)(r), read with Sections 1, 54(3), 56(1)(d), 56(2)(c) of the Nuclear Energy Act, No. 46 of 1999, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and (ii) and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Incitement to manufacture nuclear related equipment and material

In that during the period 24 February 2000 to 1 September 2004 and at or near Randburg in the district of Randburg and at or near Vanderbijlpark in the district of

Vanderbijlpark and at places in the United Arab Emirates, Switzerland, the Federal Republic of Germany and Turkey, the accused unlawfully and intentionally incited, instigated and/or commanded Leonard Jack Harvey, Johan Andries Muller (JAM) Meyer, André Smit to procure the commission of the offence of manufacturing or otherwise producing, importing, acquiring, possessing, using or disposing of the nuclear related equipment and material as described in Count 2 above.

COUNT 3

Contravening Section 18(2)(a) of the Riotous Assemblies Act No 17 of 1956, read with Section 21(1)(g), read with Sections 1, 2, 77, 21(5), 82(1)(d)(i) and 82(1)(dd) of the Nuclear Energy Act No 131 of 1993, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and (ii) and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Conspiracy to manufacture nuclear related equipment and material

In that during the period 1999 to 23 February 2000 and at or near Randburg in the district of Randburg and at or near Vanderbijlpark in the district of Vanderbijlpark and at places in the United Arab Emirates, Switzerland and Federal Republic of Germany, the accused (being persons as defined in Section 21(5) of the Nuclear Energy Act No 131 of 1993) unlawfully and intentionally conspired with Johan Andries Muller (JAM) Meyer, Buhary Seyed Abu Tahir, Gotthard Lerch, Abdul Qadeer Khan and others to aid or procure the commission of the offence of manufacturing or otherwise producing, importing, acquiring, possessing, using or disposing of the nuclear related equipment and material as described in Count 2 above.

FIRST ALTERNATIVE TO COUNT 3

Contravening Section 18(2)(b) of the Riotous Assemblies Act No 17 of 1956, read with Section 21(1)(g), read with Sections 1, 2, 77, 21(5), 82(1)(d)(i) and 82(1)(dd) of the Nuclear Energy Act No 131 of 1993, read further with Government Notice 740

of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and (ii) and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Incitement to manufacture nuclear related equipment and material

In that during the period 1999 to 23 February 2000 and at or near Randburg in the district of Randburg and at or near Vanderbijlpark in the district of Vanderbijlpark, the accused (being persons as defined in Section 21(5) of the Nuclear Energy Act No 131 of 1993) unlawfully and intentionally incited, instigated and/or commanded Johan Andries Muller (JAM) Meyer to procure the commission of the offence of manufacturing or otherwise producing, importing, acquiring, possessing, using or disposing of the nuclear related equipment and material as described in Count 2 above.

COUNT 4

Attempt to contravene Section 35(1), read with Sections 1, 54(3), 56(1)(d), 56(2)(c) of the Nuclear Energy Act, No. 46 of 1999, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and (ii) and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Attempt to export nuclear related equipment or material

In that during the period 2001 to 1 September 2004 and at or near Vanderbijlpark in the district of Vanderbijlpark, the accused unlawfully and intentionally attempted to export nuclear related equipment or material, to wit:

- (4) *"Plants for the separation of Isotopes of uranium and equipment, other than analytical Instruments, especially designed or prepared therefor*
 - (1) *Gas centrifuges and assemblies and components especially designed or prepared to use in gas centrifuges, including especially designed or prepared auxiliary systems, equipment and components for gas centrifuge plants, including -*

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- (c) (i) *feed systems and product and tails withdrawal systems;*
- (ii) *machine header piping systems "*

without the written authorisation of the Minister of Minerals and Energy.

