



REPUBLIC OF MALAWI

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT

(Cap. 18:01)

**COMMISSION OF INQUIRY INTO THE AIRCRAFT ACCIDENT
INVOLVING A MALAWI AIR FORCE DORNIER 228 (MAF-T03) AT
NTHUNGWA, NKHATA BAY ON 10th JUNE, 2024**

COMMISSION REPORT

December, 2024

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Table of Contents

ACKNOWLEDGEMENTS	v
ACRONYMS AND ABBREVIATIONS	vii
MEMBERS OF THE COMMISSION	ix
EXECUTIVE SUMMARY	xi
1.0 INTRODUCTION	1
1.1 Background	1
1.2 Appointment of the Commission	3
1.3 Terms of Reference for the Commission	4
1.4 Methodology	5
2.0 EVIDENCE RELATING TO THE AIRCRAFT ACCIDENT	13
2.1 EVENTS LEADING TO THE AIRCRAFT ACCIDENT	13
2.1.1 Funeral of Mr. Raphael Kasambara, SC	13
2.1.2 Movement of the Remains of the late Mr. Kasambara, SC	15
2.1.3 Procurement of the MAF-T03	19
2.1.4 Journey from Mzuzu to KIA	21
2.1.5 Journey from KIA to Mzuzu	22
2.2 EVENTS AFTER THE AIRCRAFT ACCIDENT	28
2.2.1 Searching for the MAF-T03	28
2.2.2 Conduct at the Funeral Service of the late Mr. Kasambara, SC	30
2.2.3 Rescue Coordination Centre	30
2.2.4 Activation of Search and Rescue	32
2.2.5 Organisation of the Search and Rescue	33
2.2.6. Notification of His Excellency the President	34
2.2.7. Communication from Passengers	35
2.2.8 Preparations by Medical Personnel	35
2.2.9 Response from Raiply	36
2.2.10 Search Leads, Evidence of Aircraft Sightings and Aircraft Navigation	37
2.2.11 Suspension of Search	41
2.2.12 Communication among and within Various Organs and Agencies	43
2.2.13 Notification of Missing Aircraft to Bereaved Families	43
2.2.14 Discovery of Aircraft Wreckage	44
2.2.15 Items found at the Accident Site	47
2.2.16 Retrieval of Bodies	48

2.2.17	Repatriation of Bodies to Lilongwe	49
2.2.18	Arrival in Lilongwe	49
2.3	AUTOPSIES	50
2.3.1	Conduct of the Autopsies	50
2.3.1.1	Procurement of Autopsy Services	50
2.3.1.2	Pathologists	51
2.3.1.3	Site for the Autopsies	51
2.3.1.4	Autopsy Methodology, Environment and Findings	52
2.3.1.5	Pathologists Findings on the Cause of Death	54
2.3.1.6	Survivability	55
2.3.2	Submission of Autopsy Reports	56
2.3.3	Family Involvement in Autopsy Process and Proceedings in the Mortuary	56
2.4	GOVERNMENT'S ROLE DURING THE FUNERALS	58
2.4.1	Ministerial Committee	58
2.4.2	Burial of the Crew and Passengers	60
2.4.3	Funeral of the late Vice President	63
2.4.4	The Funeral Procession to Ntcheu	64
2.4.5	Burial of the late Vice President	65
2.4.6	Other Government Expenses During the Funeral	65
3.0	FINDINGS OF THE COMMISSION	67
3.1	Manner and Procedures of Procuring the Use of the MAF-T03	67
3.2	State and Performance of the MAF-T03 on 9 th and 10 th June, 2024	68
3.3	Status, Conditions, Experience and Capacity of the Crew	69
3.4	Aviation Protocols at KIA and Mzuzu	73
3.5	Communications During the Flight	73
3.6	Notification of the Missing Aircraft to the Air Force and its Reaction	74
3.7	Notification to His Excellency the President, Content and Response	75
3.8	From Search and Rescue to Discovery of Wreckage	75
3.9	Alleged Suspension of the Search and Rescue efforts	77
3.10	The Probable Cause of the Aircraft Accident	78
3.11	Cause of Death	80
3.12	Survivability of the accident	81
3.13	Photographs at the Accident Scene	81
3.14	Other Findings	81
3.15	Order of events and Roles of Individuals and Institutions - 10 th to 11 th June, 2024	83

4.0 RECOMMENDATIONS	87
4.1 Office of the President and Cabinet	87
4.2 Malaŵi Defence Force	87
4.3 Malaŵi Air Force	88
4.4 Malaŵi Police Service	89
4.5 Department of Civil Aviation and Civil Aviation Authority	90
4.6 Airport Developments Limited	91
4.7 Ministry of Health	91
4.8 Department of Disaster Management Affairs	91
ANNEXES	93
ANNEX 1: GOVERNMENT GAZETTE	95
ANNEX 2: TERMS OF REFERENCE	99
ANNEX 3: LIST OF WITNESSES	109

ACKNOWLEDGEMENTS

The Commission would like to thank the following organizations that facilitated the smooth execution of the assignment from the date the Commission was appointed to the day when the Report was submitted to the Nation and subsequently to His Excellency the President. The individuals and institutions are:

- (a) Office of the President and Cabinet
- (b) Office of the Vice President
- (c) Malaŵi Defence Force
- (d) Malaŵi Police Service
- (e) Malaŵi Broadcasting Corporation
- (f) Grand Palace Hotel
- (g) Sunbird Ku Chawe
- (h) Amaryllis Hotel
- (i) Lifestyle Boutique Hotel
- (j) Sunbird Chintheche
- (k) Mogfords Lake Resorts.

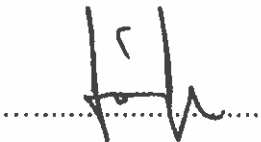
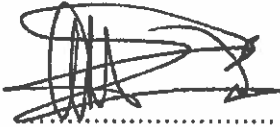
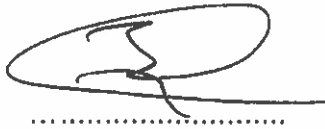

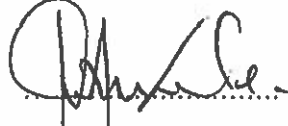
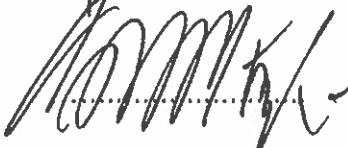
ACRONYMS AND ABBREVIATIONS

ADC	-	Aide-De-Camp
ADF	-	Automatic Direction Finder
ADL	-	Airports Development Limited
AIP	-	Aeronautical Information Publication
ARCC	-	Aeronautical Rescue Coordination Centre
BFU	-	Bundesstelle für Flugunfalluntersuchung
BNS	-	Bingu National Stadium
CAA	-	Civil Aviation Authority
CEO	-	Chief Executive Officer
CID	-	Criminal Investigation Department
COMPOL	-	Commissioner of Police
COMPOL-N	-	Commissioner of Police North
CPL	-	Commercial Pilot License
DCA	-	Department of Civil Aviation
DCP	-	Deputy Commissioner of Police
DHO	-	District Health Office
DME	-	Distance Measuring Equipment
ELT	-	Emergency Locator Transmitter
ETA	-	Estimated Time of Arrival
IFR	-	Instrument Flight Rules
IG	-	Inspector General
ILS	-	Instrument Landing System
KIA	-	Kamuzu International Airport
Km	-	kilometres
MACRA	-	Malaŵi Communications Regulatory Authority
MAF	-	Malaŵi Air Force
MCP	-	Malaŵi Congress Party
MDF	-	Malaŵi Defence Force
MP	-	Member of Parliament
MPS	-	Malaŵi Police Service
MUST	-	Malaŵi University of Science and Technology
NIS	-	National Intelligence Service
NM	-	nautical miles
OVP	-	Office of the Vice President
RADAR	-	Radio Detection and Ranging
RCC	-	Rescue Coordination Centre
RWY	-	Runway
SAR	-	Search and Rescue

SC	-	Senior Counsel
SOP	-	Standard Operating Procedure
SPC	-	Secretary to the President and Cabinet
STOL	-	Short Take Off and Landing
TNM	-	Telekom Networks Malawi
UAV	-	Unmanned Aerial Vehicles
VFR	-	Visual Flight Rules
VHF	-	Very High Frequency
VIP	-	Very Important Person
VOR	-	Very High Frequency Omnidirectional Range
VVIP	-	Very Very Important Person

MEMBERS OF THE COMMISSION

The members of the Commission as appointed under section 2(1) of the Commissions of Inquiry Act (Cap. 18:01) confirm that this is the Report of the Commission of Inquiry appointed on 25th October, 2024 by His Excellency Dr. Lazarus McCarthy to inquire into an aircraft accident involving a Malaŵi Air Force Dornier 228, Serial No. 8148 and registered as MAF-T03 on 10th June, 2024 and present it to His Excellency the President and Malaŵians and to this effect, have appended their hands as follows:

<u>NAME</u>	<u>DESIGNATION</u>	<u>SIGNATURE</u>
His Lordship Justice Jabbar Alide	Chairperson	
Monsignor Dr. Patrick Thawale	Member	
Bishop Mary Nkosi	Member	
Dr. Sunduzwayo Madise	Member	
Inkosi ya Makhosi M'mbelwa V	Member	
Senior Chief Makwangwala	Member	
Mr. Justin Mkandawire	Member	
Brigadier General Cosgrove Mituka (Retired)	Member	

