



## REPUBLIC OF NAMIBIA

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# MINISTRY OF PUBLIC ENTERPRISES

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### **PRESS RELEASE:**

## **OUTCOME OF THE AIRBUS A330 LEASE SETTLEMENT NEGOTIATIONS**

In August 2019 the Cabinet Committee on Treasury mandated the Minister of Public Enterprises to undertake a trip to America to meet with the leadership of the lessor<sup>1</sup> of the two leased Airbus A330 aircraft. The decision was taken on the back of Government's exposure to these leases through the guarantees that were issued to back the leases and the fact that the leases were being paid by Treasury, not Air Namibia. Senior officials from the Ministry of Works and Transport and the office of the Attorney-General accompanied the Ministry of Public Enterprises with the purpose of assessing Castlelake's appetite for a potential settlement. Options available included sub-leasing the aircraft, purchasing the aircraft or agreeing on the early termination of the leases. This mission later proved to be of fundamental importance as it affirmed our pro-active, transparent and non-confrontational approach towards a complicated matter and it laid the foundation for the intricate engagements that were to follow. At the time the option to purchase and then sell the aircraft seemed like an elegant solution (if we managed to secure a buyer in advance). Further investigation showed that the specific aircraft type was no longer as sought after as before and on top of that Castlelake responded that they would expect a purchase price of USD100 million per aircraft.

On 25 August 2019 Cabinet resolved that the Ministry of Public Enterprises be mandated to appoint a commercial lawyer and a consultant to advise Government on renegotiating favorable terms to terminate the A330 lease agreements and settle the Government Guarantee. The procurement of these services was done according

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<sup>1</sup> Please note that the initial agreement was between Air Namibia and Intrepid Aviation, not Castlelake - Castlelake purchased the leases from them in 2018.

to the provisions of the Public Procurement Act and Engling, Stritter & Partners were appointed to provide the legal support while ICF Consulting (UK) were appointed to provide specialist technical support. ICF possess specific aviation expertise that is not available locally and was appointed to render advice for both the A330 and the A319 aircraft. The Cabinet Committee on Treasury directed that the process should be conducted by a committee with the Ministry of Public Enterprises as the lead, supported by the Ministry of Finance and the office of the Attorney-General and negotiations started in September 2020. Engling, Stritter & Partners was paid N\$497,095 while ICF received N\$4,451,475.30 for the work on both assignments. The aviation business is extremely complex, and we were dealing with one of the largest operators with access to the highest level of technical skills the industry has to offer and it was never an option to even consider this process without the technical assistance we received from these specialists.

The effects of Covid-19 on the global aviation industry were massive and potential options that were available before the pandemic became impossible overnight. Due to the mass grounding of aircraft, multiple airlines being placed under liquidation or business rescue and a sudden oversupply of aircraft, the options to purchase and sell or to sub-lease the aircraft were no longer viable, and the only option left was to negotiate the early termination of the lease agreements. Cabinet was approached to seek approval to conclude the negotiations with Castllake within the boundaries of a projected worst-case and best-case scenario. The worst-case scenario was a default scenario where the lessor would call on the full guarantee to the amount of at least USD154 million (for both aircraft) to be paid immediately. The worst case negotiated settlement at the time amounted to USD135,8 million (both aircraft) while the best case negotiated settlement amounted to USD108 million (both aircraft). On 9 February 2021 Cabinet approved that the negotiations be concluded within the boundaries of these presented parameters. Also note that if the leases were left to continue, the cost would have been around USD70 million per aircraft (USD140 million in total).

A major breakthrough was that we managed to negotiate a revenue sharing component. This binds Castllake to remarket the aircraft for sub-leasing or sale and for Government to share in the proceeds. Castllake is a major player in the global aviation business and are therefore extremely well positioned to remarket the aircraft. This is, in fact, the first time that Castllake agreed to such an arrangement.

The Heads of Terms were negotiated and concluded whereafter the final lease termination agreements were signed to capture the following transaction:

1. A gross amount of USD59 million per aircraft.
2. We negotiated a four month "negotiation window" from November 2020 to February 2021 where Castllake agreed to waive monthly rentals resulting in savings of USD4,307,996 (aircraft 1) and USD US\$4,159,072 (aircraft 2) in Rent Credit.
3. Government will not be responsible for the ongoing parking, insurance, storage, maintenance, marketing costs, preparation for sale lease (except as agreed) as an open-ended indemnity amount.
4. Government was successful in negotiating a Revenue Sharing component (we are the first to have secured such a concession) where the proceeds from rentals (until the expiry of the leases in 2025) or the sale of the aircraft will be

shared. An estimated USD20,4m may be realized if a potential lessee is secured.

5. The Lessor is held to a reasonable standard in its duty of care to remarket the aircraft. Different scenarios are contemplated in the Agreement and are based around renting the aircraft to new operator/s or the early sale of the aircraft with or without the leases attached.

The financial implications are as follows:

1. A **default scenario** (where the guarantee is called upon) would have amounted to at least **USD154 million (N\$2.31 billion at 15N\$/USD)**.
2. Government managed to negotiate a **four-month negotiation window** from November 2020 to February 2021 where the Lessor agreed to waive monthly rentals resulting in savings of **USD4,307,996.00** (aircraft 1) and **USD US\$4,159,072.00** (aircraft 2) in Rent Credit.
3. Government only paid **USD54,692,004.00** (aircraft 1) and **USD54,840,928.00** (aircraft 2).
4. The **total negotiated settlement** is therefore **USD109,532,932 (N\$1,642,993,980.00)** representing an improvement (cost saving) of **USD44,467,068.00 (N\$667m)**.
5. The agreement makes provision for the **remarketing of the aircraft** where an estimated **USD20,4m (N\$306m)** may be realized.
6. The **total saving** compared to the default scenario therefore translates into a potential **N\$973m** (assuming the realization of N\$306m revenue after successful remarketing).

This was an intense and extremely complicated negotiation process that went on non-stop for ten exhausting months. I believe that we were successful when one considers the baseline from where we started, the fact that the lessor had grounds to call on the guarantee resulting in a USD154 million (minimum) immediate payment, and the risk mitigation measures built into the agreements. I further believe that the cost of around N\$5 million spent on professionals to provide the required technical assistance represents incredibly good value and was money well spent considering the fact that we are saving Treasury close to N\$ 1 billion that can now be redirected towards other important priorities. The funds were duly transferred on 30 July 2021.

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