COUNT 5

Attempt to contravene Section 34(1)u), read with Section 1, 54(3), 56(1)(d), 56(2)(c) of the Nuclear Energy Act, No 46 of 1999, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and (ii) and read further with the Republic of South Africa's international obligations relating to nuclear non-proliferation as set out in Table A – Attempt to dispose of technology

In that during the period 24 February 2000 to 1 September 2004 and at or near Vanderbijlpark in the district of Vanderbijlpark the accused unlawfully and intentionally attempted to dispose of technology as described in the annexure attached hereto, relating to nuclear related equipment or material, to wit:

- (4) *"Plants for the separation of Isotopes of uranium and equipment, other than analytical Instruments, especially designed or prepared therefor*
- (2) *Gas centrifuges and assemblies and components especially designed or prepared to use in gas centrifuges, including especially designed or prepared auxiliary systems, equipment and components for gas centrifuge plants, including -*
 - (c) (i) *feed systems and product and tails withdrawal systems;*
 - (ii) *machine header piping systems "*

without the written authorisation of the Minister of Minerals and Energy.

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COUNT 6: FRAUD

In that on or about 8 and 11 December 2001 and at or near Randburg in the district of Randburg and/or Johannesburg in the district of Johannesburg, Accused Nos 1 and 3, on the instructions of Accused No 2, unlawfully and with the intent to defraud, misrepresented to Mr Schalk van Heerden of Röhlig Grindrod, by means of forwarding a commercial invoice to him, that the item referred to in Count 1 was a lathe machine, valued at USD 23 500 and did by means of the aforesaid misrepresentation induce the said Schalk van Heerden and other officials at Röhlig Grindrod to generate documentation, describing the item as such and placing such value on it, which documentation facilitated the import of the said item from Gulf Technical Industries, United Arab Emirates into the Republic of South Africa and its Customs clearance from the Customs Division of the South African Revenue Service (which clearance entailed the payment of a tax calculated on the value given to the item in the commercial invoice) to the prejudice of the South African Council for the Non-Proliferation of Weapons of Mass Destruction, the South African Revenue Service and/or Röhlig Grindrod, whereas at the time when Accused Nos 1 and 3 made the aforesaid misrepresentation, they well knew that the item was not a lathe machine, but a flow forming machine whose import into the Republic of South Africa required a permit from the Council referred to above and that the true value of the item was USD 300 000 and had the correct information been disclosed relating to the identity of the machine, its import would not have been permitted without production of the said permit and that a higher tax would have been payable on the correct value of the item. They thereby committed the crime of fraud.

COUNT 7

Contravening Section 21(1)(q), read with Sections 1, 2, 77, 21(5), 82(1)(d)((i) and 82(1)(dd) of the Nuclear Energy Act No 131 of 1993, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and read further with the Republic of South Africa's international obligations relating to nuclear



non-proliferation as set out in Table A – Manufacture of nuclear related equipment and material to wit three autoclaves

In that during the period 15 July 1994 to 10 January 1995 and at or near Vanderbijlpark in the district of Vanderbijlpark and at or near Randburg in the district of Randburg the accused, not being members of the Atomic Energy Corporation, unlawfully and intentionally manufactured or otherwise produced nuclear related equipment or material, to wit:

(4) *“Plants for the separation of Isotopes of uranium and equipment, other than analytical Instruments, especially designed or prepared therefor*

(1) *Gas centrifuges and assemblies and components especially designed or prepared to use in gas centrifuges, including especially designed or prepared auxiliary systems, equipment and components for gas centrifuge plants, including –*

(c) (i) *equipment and/or components for feed systems and product and tails withdrawal systems”, namely three autoclaves and accessories;*

without the written authorisation of the Minister of Mineral and Energy Affairs.

COUNT 8:

Contravening Section 22(1), read with Sections 1, 2, 22(2), 77, 21(5), 82(1)(d)((i) and 82(1)(dd) of the Nuclear Energy Act No 131 of 1993, read further with Government Notice 740 of 16 April 1994, Schedule 4 and Section (4)(1)(c)(i) and read further with the Republic of South Africa’s international obligations relating to nuclear non-proliferation as set out in Table A – Export of nuclear related equipment and material to wit three autoclaves

In that during the period January 1995 and at or near Vanderbijlpark in the district of Vanderbijlpark and at or near Randburg in the district of Randburg the accused, not being members of the Atomic Energy Corporation, unlawfully and intentionally exported

from the Republic of South Africa to Dubai, United Arab Emirates nuclear related equipment or material, to wit:

- (4) *"Plants for the separation of Isotopes of uranium and equipment, other than analytical Instruments, especially designed or prepared therefor*
- (1) *Gas centrifuges and assemblies and components especially designed or prepared to use in gas centrifuges, including especially designed or prepared auxiliary systems, equipment and components for gas centrifuge plants, including –*
- (c) (i) *equipment and/or components for feed systems and product and tails withdrawal systems", namely three autoclaves and accessories;*

without the written authorisation of the Minister of Mineral and Energy Affairs.