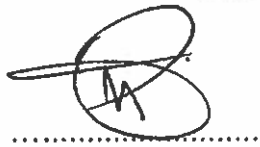
Mrs. Emma Kaliya

Member



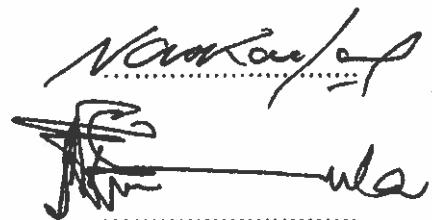
Mr. Dixie Kwatani

Member



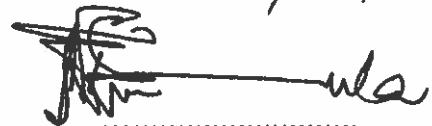
Prof. Nyengo Mkandawire

Member



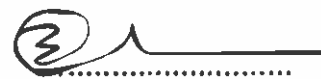
Mr. Alan Chinula, SC

Member



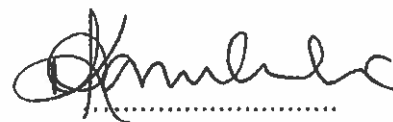
Mrs. Esther Chioko

Member



Mrs. Nimia Kambili Mzembe

Member




Mrs. Lidia Chiotha

Member



Dr. Ruth Mwandira

Member



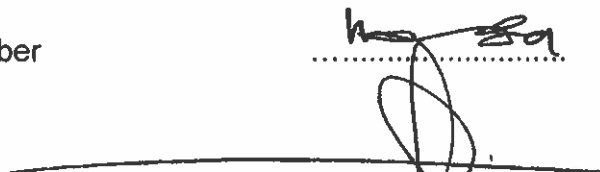
Mrs. Miriam Wemba

Member



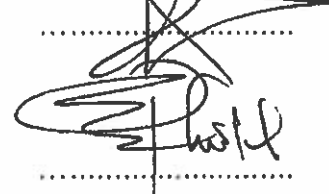
Mr. Chizaso Nyirongo

Secretary



His Worship Paul Chiotcha

Secretary



EXECUTIVE SUMMARY

On 25th October 2024, His Excellency Dr. Lazarus McCarthy Chakwera, President of the Republic of Malaŵi, (“His Excellency the President”), in exercise of his powers under section 2(1) of the Commissions of Inquiry Act (Cap. 18:01)(the “Act”), appointed a Commission of Inquiry to inquire into the accident involving a Malaŵi Air Force (the “Air Force”) Dornier 228-202K Serial Number 8148 and bearing Registration Number MAF-T03 at Nthungwa in Nkhata Bay District, that lead into the death of all passengers and crew on board on 10th June, 2024.

The Commission of Inquiry was appointed to:

- (a) conduct a thorough investigation into the circumstances prior to, during and after the aircraft accident, from the time it departed from Kamuzu International Airport until it was discovered on 11th June, 2024. This included the following:
 - (i) an inquiry into the manner and procedures of procuring the use of the aircraft from the Air Force;
 - (ii) the state and performance of the aircraft the previous day, and on the day of the aircraft accident; the status, conditions, experience and capacity of the crew operating the aircraft;
 - (iii) the aviation protocols followed at the point of departure and expected destination;
 - (iv) any communications between the passengers on board the aircraft and any persons on the ground during the flight;
 - (v) notification of the missing aircraft when the Air Force was informed and the course and order of events taken in response;
 - (vi) escalation of the notification of the missing aircraft to His Excellency the President, what was communicated to the President, and what directives the President gave;
 - (vii) the search and rescue efforts from commencement, through areas of focus, to the point of discovering the wreckage of the aircraft on 11th June, 2024;

- (b) consider, determine, and inquire into all aspects surrounding the death of the late Vice President and eight others, including but not limited to establishing the cause of death for all persons on board the aircraft; and the survivability of the accident;
- (c) consider, determine, and inquire into the circumstances and order of events, to every extent possible, the events and the role and activities of various individuals between 10th and 11th June, 2024; and
- (d) make such inquiry and such findings and recommendations as are incidental to and connected with the aircraft accident on 10th June, 2024.

Following an extensive inquiry, which ran from the date of the appointment, and included the receiving testimony from one hundred and thirty-three witnesses, and examination of a number of Reports and documents, the Commission has gathered significant evidence and insights into the events that happened leading to the aircraft accident.

Having gone through the above process, the Commission's main findings are that the probable cause of the accident was a combination of human and environment factors. The Commission found out that the weather, on 10th June, 2024, at Nthungwa, where the accident occurred, was very bad leading to disorientation of the pilots.

Further to this the Commission has made finding in respective of the other tasks that it was assigned to undertake in accordance with its the Terms of Reference as applicable.

Further the Commission has made recommendations to Government, Ministries, Department and Agencies to ensure that a similar accident does not occur in future and in the unfortunate event that a similar accident occurs, there is a better emergency response accordingly.

1.0 INTRODUCTION

This is the Report of the Commission of Inquiry (the “Commission”) that was appointed by His Excellency Dr. Lazarus McCarthy Chakwera, President of the Republic of Malaŵi, (“His Excellency the President”) on 25th October, 2024. The Commission was appointed to broadly inquire into the circumstances surrounding the aircraft accident involving a Malaŵi Air Force (the “Air Force”) Dornier 228-202K Serial Number 8148 and bearing Registration Number MAF-T03 that led to the death of all passengers and crew on board on 10th June, 2024.

The deceased passengers on board the aircraft were the late Right Honourable Dr. Saulos Klaus Chilima, the Vice President of the Republic of Malaŵi (the “late Vice President”); the late Madam Patricia Shanil Dzimbiri, former First Lady of the Republic of Malaŵi and an Advisor in the Office of the Vice President; the late Mr. Abdul Kingstone Lapukeni, the Deputy Chief of Protocol in the Ministry of Foreign Affairs; the Assistant Commissioner of Police, the late Mr. Lukas Kapheni, the late Vice President’s Guard Commander; the late Inspector Chisomo Chimaneni, the late Vice President’s Aide-de-Camp; the late Mr. Daniel Friday Kanyemba, the late Vice President’s Medical Officer.

The deceased crew members comprised the late Colonel Owen Lewis Sambalopa, Pilot-in-Command; the late Major Florence Rex Selemani, Co-pilot (First Officer); and the late Major Wales Jordan Aidin, Flight Engineer. The crew members were all service members of the Air Force, one of the four specialized services of the Malaŵi Defence Force (“MDF”).

At the end of its assignment, the Commission was due to present this Report detailing its findings in line with its Terms of Reference, including a set of recommendations on any matter that it deemed fit.

1.1 Background

On 10th June, 2024, at 09:17 hours local time (GMT+2), a flight with the call sign AF88M (Malaŵi 2), being the Dornier 228-202K (MAF-T03) operated by the Air Force departed Kamuzu International Airport (KIA) for Mzuzu Airport. On board the aircraft were six passengers and three crew members.

The late Vice President and his entourage were scheduled to attend a funeral ceremony for one of Malaŵi's prominent lawyers and former Attorney General and Minister of Justice, late Mr. Raphael Kasambara, SC, at Chijere Village, Traditional Authority Timbiri in Nkhata Bay District.

According to the Flight Plan filed by the First Officer, the late Major Selemani, just before the departure from KIA, the aircraft had fuel endurance (flying time fuel) of four hours, having refuelled at KIA with 483 litres of Jet A-1 fuel, and was expected to climb to 9,000 feet above sea level on its way to Mzuzu. At the time of filing the Flight Plan, the call sign of MAF-T03, which was initially AF88M, was changed to Malaŵi 2 as it was going to carry the Vice President of the Republic of Malaŵi. The estimated time of arrival at Mzuzu Airport was at 10:02 hours.

At 10:12 hours, MAF-T03 (Malaŵi 2) contacted Mzuzu Airport Tower indicating that they were approaching the airport and were twenty nautical miles to the north thereof. At that point, the pilot was given the runway in use, being RWY17. In addition, the control tower provided MAF-T03 (Malaŵi 2) with the weather information at the Mzuzu Airport. This, however, was the last contact with MAF-T03 (Malaŵi 2) as further attempts by the Mzuzu Airport Tower to communicate with the aircraft, five minutes later, to establish its position and altitude, failed.

Mzuzu Control Tower extended its efforts to locate the aircraft by contacting KIA and making enquiries from other possible locations where the aircraft could have landed but to no avail. This triggered an emergency resulting in the immediate activation of a Rescue Coordination Centre (RCC) at KIA in line with Standard Operating Procedures (SOP) in such situations. Later, a search and rescue operation was mounted involving various stakeholders including MDF, Malaŵi Police Service, the Civil Aviation Authority, Department of Civil Aviation, Raiply (Malaŵi) Limited, local people in the vicinity and many others.

On the 11th June, 2024, the search and rescue operation led to the discovery of the wreckage of the aircraft, the MAF-T03 (Malaŵi 2) on Pamphara Hill at Nthungwa in Nkhata Bay District. All passengers and crew on board the aircraft were found dead.

1.2 Appointment of the Commission

Prior to the burial, and during the funeral ceremony of the late Vice President held on 15th June, 2024 at the Bingu National Stadium (BNS) in Lilongwe, there were several calls made to His Excellency the President by various entities to conduct an independent and credible investigation into the aircraft accident. In his address at the funeral ceremony at BNS, His Excellency the President made an appeal to the international community to assist with the investigations on the probable cause of the accident. The call was in addition to the investigation that was due to be undertaken by the MDF in accordance with the Defence Force Act (No. 24 of 2023).