COUNT 9: FORGERY (Only Accused Nos 2 and 3)

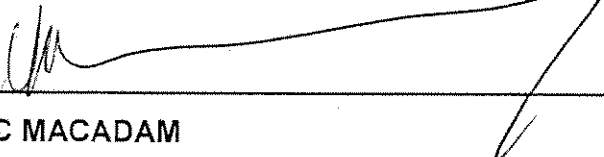
In that on or about 22 May 1995 and at or near Randburg in the district of Randburg the accused unlawfully, falsely and with intent thereby to defraud and to the prejudice or potential prejudice of Leybold Heraeus and the State and in particular the South African nuclear non-proliferation control bodies forged or caused to be forged an instrument in writing, to wit an Electric Lamp Manufacturer of Southern Africa's order form for ten vacuum pumps Trivac D16B, five vacuum pumps Trivac D14B, one UL200 helium leak detector, three Cal leak TL9 detectors and two Cal leak TL7 detectors.

COUNT 10: FORGERY (Only Accused Nos 2 and 3)

In that on or about 2 July 1995 and at or near Randburg in the district of Randburg the accused unlawfully, falsely and with intent thereby to defraud and to the prejudice or potential prejudice of Leybold Heraeus and the State and in particular the South African nuclear non-proliferation control bodies forged or caused to be forged an instrument in

writing, to wit Integrators of System Technology (Pty) Ltd ("IST") order for the supply of Leybold vacuum equipment for integrated systems and package plants.



RC MACADAM

DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS:

PRIORITY CRIMES LITIGATION UNIT

OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS



IN THE HIGH COURT OF SOUTH AFRICA
(TRANSCVAAL PROVINCIAL DIVISION)

THE STATE

versus

1. DANIEL GEIGES

2. GERHARD WISSER

3. DANIEL GEIGES and GERHARD WISSER

Directors of KRISCH ENGINEERING CO (PROPRIETARY) LIMITED
(Registration number 1971/001/681/07),
cited as representatives of the said body in terms of
section 332(2) of Act 51 of 1977

ANNEXURE TO COUNT 5

1. Mini Assembly Drawings

- A. Structural steel and gratings
- B. Equipment positioning
- C. Cable racking
- D. Cooling circuit
- E. Heating circuit
- F. Vacuum system
- G. Feed system
- H. Product return and discharge
- I. Waste return and discharge
- J. Autoclave connections and nitrogen line
- K. Instrument air

2. Micro Assembly Drawings

- A. Structural steel and gratings
- B. Equipment positioning
- C. Cable racking
- D. Cooling circuit

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- E. Heating circuit
- F. Vacuum system
- G. Feed system
- H. Product return and discharge
- I. Waste return and discharge
- J. Autoclave connections and nitrogen line
- K. Instrument air

3. Micro Assembly Drawings

4. Calibration of Mass Flow Instruments (2 files)

5. Mini 1, 2 and Machine Blocks

- A. P & ID's
- B. I/O lists
- C. Mini 1, 2 & mach blocks
- D. Connection diagrams

6. Mini 3, Micro 1 & 2: Machine Blocks

- A. P & ID's
- B. I/O lists
- C. Mini 3 & Micro 1, 2
- D. Electrical
- E. Connection diagram
- F. Single line diagrams

7. SYSTEM

- A. Block diagram
- B. Mini 1, 2, 3
- C. Mach blocks
- D. P& ID's
- E. I/O lists

8. Two Dimensional Layout Drawings: File 1

- A. Mach blocks
- B. Valve blocks
- C. Mechanical details

9. Two Dimensional Layout Drawings: File 2

- A. Mach blocks
- B. Valve blocks
- C. Mechanical details

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10. Mini and Micro Vessels Mechanical Equipment (2 files)
 11. Calibration Certificates of Pirani Gauges (2 files)