In response to His Excellency the President's call, the Government of the Federal Republic of Germany dispatched a team of investigators from the German Federal Bureau of Aircraft Accident Investigation (Bundesstelle für Flugunfalluntersuchung - BFU). This team was supported by an expert from the current Dornier aircraft manufacturer, General Atomics. The team arrived in Malaŵi on 22nd June, 2024, and commenced its investigations. Before leaving the country on 29th June, 2024, the team briefed Government and members of the late Vice President's family on their preliminary findings.

On 30th August, 2024, BFU released an Interim Report through their website. It is expected that the Final Report on the aircraft accident shall be released in May 2025.

On 25th October, 2024, His Excellency the President, in exercise of his powers under section 2(1) of the Commissions of Inquiry Act (Cap. 18:01) (the "Act"), appointed the Commission to inquire into the accident involving the aircraft. Section 2(1) of the Act gives power to the President to appoint such a Commission to inquire into any matter in which an inquiry would be for the public welfare. His Excellency the President deemed that the aircraft accident was a matter in which an inquiry would be for the public welfare. Accordingly, it pleased His Excellency the President to appoint nineteen people to serve as Commissioners and the composition of the Commission is contained in Government Notice No. 64 of 31st October, 2024 which is attached to this Report as Annex 1.

On 28th October 2024, all the nineteen Commissioners and the two Secretaries in the Commission, took their oaths as prescribed by the Act at Kamuzu Palace in Lilongwe.

The Commissioners commenced their assignment immediately after taking their oaths. At the time of compiling this Report, there were seventeen Commissioners in the Commission, two having resigned. Mr. Sylvester Namiwa and Pastor Tony Y. Nyirenda resigned from the Commission on their respective personal grounds under cover of their letters to His Excellency the President dated 30th October, 2024 and 21st November, 2024, respectively.

1.3 Terms of Reference for the Commission

Section 2(2) of the Act prescribes that a Commission constituted by His Excellency the President under the Act to conduct an inquiry shall be provided with a specific subject, as well as the nature and extent of the inquiry. This may include any directions on such matters as the President may direct. In this regard, the President particularized the assignment through Terms of Reference which are attached to this Report as Annex 2 where His Excellency the President specifically tasked the Commission to:

- (a) conduct a thorough investigation into the circumstances prior to, during and after the aircraft accident involving MAF-T03 owned and operated by the Air Force, from the time the aircraft departed from KIA until it was discovered on 11th June, 2024. This included, but not limited to
 - (i) the manner and procedures of procuring the use of the aircraft from the Air Force;
 - (ii) the state and performance of the aircraft the previous day, and on the day of the aircraft accident;
 - (iii) the status, conditions, experience and capacity of the crew operating the aircraft;
 - (iv) the aviation protocols followed at the point of departure and expected destination;
 - (v) any communications between the passengers on board the aircraft and any persons on the ground during the flight;
 - (vi) notification of the missing aircraft when the Malaŵi Air Force was informed and the course and order of events taken in response;
 - (vii) escalation of the notification of the missing aircraft to His Excellency the President, what was communicated to the President, and what directives the President gave;

- (viii) the search and rescue efforts from commencement, through areas of focus, to the point of discovering the wreckage of the aircraft on 11th June, 2024;
 - (ix) the alleged suspension of the search and rescue efforts on 10th June, 2024; and
 - (x) the probable cause of the aircraft accident.
- (b) consider, determine, and inquire into all aspects surrounding the death of the late Vice President and eight others, including but not limited to establishing the cause of death for all persons on board the aircraft; and the survivability of the accident;
- (c) consider, determine, and inquire into the circumstances and order of events, to every extent possible, the events and the role and activities of various individuals between 10th and 11th June, 2024; and
- (d) make such inquiry and such findings and recommendations as are incidental to and connected with the aircraft accident on 10th June, 2024.

In the implementation of the mandate given by the President, the Commission was given full access to all Government Ministries, Departments and Agencies and all other non-State institutions. Through the Terms of Reference, His Excellency the President urged all Government agencies, private entities, civil society organisations and members of the general public with relevant information to cooperate with the Commission, and to provide or grant access to relevant documents or materials, and to provide it with all the information necessary to fulfil its mandate.

1.4 Methodology

The Commission held its inception meeting from 28th to 29th October 2024, immediately after the Commissioners and the Secretaries took their oaths of office. The meeting was convened for the Commission to discuss and resolve how it was going to approach and execute the task before it. During the meeting, the Commission took time to consider the relevant instruments applicable to its assignment; considered and reviewed the Terms of Reference; produced a tentative list of all the key

stakeholders and individuals crucial to the implementation of its work; and developed its overall work plan.

One of the key issues that was discussed and resolved during the first day was section 2(2)(e) of the Act which empowers a Commission of Inquiry appointed under the Act to decide whether or not an inquiry shall be held in public *“with reservation nevertheless to the Commissioners to exclude any person or persons if they deem fit for the due conduct of the inquiry, the preservation of order or for any other reason.”*

Having considered and discussed the same, the Commission resolved to proceed and hold the inquiry by way of hearings *in camera*. In reaching this conclusion, the Commission considered the diverse interests and the emotions that the issue had generated locally and internationally, and specifically as follows:

- (a) the Commission resolved that holding of public hearings had the potential to expose witnesses, or would-be witnesses, to multiple security risks or the likelihood of negative backlash from certain interested parties or the communities that they lived in;
- (b) certain people may not feel comfortable to appear before the Commission to present their evidence knowing that they were being monitored live on radio or television;
- (c) the Commission felt that there was a very high risk of evidence contamination, i.e. witnesses deliberately coming to present different testimony to counter the testimonies given by other witnesses thereby raising the risk of having tailored testimonies to suit their respective scripts;
- (d) it was going to pose a logistical problem to have the hearings publicly bearing in mind that the Commission had resolved to hold these hearings at diverse places at very short notice and within marginal timelines bearing in mind the deadline within which the Commission had to present its Report;
- (e) to maintain the privacy of the individuals as well as certain information received during the testimonies bearing in mind the likelihood of receipt of privileged information and documents in respect of some institutions or individuals such as medical or military records; and
- (f) also to respect the dignity of witnesses, including bereaved family members and friends.

The Commission resolved to bring itself closer to the general public by holding its hearings in Mzimba, Mzuzu and Nkhata Bay in the Northern Region; Zomba and Blantyre in the Southern Region; and in Lilongwe in the Central Region, in that order. To that effect, the Commission issued a Press Release at the end of its meetings informing members of the general public of its schedule. Through the same, the Commission called on the general public to come forward to present any credible information that they had in respect of the accident. The Press Release was made available to all print and electronic media outlets.

The Commission further proceeded to consider all the stakeholders that took part in the events of the 9th, 10th, and 11th June, 2024, and thereafter, and compiled a list of key witnesses to be consulted in the process of the inquiry. Summonses were issued to secure their attendance as prescribed under the Act.

The Commission had hearings in the Northern Region from 4th to 9th November, 2024. The first of the hearings was conducted at the site of the accident on Pamphara Hill at Nthungwa in Nkhata Bay District. This was followed by hearings that were conducted at Nthungwa CCAP Church, Grand Palace Hotel in Mzuzu, Nthungwa Forestry Office; and Kasangazi Full Primary School, in Mzimba District. The Commission also visited the Mzuzu Airport where it specifically gathered evidence from the control tower, the Airport Police, the Airport Meteorological Offices, and the Airport Emergency Services Offices. The Commission heard testimonies from senior and junior members of the MDF, Malaŵi Police, Mzuzu Central Hospital, RAIPLY, Mzuzu Airport and different stakeholders and individuals who had first-hand information on the unfortunate events of 10th June, 2024.

From the Northern Region, the Commission proceeded to Zomba where it conducted its hearings from 11th to 13th November, 2024. The hearings were first conducted at the Zomba Air Base of the Air Force where the Commission took testimonies from serving and retired service members. The Commission had the opportunity to inspect the aircraft wreckage and gathered evidence accordingly. The Commission proceeded to Zomba District Council Offices where it held further hearings with a member of the bereaved family and a member of the public.

The Commission then proceeded to Blantyre where it had a series of hearings from 14th to 16th November, 2024 with different key stakeholders from the Department of Meteorological Offices, Malaŵi University of Science and Technology (MUST), Telekom Networks Malaŵi, Malaŵi Police Service, Chileka Airport, the members of some of the bereaved families and others.

Finally, the Commission sat and heard testimony from 18th to 26th November 2024 in Lilongwe. While in Lilongwe, the Commission heard testimony from His Excellency the President, the Right Honourable the Vice President, some Cabinet Ministers, the Secretary to the President and Cabinet, the MDF Commander, the Inspector General of Police, Senior Government Officers, the Air Force Commander and senior officers for the Air Force, KIA officers and Airport Police, a senior officer of the MDF, Airtel Malaŵi, Department of Civil Aviation, Malaŵi Civil Aviation Authority, Malaŵi Communications Regulatory Authority (MACRA), Airtel Malaŵi plc, spouses and members of the bereaved families, media practitioners and various key stakeholders.

Apart from the physical interaction with the witnesses, the Commission also received testimony from witnesses domiciled out of the country through different online platforms.

The people that were summoned to appear before the Commission availed themselves except three, a spouse of one of the deceased members of the crew, who opted out and the Commission respected her wish. That notwithstanding, a brother to the deceased crew member attended the hearing and represented the family accordingly. The other two were Pastor Abraham Mkandawire, the leader of Representing God International Church and Dr. Charles Dzamalala, an observer Pathologist to one of the autopsies who both gave a litany of excuses not to appear before the Commission.

It has to be highlighted once again that during the course of its work the Commission received overwhelming cooperation from all witnesses who were shortlisted and summoned by the Commission. However, there was very poor response from the general public on the call for information that was widely publicised in all media channels. Only a few people, less than five, showed interest to come and testify. Out of that only two people were heard as the rest grew cold feet and never responded to

the Commission's follow ups on their proposed testimonies. Despite such apathy from the general public in terms of response to the call for information, the Commission heard testimonies from one hundred and thirty persons by the close of its hearings on 26th November, 2024. The full list of all persons who appeared before the Commission is attached to this Report as Annex 3.

Apart from the physical and virtual hearings, the Commission also officially received and considered various write-ups from different people with different expertise relevant to the subject matter. Some of the write ups were in form of opinions about the issue under consideration, others were suggestions on how the Commission should proceed and which areas to look at, while others were outright questions that were lingering in their minds which the Commission was called on to address in its report. These write-ups were submitted directly to the Commission through the WhatsApp communication lines and e-mail address.

Notwithstanding that most of the questions brought forward were outside the Terms of Reference, the Commission received the same with much appreciation and considered and addressed the same either in the narrative or the analysis part of the report. However, these submissions were not given much weight because they were not submitted under oath and the Commission did not have the opportunity to examine the witnesses making the submissions as required under section 10 of the Act.

Further, as part of gathering of evidence the Commission also had recourse to different reports, like the BFU Interim Report, the Civil Aviation Authority Reports, the MDF Board of Inquiry Report, as well as others that were tendered by different stakeholders and offices during the inquiry. While some of reports are already in the public domain like the BFU Interim Report, others are still privileged and under the cover of confidentiality. In addition to these reports, Commissioners took interest and had recourse to various literature and reports on the subject matter in the course of its inquiry. Some of these books and other literature were shared or made available to the Commission by fellow Commissioners accordingly.

During the course of the inquiry, the Commission took cognisance of the fact that its members live within a society where there is a proliferation of news, messages, and communication on, or through, the mainstream media, or social media platforms like

WhatsApp, Facebook, X and others. Inevitably, there was a lot of news, messages, and posts on the mainstream, and social media, some of which contained pictures, footage or videos, touching on various stories, allegations, theories and interpretation on the events before, during and after the 10th June, 2024. Some of the messages were directed at the Commission, in general and others at the Commissioners, in particular.

The Commission took note that while some of the news and articles in the mainstream media were written or carried by the authors or presenters of such news, others were simply taken from other sources. In that regard, the Commission took some interest and time to consider such news and articles or presentations and, where applicable, summoned the responsible individuals to physically testify on their items.

In respect of the social media, while the Commission was not in a position to look at and consider each and every post or message, the Commissioners took interest and shared some of the posts and messages as a way of gathering information in order to help the Commission get leads and look at potential witnesses. This also allowed the Commission to identify some burning issues in the process of, and related to, the inquiry. Such social media posts and reports contained original or forwarded material generated from the mainstream media or from social media itself.

In that regard, the Commission summoned and heard evidence directly from some people whose footage, recordings, messages, or posts were collected from the social media platforms. In as far as social media is concerned and pursuant to its mandate, the Commission has, at the end of the day, made its general observations in respect of the use of social media platforms in relation to the events that happened during this challenging time.

The Commission conducted its physical and online hearings in camera and considered various reports, literature and write-ups and information in the mainstream electronic and print media and had the benefit of information shared and circulated in the social media. The Commission proceeded to analyse the testimony and evidence and all the information that was presented to it, or which the Commission came across, during the hearings and has come up with this Report.

This Report details down the Commission's findings on the specific issues as requested by the appointing authority and has made its recommendations in line with its Terms of Reference, as applicable. Further, in line with its mandate, the Commission has made its observations on a number of issues arising out of this inquiry, as it deemed fit.

It should be stated that the Terms of Reference required the Commission to present this report to His Excellency the President by 30th November 2024. However, in the course of its work, the Commission realised the need for much more work to be done such that the 30th November, 2024 deadline was not feasible. In that regard, the Commission proceeded and sought the indulgence of His Excellency the President to extend the submission date for the report to 14th December, 2024. His Excellency the President extended the same.

2.0 EVIDENCE RELATING TO THE AIRCRAFT ACCIDENT

2.1 EVENTS LEADING TO THE AIRCRAFT ACCIDENT

2.1.1 Funeral of Mr. Raphael Kasambara, SC

Mr. Raphael Kasambara, SC, a renowned private practice lawyer and former Minister of Justice and Attorney General in Malaŵi, passed away on 7th June, 2024 in Lilongwe. The late Mr. Kasambara, SC served as Attorney General from September, 2004 to May, 2006 and on 26th April, 2012, the late Mr. Kasambara, SC was appointed Minister of Justice and Attorney General by Her Excellency Joyce Banda, positions he held until 10th October, 2013.

The Secretary to the President and Cabinet (SPC), Madam Colleen Zamba told the Commission that when she learnt about the death of the late Mr. Kasambara, SC, she conferred with the legal officers at her disposal bearing in mind that the military has its long-established tradition that when certain former public officers die, there are prescribed ceremonies attendant to their funerals. The consultations were emanating from the fact that while the late Mr. Kasambara, SC was entitled to burial with military honours, it was not automatic in his case as the former Minister and Attorney General was previously convicted by a court of law.

After these consultations, the SPC prepared a memorandum to His Excellency the President seeking his approval on three things: firstly, that as a Commander in Chief of the MDF, His Excellency the President should decide whether the burial of late Mr. Kasambara, SC should be with full military honours, in which case the Government was going to refund the family the cost of the casket; secondly, that, if in the affirmative, His Excellency the President should exercise his discretion to decide who would represent His Excellency the President at the funeral; and thirdly, if in the affirmative, His Excellency the President, authorizes the release of bereavement money in cash, to the deceased's family, amounting to K5,000,000.

It is in the evidence of the SPC that His Excellency the President exercised his discretion and approved that late Mr. Kasambara, SC, be accorded burial with military honours to reflect his former position as Minister of Justice and Attorney General, and his significant contributions to the legal profession in Malaŵi.

On the second request as to who would represent His Excellency the President at the funeral, the SPC informed the Commission that it is established practice that such a request is always accompanied by a proposal to His Excellency the President depending on who is available at the time. In the present case, the SPC's memorandum to His Excellency the President proposed Hon. Richard Chimwendo Banda, MP as the Government representative at the funeral because upon her inquiry earlier in the day, Dr. Luckie Sikwese, the Secretary to the Vice President, informed her that the late Vice President was non-committal on his attendance at the funeral. The SPC told the Commission that actually, at some point, Dr. Sikwese had indicated to her that the late Vice President may not attend the funeral in Nkhata Bay.

In the evening of 9th June, 2024, the SPC received further information from Dr. Sikwese advising her that the late Vice President was going to attend the funeral and was going to travel by air. In light of this information, the SPC needed to change the representation arrangements earlier proposed to His Excellency the President. She told the Commission that Cabinet has its own protocol with respect to varying levels of seniority among its members and that the most senior Cabinet member takes precedence to represent Government at any ceremony where it is represented. For this reason, the SPC informed Hon. Richard Chimwendo Banda, MP, that he would no longer be representing Government since the late Vice President was attending the funeral. However, the SPC advised him that he still had to go and escort the late Vice President so as to strengthen Government's representation at the funeral.

It is on record that the SPC called Dr. Sikwese that evening to find out if there was space in the aircraft to accommodate Hon. Richard Chimwendo Banda but she was advised that the aircraft was full.

On the morning of 10th June, 2024, the SPC sent a message to His Excellency the President advising of this new information. She informed His Excellency the President that the Vice President was going to attend the funeral in Nkhata Bay, and further that since Hon. Richard Chimwendo Banda, MP was no longer going to speak at the funeral, His Excellency the President may consider briefing the Vice President in advance. The SPC then informed the Commission that after this message to His

Excellency the President, Hon. Harry Mlekanjala Mkandawire, Minister of Defence, called the SPC to report that His Excellency the President had nominated him to represent His Excellency the President at the funeral.

It was then that it dawned upon the SPC that her reference to the late Vice President as “the Vice President” in her message may have been a miscommunication as it had been understood by His Excellency the President to mean the Vice President of the party (Malaŵi Congress Party) since the said Hon. Mkandawire, was the Vice President of the party, and was known as such in the party’s political circles.

It was the SPC’s testimony that at that point, she immediately reverted to His Excellency the President to correct the miscommunication and explained that she meant the late Vice President. It was also at this point that it became apparent to her that His Excellency the President had not known that the late Vice President was back in the country from his trip to South Korea. The SPC then proceeded and informed the Hon. Mkandawire about the late Vice President’s attendance at the funeral and the attendant protocol arrangements.

On the third request, His Excellency the President authorized the release of the bereavement money in the sum of K5,000,000 in cash as proposed.

2.1.2 Movement of the Remains of the late Mr. Kasambara, SC

After the death of the late Mr. Kasambara, SC in Lilongwe, his remains were repatriated to Blantyre by road on 8th June, 2024. The following day, 9th June 2024, a Requiem Mass was held at St. Montfort Catholic Parish in Blantyre prior to departure for his burial in Nkhata Bay.

It was the evidence of Mrs. Maggie Kasambara, wife to the late Mr. Kasambara, SC, that the Kasambara family had initially planned to ferry the remains of the late Mr. Kasambara, SC to Nkhata Bay from Blantyre by road. However, on the evening of 8th June, 2024, the family was informed that a longtime friend of the late Mr. Kasambara, SC had privately chartered a military aircraft from MDF Headquarters to carry his remains by air to Mzuzu *en route* to Nkhata Bay, and then return with the family on 10th June, 2024. Later, that day, in the afternoon, his remains were further repatriated in a Dornier 228-202K (Registration No. MAF-T03) from Chileka International Airport (Chileka) to Mzuzu Airport as planned, on their way to Nkhata Bay.

It was in evidence that the late Vice President was returning to Malaŵi on 9th June 2024 from South Korea on an official trip via Chileka to Lilongwe on a Malaŵi Airlines flight. Being a close friend to the late Mr. Kasambara, it was the late Vice President's wish to attend his burial on 10th June 2024. However, he noted that the date of burial of the late Mr. Kasambara, SC, coincided with His Excellency the President's departure for The Bahamas, and he was supposed to see him off in the afternoon of that same day in Lilongwe.

For that reason, the late Vice President had hoped that during his layover at Chileka, he would meet Mrs. Kasambara and the family to offer his condolences and also pay his last respects to his friend, the late Mr. Kasambara, SC. However, the aircraft carrying the late Vice President landed at Chileka before the remains of the late Mr. Kasambara, SC, arrived at the airport. Following the delay in the funeral mass at St. Montfort Church, the remains of the late Mr. Kasambara, SC, arrived at the airport late after the late Vice President had already boarded the flight for Lilongwe. The late Vice President left for Lilongwe without meeting Mrs. Kasambara and family as planned.

It was the testimony of Madam Mary Nkhamanyachi Chilima, wife of the late Vice President, and Dr. Sikwese that having failed to see off the late Mr. Kasambara, SC at Chileka, the alternative plan for the late Vice President was to send a senior representative or Madam Chilima to the funeral bearing in mind that he was tired, and that he was also required to see off His Excellency the President the following day as His Excellency the President was leaving for The Bahamas. However, Madam Chilima realized that she had to work on an important academic paper for her Ph.D. studies that was due for submission in a few days and could not travel. Therefore, the late Vice President changed his mind later in the evening on 9th June, 2024, and decided to go to the funeral himself.

According to Dr. Sikwese, the late Vice President wanted to travel to Nkhata Bay, at first, by road and had even requested him to prepare the logistics for the trip. However, upon his consideration that accomplishing the two assignments on the same day would be too demanding, he opted to fly to Mzuzu, and then by road to Nkhata Bay. Once in Nkhata Bay he would only attend the funeral ceremony at the house in the morning, and then leave before burial to fly back to Lilongwe by same aircraft to see His Excellency the President off to The Bahamas as scheduled.

According to evidence before the Commission, prior to the departure at Chileka on their way to Mzuzu, on 9th June 2024, the aircraft carrying the remains of late Mr. Kasambara, SC, topped up with 733 litres of Jet A-1 fuel resulting in a total of five hours of fuel endurance. The crew duly filed a Flight Plan with Chileka Air Traffic Control tower as required. However, they did not request for the Flight Weather folder from the airport's meteorological office. The Commission received evidence that the Flight Weather folder is an important document that is required for planning and decision-making purposes by the pilots regarding air navigation, and the safety of aircrafts in respect of the weather. The folder ordinarily contains weather information for members of the crew from the point of departure to their destination. The Commission heard testimony that such folders are provided by the Meteorologist at the airport only upon the crew's request.

It was confirmed by the Air Force and Mzuzu Airport Tower that from Chileka, the aircraft carried nine passengers, three crew and one silent soul (the late Mr. Kasambara, SC). Mrs. Kasambara recollected that there was her brother in-law, her sister in marriage, her brother, her sister, her three sons, Justice Fiona Mwale, who is her close friend and herself in the aircraft.

The aircraft carrying the remains of the late Mr. Kasambara, SC departed Chileka for Mzuzu after 15:00 hours. From the available evidence, the flight from Chileka to Mzuzu takes about one hour, twenty minutes. It was received in evidence that they had to leave Chileka in good time in order for them to land in Mzuzu before 18:00 hours, as there were no landing lights on the runway at Mzuzu coupled with the bad weather.

The Officer-in-Charge at Mzuzu Airport Meteorological Office, Mrs. Olive Chavunguma, testified to the Commission on the Weather Report that was submitted to the Mzuzu Airport Air Traffic Controller/Acting Airport Commandant at 17:00 hours on 9th June, 2024. She informed the Commission that there was fog with scattered stratus clouds lying low at 600 feet. These low-lying types of clouds are said to be dangerous to aircrafts. At the time, the wind direction was 160 degrees, wind speed was 0.3 knots, visibility less than 20 km, air temperatures were at 18 degrees Celsius.

According to evidence received from Mrs. Kasambara and her brother, Mr. Buxton Namizinga, the aircraft flew over Lake Malaŵi and approached Mzuzu through the

Nkhata Bay side. Mr. Namizinga told the Commission that the flight was bumpy and very uncomfortable. He stated that there was fog, drizzles and it was very cold. He testified that at some point in the Nkhata Bay mountains, they were flying at an angle and too low and he could see the gardens very clearly from the aircraft. He stated that though he was in charge of the family members during the travel to Mzuzu, he later told the family upon arrival that he was not comfortable to return to Blantyre on the same aircraft the following day.

On the other hand, Mrs. Kasambara, stated that she could not really recount in detail as to what happened along the way on this day. All she could remember was that this flight was less comfortable than the previous flight in the same aircraft when they flew to Likoma earlier in August, 2023. She also indicated that perhaps, she found discomfort on the aircraft because she was comparing the aircraft with normal commercial aircrafts she has normally been flying on. She also indicated upon arrival in Mzuzu she heard from the people that the aircraft circulated in the air for a while before finally landing.

According to the available evidence, the aircraft arrived at Mzuzu Airport at 17.32 hours. It was received in evidence that the coffin was offloaded from the aircraft and the funeral procession left for Nkhata Bay. At that particular time, it was foggy, cold, and dark, with drizzles.

The Commission received testimony that after the funeral procession had left, the crew members locked up and secured the aircraft and were picked up by Private Gift Mgodzi, a driver from Moyale Barracks. As the crew members were leaving the airport, they got communication from Major Amin Kalinga from Zomba Air Base that they had been assigned another mission to pick the late Vice President from KIA the morning of the following day, 10th June, 2024. The MDF driver dropped the crew members at White Sands Lodge in Mzuzu for the night. The crew members instructed the driver to pick them up at 06:00 hours, the following morning.

On the issue of accommodation for crew members, the Commission received evidence from Brigadier General Harrison Kandula that ordinarily, the estimates provided by the Air Base includes the cost of hotel accommodation to be paid by the hirer of the aircraft directly to the service provider. He further stated that while hotel

accommodation is ideal and desirable, sometimes people hiring the aircraft negotiate for lower cost of accommodation. In this case members of the crew are given daily subsistence allowance.

It was received in testimony that at Mzuzu Airport, as is always the case, the Airport Police provided security for the aircraft from the time it arrived and was parked at the apron. It is in further evidence that on this particular day, four Airport Police officers were assigned to guard the aircraft overnight. These were joined by two MDF soldiers as additional security. The Commission heard that it is the practice for the military to provide additional security when an MDF aircraft lands at Mzuzu Airport for an overnight stay.

It is in evidence that apart from the four who were stationed on the apron with the two MDF soldiers, other Airport Police officers were deployed into groups with some assigned to watch over the runway, while others to watch over the boundaries as Mzuzu Airport does not have a perimeter fence. The aircraft was guarded until morning when the crew returned to the airport. The Commission heard evidence that during the night of the 9th June 2024, no other person came close to the aircraft from the time the aircraft was parked on the apron, to the time the crew returned in the morning.

At the end of their night shift at 06:00 hours on 10th June, 2024, the on-duty Airport Police officers reported to their supervisor, the Officer-in-Charge, that there was nothing unusual or prejudicial to the security of the aircraft that night. The two MDF soldiers handed over the aircraft to the crew in the morning with similar observations and left.

2.1.3 Procurement of the MAF-T03

The Commission received evidence from Dr. Sikwese that procurement of an aircraft for use by the late Vice President previously commenced with a memorandum from the Office of the Vice President to His Excellency the President, through the Office of the President and Cabinet, requesting the use of a military aircraft and stating the purpose therefor. Once His Excellency the President approves the request, the Secretary to the Vice President writes to the MDF to commence the procurement process. The Commission received evidence from Dr. Sikwese as well as Mr. Eric Yesaya, Principal Secretary Administration in the OVP that this practice was changed

through a memorandum to the effect that whenever the Vice President wanted to use the aircraft, they should deal with the MDF directly.

The Commission requested for the Memorandum but it was not provided. When the Commission inquired the same with the SPC, Madam Colleen Zamba, she indicated that no such memorandum has been issued since she assumed office in June, 2022. The Commission observed that if indeed there was such a change in the policy, then the date on which such a change was effected could not be ascertained.

The Commission through the evidence tendered by Dr. Sikwese, established that on two occasions, on 2nd May, 2023 and 25th March, 2024, the late Vice President made specific requests to His Excellency the President to use military aircraft. However, in between the said dates, there is no proof of such memorandum to His Excellency the President from the late Vice President for requests to the MDF for use of a military aircraft on 4th August, 2023 to Karonga; on 14th August, 2023 to Mzuzu; on 17th August, 2023 to Mangochi; on 15th September, 2023 to Blantyre; on 30th September, 2023 to Mzuzu; and on 2nd November, 2023 to Mangochi.

The Commission received testimony from the Air Force that procurement of an aircraft from them follows established standard operating procedures. The process starts with, firstly, the MDF Headquarters enquires from the Air Force headquarters in Lilongwe to ascertain whether any of their air bases has an aircraft that would be available to carry out a proposed operation. Once the Air Force headquarters confirms availability of such an aircraft, the MDF Headquarters informs the Air Force headquarters to assign the Air Base which will conduct the operation. This is done through an Air Transport Order issued to the Air Base. The Air Base, then responds with an Operations Order detailing the equipment available and dates and routes for the operation.

Once approved by MDF Headquarters, the Air Base then issues its cost estimates incidental to the operation. The MDF Headquarters, then sends the cost estimates to the party requesting the aircraft for settlement. Once the flight is confirmed, the Air Base assigns the crew to take on the operation.

In accordance with the said procedures, it is in evidence that in the present case, the procurement of the aircraft commenced on 9th June, 2024, when the MDF Commander, General Dr. Paul Valentino Phiri, received a phone call from Dr. Sikwese

requesting him the use of the aircraft. It is the testimony of the MDF Commander that Dr. Sikwese called him around 15:20 hours from Chileka while returning with the late Vice President from South Korea. During the call, Dr. Sikwese informed the MDF Commander that aircraft would be used by the late Vice President to travel from KIA to Mzuzu to attend the funeral of late Kasambara, SC in Nkhata Bay the following morning, 10th June, 2024, and then return on the same day by 12:30 hours in time for the late Vice President to see His Excellency the President off to The Bahamas.

The MDF Commander told the Commission that his initial reaction to Dr. Sikwese was that there was no aircraft available as it had already been chartered the day before by the late Mr. Kasambara's family. He then advised Dr. Sikwese to perhaps, talk to the family to see if they could consider letting the aircraft carry out the proposed operation. The MDF Commander also recalls mentioning in the discussion with Dr. Sikwese that the weather in Mzuzu was not good. Following this interaction, it is in evidence that Dr. Sikwese spoke to a representative of the Kasambara family who confirmed that they had no problem releasing the aircraft for the late Vice President's planned travel as scheduled.

After confirming availability of the aircraft, a new Air Transport Order was forwarded to the Air Force Headquarters and then to Zomba Air Base through the Base Commander, Colonel Alex Mwachande. In that regard, all the required formalities such as the cost estimates for the mission were done, and logistical arrangements were out in place. The Air Transport Order was formally issued on 10th June, 2024. It is in Dr. Sikwese's testimony that it was agreed between the Office of the Vice President and MDF that formal documentation would follow later.

Once the crew flying the MAF-T03 landed in Mzuzu, at around 18:00 hours on 9th June, 2024, the crew were informed by the Operations and Training Officer from Zomba Air Base, Major Amin Kalinga, about this new Air Transport Order and mission.

2.1.4 Journey from Mzuzu to KIA

Around 06:15 hours, on 10th June, 2024, the crew members arrived at Mzuzu Airport for their mission to Lilongwe. As customary, the crew received a weather report from the Senior Aerodrome Flight Information Officer at Mzuzu Airport, Mr. Joseph Moyo who was acting as the Air Traffic Controller at the airport as Mzuzu had none. The

weather report was prepared by the airport's Meteorological Office. The report showed that visibility was at less than eight kilometres, and it was foggy. Mr. Moyo testified that he spoke to both members of the crew before they departed for KIA. He noted that they both looked normal and fine and there was nothing strange with them. The First Officer, the late Major Selemani, filed a Flight Plan as shown under Annex 4 which indicated the normal route to KIA known as W601.

After all the formalities, the aircraft departed Mzuzu at 07:05 hours and headed to KIA with an Estimated Time of Arrival (ETA) of 07:50 hours. It was received in evidence that the flying time from Mzuzu to Lilongwe on this aircraft and *vice versa* was typically forty-five minutes. The aircraft had three crew members on board and its call sign was AF88M.

It was stated in evidence that there is a Radio Detection and Ranging (radar) at KIA which is used to track aircrafts in its controlled airspace.

In respect of this flight, it was in testimony that MAF-T03 was able to transition from Mzuzu into the uncontrolled airspace, and then into Lilongwe controlled airspace without a problem. The radar at KIA was also able to track down MAF-T03 as it entered the Lilongwe airspace until it landed at KIA at 7:48 hours.

2.1.5 Journey from KIA to Mzuzu

It was the testimony of Mr. Sokosa, the Duty Forecaster at KIA that the crew did not request a weather briefing from the Meteorological Office at KIA. It was his evidence that at the time they were filing the Flight Plan the crew did not get the weather forecast for neither the return flight path nor for Mzuzu. The Commission received in evidence that such information is only provided by the Airport Meteorological services only upon request by the crew as per the standard operating procedures. However, at about 09:00 hours, before the aircraft departed, the crew received a weather report from the KIA Air Traffic Control tower via radio Frequency 128.0 MHz.

It was the testimony of the Senior Aeronautical Information Officer at KIA, Mary Chirwa, that she had a conversation with the late Major Selemani, the Co-pilot at the time she was filing the Flight Plan for Mzuzu (Annex 5). According to her, the Flight Plan that had been filed indicated that the crew was going to use a direct route to

Mzuzu, as opposed to the usual W601. This prompted her to ask the late Major Selemani as to why they had decided to use the direct route instead of the normal route. It is in her testimony that the late Major Selemani responded that they had decided to use a direct route because on their flight from Mzuzu Airport to KIA earlier on the day, they had encountered bad weather on the normal route, W601.

The Flight Plan further indicated that the aircraft was to maintain an altitude of 9,000 feet AMSL. The Flight Plan was sent to KIA Control Tower and Mzuzu Control Tower by the Senior Aeronautical Information Officer.

The aircraft was refuelled by the vendor who is contracted to refuel aircrafts at the Airport, Puma Energy Limited. It was the evidence of Mrs. Laika Chibwana from Puma that 483 litres of Jet A-1 aviation fuel were filled into the MAF-T03 at KIA. On 9th June, 2024, 294 litres of Jet A-1 fuel from the same tanker was filled into an aircraft registered as 7Q-ULL belonging to Aviation and Regional Services. After the MAF-T03 had refuelled, a BE350 aircraft, belonging to AML Global, registered as N823CJ was filled with 532 litres of Jet A-1 fuel on the same day. The other aircraft reached their destinations without incident. She stated that when she heard about the aircraft accident, she immediately collected samples of the Jet A-1 fuel as per standard procedure in case samples would be needed. She explained that at the time of giving her evidence, nobody had requested for the samples.

It is worth noting that on the day of departure from KIA to Mzuzu, there was a difference in the flight passenger manifest from the previous day. The flight passenger manifest that was presented the day before, had Madam Chilima and Ms Gloria Mtukule as part of the entourage. However, they did not travel to Mzuzu on the 10th June 2024.

It was Madam Chilima's testimony that she did not travel because of her doctoral assignment she had earlier alluded to. She sought leave from the late Vice President to remain behind to work on her assignment to enable her to submit the same before the deadline. Having remained behind, it inevitably meant that Ms. Gloria Mtukule also remained behind with Madam Chilima, being her Close Protection Officer. In that regard, there were six passengers on the flight to Mzuzu instead of eight, and three crew members.

During his evidence, Dr. Sikwese confirmed having received a call the previous night from the SPC inquiring if there was space in the aircraft to accommodate Hon. Chimwendo Banda. Dr. Sikwese confirmed that he advised the SPC that the aircraft was full because at that time there was no indication that Madam Chilima and her Close Protection Officer were not travelling. Dr. Sikwese further confirmed that he did not see Hon. Chimwendo Banda at the airport the following day, 10th June, 2024, as he was seeing off the late VP and his entourage.

It is in evidence that before MAF-T03 took off from KIA, the crew called Mzuzu Control Tower to inquire about the weather. They talked to Mr. Moyo in the control tower who advised them that at that time the visibility in Mzuzu was more than eight kilometres which was fair for Visual Flight Rules (VFR) flight. In such flights, the pilot relies on visual navigation of the aircraft and looks through the window and windscreen to see where he is going and landing. The opposite to VFR is one that is called Instrument Flight Rules (IFR) flight. On this one, the pilot relies on the instruments in the aircraft and on the ground for navigation and landing. In this, the instruments in the aircraft communicate with the instruments at the destination airport for landing. The Commission received testimony that Mzuzu Airport has no instrument to effect IFR landing. In that regard, during flights from KIA to Mzuzu Airport, the pilot flies the aircraft initially using IFR from Lilongwe, and upon approach to Mzuzu Airport, changes to VFR.

It was received in testimony that aircraft was scheduled to depart from KIA to Mzuzu Airport at 09:00 hours, with an estimated flight time of forty-five minutes. It is in the evidence of the Duty Air Traffic Controller, Mr. Magombo, that at 09:05 hours, AF88M requested and was given airport surface data via radio on frequency 128.0 MHz. Its call sign was changed from AF88M to Malaŵi 2 (MW2) as it was now carrying the Vice President of the Republic of Malaŵi. When the MAF-T03 took off from KIA, the Air Traffic Controller at KIA informed the Senior Flight Information Officer at Mzuzu Airport about the ETA, and that the aircraft had fuel endurance of four hours. The endurance was verified by the KIA Puma Energy office. It is in evidence that the aircraft was given take-off clearance from Runway 14 and was airborne at 09:17 hours. The Pilot in Command was the late Colonel Sambalopa.

After take-off, the aircraft was cleared by KIA Air Traffic Control to climb to an altitude of 9,000 feet Above mean sea level (AMSL). However, upon reaching 7,000 feet AMSL, the pilot requested to maintain the altitude of 7,000 feet AMSL because of *en route* weather. The estimated time of arrival at Mzuzu Airport was at was at 10:02 hours.

From the evidence received during the inquiry, it showed that mobile phones for some passengers on the MAF-T03 were able to connect with their respective telecommunications network towers on the ground at different points during the flight because of the low altitude that the aircraft was flying. This enabled some passengers in the MAF-T03 to establish data communication with people on the ground at certain times during the flight. Using the data connection from the various telecommunications network towers, mobile phones of some passengers were tracked in flight. This allowed the tracking of the movement and route of MAF-T03 from KIA on its way to Mzuzu Airport.

It is in evidence that radar at KIA was able to track the MAF-T03 until it left Lilongwe airspace. Just before leaving the Lilongwe airspace and transitioning to the uncontrolled airspace, the KIA Control Tower instructed the pilot for MAF-T03 to transition and change their radio frequency to 118.1 MHz. The aircraft was expected to pass the Lilongwe terminal boundary called NALSA at 09:32 hours. (In the technical sense, NALSA is the reporting point along W601 between Lilongwe and Mzuzu).

It is in evidence that MAF-T03 transferred to frequency 118.1 MHz as instructed at 09:30 hours, and at 09:32 hours, MAF-T03 went off KIA's radar screen because it was flying low. The evidence received from Head of Air Traffic Control at KIA was that thereafter, according to the Flight Information Officer at Mzuzu Airport, the weather at Mzuzu was poor and was getting worse.

According to the flight schedule, MAF-T03 was expected to make radio contact with Mzuzu Airport at 09:50 hours. However, that did not happen. Noting that MAF-T03 did not make radio contact, Mzuzu Airport tower started contacting MAF-T03 without any success. At 10:00 hours, Mzuzu Airport tower called KIA for verification of the 10:02 hours ETA for MAF-T03 which KIA confirmed. At 10:05 hours, Mzuzu Airport tower checked again with KIA to get an assurance on the 10:02 hours ETA upon which KIA

confirmed and indicated that there were no changes to the ETA of 10:02 hours. To this effect, Mzuzu Airport tower continued calling MAF-T03 to establish radio contact.

It was the testimony of Mr. Moyo from Mzuzu Airport Tower that at this point weather in Mzuzu had less than eight km visibility. Further it was cold and foggy, with rain drizzles and low-level clouds. Mr. Joshua Valera, the late Vice President's Advisor; the Hon. Richard Chimwendo Banda, MP and Ms. Chimwemwe Kachikuwo, the late Vice President's Personal Secretary, all gave testimony that on their way from Lilongwe to Nkhata Bay (via Mzuzu) there was very bad weather and low visibility from Mzimba Turn-off all the way to Mzuzu, necessitating the use of fog lights and considerably slow speeds.

It was the evidence of Mr. Ben Manda, a guard working for Jibs Security Limited and stationed at Pamphara Hill to watch over the TNM telecommunication tower that the weather on this day around the area was very bad. He recalled that it was very cold, foggy and was raining and there were very strong winds. He further recalled that the wind was so strong that it blew off some iron sheets from the nearby Nthungwa forest watch tower which was just next to TNM telecommunication tower. He stated that visibility on this day was poor and one could not see even a short distance.

The evidence of Mr. Manda was corroborated by Mr. Whyton Lusale. Mr. Lusale told the Commission that he is a watchman with the Department of Forestry and he is stationed at the watchtower at Pamphara Hill. He recalled that on 10th June, 2024, it was very cold, very windy, very foggy and was raining heavily. He confirmed that some iron sheets from the watch tower were blown off by the strong winds.

It was the evidence from the Meteorological Station at Mzuzu Airport that at no point on 10th June, 2024, did the weather show plus ten visibility (over ten km). On this day visibility was poor, and the weather showed visibility of eight km or less than eight km. It was also very cold and there were also rain drizzles, a lot of fog and low clouds. It was noted that unlike the other days, the weather at Mzuzu Airport did not improve since the first weather report was received at 06:00 hours that morning. It was stated that if anything, the weather was getting worse contrarily to the usual expectation that the skies would normally clear out as the day progressed.

It is the testimony of Mr. Moyo that at 10:12 hours, the MAF-T03 established radio contact with Mzuzu Airport Tower and stated that they were twenty nautical miles (NM) (about thirty-seven km) North of Mzuzu Airport. The crew also confirmed that they had fuel for up to four hours flying from their departure at KIA in Lilongwe. This was corroborated by the Emergency Section at Mzuzu Airport who have a monitoring room where they listen to conversation between the controller in the airport control tower and the Pilot of any approaching aircraft. This information is written in an Aircraft Movement Book where particular information that can assist during an accident is recorded. Unfortunately, there is no capacity to record conversation between the Airport Tower and the aircraft at Mzuzu Airport as well as between the Mzuzu Airport Tower and the emergency section at Mzuzu Airport.

Having established contact with the Mzuzu Airport Tower, Mr. Moyo advised the crew on the weather in Mzuzu. He advised that visibility was less than five km at the airport, and advised them the runway to use, being Runway 17. It was in the evidence from Mr. Moyo that the pilot on the radio responded that they would go and then come through Ekwendeni.

It was observed by Mr. Moyo the proposition to come through Ekwendeni was normal whenever there is severe weather in Mzuzu. In such circumstances pilots would usually go to Ekwendeni and approach Mzuzu Airport from there by following the M1 Road straight to the airport. It was noted that MAF-T03 never re-established radio contact after that. According to Mr. Moyo, the crew never indicated that there was anything wrong with MAF-T03 at that time and there was nothing in the pilot's voice to indicate any concern. He observed that it was the routine discussion that they normally had in such situations.

It is Mr. Moyo's testimony that after another five minutes, at 10:17 hours he tried to contact MAF-T03 via radio to check their altitude and position and to warn the crew of the deteriorating weather conditions. It was Mr. Moyo's evidence that since they had last spoken at 10:12 hours the weather had gotten worse and Mr. Moyo could not even see the Lunyangwa area in Mzuzu from the Airport (which is a yardstick). To him, visibility was less than five kilometres at that point. The MAF-T03 did not respond to the radio contact.

2.2 EVENTS AFTER THE AIRCRAFT ACCIDENT

2.2.1 Searching for the MAF-T03

The Mzuzu Airport Tower continued attempting to contact the MAF-T03 several times. The Commission was informed that the next attempt to locate the MAF-T03 was at 10:17 hours. After some thirty minutes from his last attempt to speak to the MAF-T03, Mr. Moyo called KIA to find out if the MAF-T03 had diverted and was returning to KIA. The response was in the negative.

At that point, Mzuzu Airport Tower tried to check with Karonga but were told that the aircraft had not landed there. Mzuzu Airport Tower then asked Karonga to try and contact the MAF-T03 on the radio, but Karonga said there was no response. At the same time, KIA also tried to contact the MAF-T03 on the inbound frequency to check if the flight was returning to KIA but there was no response. After the above efforts to establish radio contact with the MAF-T03 failed, Mzuzu Airport Traffic Control tower started searching for the aircraft by contacting aerodromes surrounding Mzuzu to check if the MAF-T03 had landed anywhere.

It is also in testimony that Mzuzu Airport Tower also contacted KIA to advise them to try and contact its counterparts in the surrounding countries, Lusaka, Beira, and Dar-es-Salaam, to check with their aerodromes. The response was negative but were advised to contact KIA if they had any information on the missing aircraft.

At this point, Mzuzu Airport Tower alerted the Mzuzu Airport Police who escalated the same to the superiors at the Regional Police. Word was sent around to all Police Stations and Units in the surrounding areas of Karonga; Likoma; Kasungu; Rumphu; Chintcheche; and Usisya. After all these attempts, Mzuzu Airport Tower then called KIA to ask KIA to raise other aircrafts flying in the Malawian airspace if they could try to listen to both frequencies both in Mzuzu and for Lilongwe and relay information to the MAF-T03.

It is evidence that at that time there were flights from Blantyre to Lilongwe (7Q-CMK) at 10:50 hours and another flight from Likoma to Lilongwe (7Q-FTA) at 11:16 hours. Both flights tried to raise AF88M (MAF-T03) on both 118.1 MHz and 128.0 MHz but got no response. Another overflight flying from Addis Ababa to Harare (ET 873) was

also contacted at 11:20 hours. It also tried to raise AF88M on the two frequencies but received no response. It is in evidence that aircrafts switch between these frequencies when they are within the respective controlled airspaces of Lilongwe or Mzuzu.

It was in evidence that by this time, KIA Control Tower had received many calls from the MDF, KIA Aviation Security and KIA VIP Lounge inquiring about the MAF-T03. From MDF, the message was clear that once any contact is established with MAF-T03, the crew should be advised to return to KIA as the funeral ceremony in Nkhata Bay had already started. On the other hand, the VIP Lounge wanted to know the return arrival time once contact was established so that they could contact and organise with the late Vice President's office.

The Commission received evidence that the MAF-T03 used a Very High Frequency (VHF) radio which uses line of sight. By this, it means that contact will be established between the aircraft and another point as long as there is no obstruction to the line of contact. Evidence received also established that it was normal for crew flying to Mzuzu to sometimes fly to Ekwendeni if the weather is bad and thereafter visually using the M1 Road to navigate their way and land at Mzuzu Airport, since the airport is just next to the M1 Road.

It was also in evidence that Mzuzu weather is very unpredictable such that it is common for pilots to circle around for a while before finding a space to land. It was in evidence that in aviation, the air control tower would normally issue weather reports to the approaching aircraft, but it is the decision on whether to land or not, rests with the Pilot-in-Command.

At 11:30 hours, after noting that there was still radio silence, Mr. Moyo reported to KIA Airport Manager and Director of Aerodromes and Air Navigation Standards in the Civil Aviation Authority that the MAF-T03 was missing.

The Commission established that information that the aircraft was 20 NM North of Mzuzu and that the crew were flying to Ekwendeni led to some confusion. The confusion was further exacerbated, in retrospect, when it was estimated later that the aircraft crashed at 10:16 hours which was four minutes after the contact with Mzuzu Airport Tower. The location of the crash is nearly equidistant to the twenty NM North position stated by Mr. Moyo. The Commission received contrary evidence that the

military at Zomba Air Base was informed that the aircraft was twenty NM North East of Mzuzu which was around Usisya in Nkhata Bay.

The Commission heard evidence that when the weather is bad in Mzuzu and its surrounding areas, pilots sometimes go to Usisya (hoping to approach Mzuzu from the lakeside) or Ekwendeni (hoping to use the M1 Road) in order to navigate and land at the Mzuzu airfield. From the evidence received, it was also thought that the aircraft had failed to land and was therefore contemplating returning to Lilongwe. The mention of Ekwendeni also had the effect of directing the initial search to Ekwendeni before it shifted to the Airtel Tower at Raiply.

In light of the delayed arrival of the late Vice President at Mzuzu Airport, the Deputy Commissioner of Police for the Northern Region, Mr. Ginton Mitayi told the Commission that on instructions from the Commissioner of Police for the Northern Region (COMPOL-N), Mr. Richard Luhanga, he ordered the late Vice President's Guard Commander who had led the advance team and were at Mzuzu Airport to remove all the motor vehicles that formed the late Vice President's convoy to avoid raising suspicion with the delay among the people. The convoy was moved to the Regional Police Station.

2.2.2 Conduct at the Funeral Service of the late Mr. Kasambara, SC

According to the evidence before the Commission, the funeral ceremony in Nkhata Bay started around 10:00 hours, the funeral service started and those present were advised that the late Vice President had been delayed. Later on, it was announced that the late Vice President had failed to attend the funeral. Evidence received indicates that around 12:30, the COMPOL-N, the Commanding Officer, Moyale Barracks and other senior Police and MDF officers were seen leaving the funeral service in a hurried state.

2.2.3 Rescue Coordination Centre

Mr. Fred Chisepeya, Director of Aerodromes and Air Navigation Standards in the Civil Aviation Authority informed the Commission that a Rescue Coordination Centre (RCC) is a point where a Search and Rescue function is instituted and coordinated whenever an aircraft goes missing. Each country has an obligation under the International Civil

Aviation Organisation's Convention on International Civil Aviation (Chicago Convention) to institute a Search and Rescue (SAR) mission when an aircraft goes missing. In Malaŵi's aviation industry, the RCC is established at KIA.

Annex 12 to the Chicago Convention refers to three emergency phases which guide the SAR:

- (a) *Uncertainty phase*: a situation wherein uncertainty exists as to the safety of an aircraft and its occupants.
- (b) *Alert phase*: a situation wherein apprehension exists as to the safety of an aircraft and its occupants.
- (c) *Distress phase*: a situation wherein there is a reasonable certainty that an aircraft and its occupants are threatened by grave and imminent danger and require immediate assistance.

Accordingly, the RCC was activated at 11:31 hours, after the Senior Aerodrome Flight Information Officer for Mzuzu Airport, reported to the Airport Manager at KIA and the Director of Aerodromes and Air Navigation at the Civil Aviation Authority that he had a missing aircraft. The RCC was initially established in the Air Traffic Control Room to coordinate the search of the missing MAF-T03.

At 12:00 hours, the RCC was moved to the Conference Room of the Airport Developments Limited (ADL) for two reasons. First was to accommodate more stakeholders that were coming to join in the operation and secondly to allow the Air Traffic Control room to revert to its functions and deal with air traffic within the airport vicinity. At that moment, the following gathered in the RCC:

- (a) Chief Executive Officer of ADL;
- (b) Acting Director General of the Civil Aviation Authority;
- (c) Officer-in-Charge of Police at KIA;
- (d) Other officials from:
 - (i) Malaŵi Civil Aviation Authority;
 - (ii) Department of Civil Aviation;
 - (iii) MDF;
 - (iv) The Air Force;
 - (v) Airports Development Limited (ADL);

- (vi) Airport Police;
- (vii) National Intelligence Service;
- (viii) Airport Fire Services.

The RCC facilitated further contacts with more airstrips to check if the aircraft had landed in those airstrips. These airstrips are Likoma; Vwaza; Kabwafu; Karonga; Nyika; Chitipa; Dwangwa; Chintheche; Mfuwe in Zambia; and Mbeya and Songwe in Tanzania.

At 12:42 hours, civil aviation authorities based at Mzuzu Airport deployed teams to search around Ekwendeni area where the crew had reported that they were proceeding to at initial contact with Mzuzu Airport Tower. The Commanding Officer from Moyale Barracks also mobilised a team of servicemen to go and search around Ekwendeni. Meanwhile, the RCC also contacted the Aeronautical Rescue Coordination Centre (ARCC) based in Johannesburg, Republic of South Africa for assistance.

2.2.4 Activation of Search and Rescue

After 13:17 hours, which was exactly four hours from the time that the MAF-T03 had departed from KIA with fuel endurance of four hours the SAR operation was activated. At this point, it was absolutely clear that the MAF-T03 was no longer in the air. The SAR was coordinated between the MDF, Police and Civil Aviation and was established at an old airstrip near Raiply at Chikangawa in Mzimba. The activation of the SAR entailed:

- (a) mobilising Police officers;
- (b) mobilising military personnel;
- (c) mobilising Red Cross Society personnel;
- (d) mobilising Civil Aviation personnel;
- (e) alerting Mzuzu Central Hospital and Mzimba District Hospital (closest to Raiply but less equipped). The two hospitals to set up trauma centres within their hospitals;
- (f) mobilising ambulances from the two hospitals as well as other health institutions; and
- (g) establishing a Command Centre (at Raiply).

The first group to be mobilised was from the MDF, Moyale Barracks. Two sections of troops and an ambulance proceeded to go and start searching in Ekwendeni based on communication from Mzuzu Airport Tower, because they were thinking that it was the last position the aircraft went. As the troops were being dispatched, another communication came that the Ekwendeni mission should be cancelled and instead the search team should proceed to Raiply because the information by telecommunication providers and Malawi Communications Regulatory Authority (MACRA) was that a mobile phone signal of one of the passengers was picked up by one of the towers at Raiply.

The team proceeded to Chikangawa where the search concentrated around the Airtel Tower at Raiply based on the indicative radius of ten km of the tower at Raiply. Mobile phone data showed that some phones belonging to the passengers connected with the Raiply Airtel Tower, with one phone still active at 11:06 hours. Data from Airtel also had one of the phones briefly connecting with the Airtel Tower in Chikangawa at 10:12 hours. The Chikangawa Airtel Tower is closer to Mzuzu than the Raiply Airtel Tower. After the search of the ten km radius achieved without any success, the search was extended to a twenty km radius.

Evidence received from all the institutions and agencies who engaged in the search was that the weather was very bad on the day. It was very foggy, cold with rain drizzles, and visibility was very poor. It was received in evidence that while the SAR had started a bit earlier, it was around 17:00 hours that most of the stakeholders converged at Raiply and they kept coming.

2.2.5 Organisation of the Search and Rescue

Evidence received shows that initially there was poor coordination of SAR. From the trigger point of 13:17 hours, different stakeholders and institutions organised their own SAR missions:

- (a) the MDF mobilised its Platoon based at Kasitu Camp in the Raiply part of Chikangawa Forest as the initial team, which was later joined by personnel from Moyale Barracks. The Platoon at Raiply has a permanent base as part of protecting the Chikangawa Forest (Raiply Plantation);

- (b) the Police mobilised its personnel from Nkhata Bay, Mzuzu, Mmbelwa Division and Mzimba;
- (c) the Red Cross mobilised volunteers from Mzuzu and Mzimba but were joined from officers from the headquarters in Lilongwe. The team from the headquarters organised blankets and a drone;
- (d) Raiply (Malaŵi) Limited provided its staff, especially those who normally work in the forest as well as vehicles.
- (e) UTM had some of its members participating in the search.
- (f) members of the public and the media joined the search as and when they could.

2.2.6. Notification of His Excellency the President

At 11:35 hours, the MDF Commander, contacted and informed the President of the missing MAF-T03 as well as the fact that they were searching for the aircraft. At 12:15 hours, the Commander went to Kamuzu Palace to brief His Excellency the President in person. The MDF Commander was ordered by His Excellency the President to continue the efforts to locate the MAF-T03 and report back within four hours.

The Commission received evidence that later, in the day the MDF Commander accompanied by the Air Force Commander, went again to Kamuzu Palace at 15:00 hours. They were joined by the SPC, Minister of Health and the Inspector General of Police. The aim of this visit was to apprise His Excellency the President on the situation at hand and the progress made so far. The President was informed that the plane was still missing and could not be located. The President directed that the Inspector General of Police and Minister of Health go and brief Madam Chilima about the missing aircraft. His Excellency the President advised that a Press Release be prepared informing the nation of the development. His Excellency the President further directed that his trip to Bahamas be cancelled and that external support be sought for search and rescue.

After that, His Excellency the President called for a Cabinet meeting at 18:00 hours. This was later shifted to 22:00 hours to allow several Cabinet Ministers who were travelling from outside Lilongwe to attend. The agenda for the Cabinet meeting was the missing of MAF-T03. After the Cabinet meeting, His Excellency the President addressed the Nation at 23:00 hours where he informed the Nation of the missing

MAF0T03 and provided an update of what was known to Cabinet then and the progress the search processes.

2.2.7. Communication from Passengers

The Secretary to the Vice President, Dr. Sikwese gave evidence that he communicated, via WhatsApp text with the late Vice President while the MAF-T03 was in flight between 09:30 and 10:07 hours. He stated that his last message, sent at 11:10 hours was however never delivered. The last message was requesting the late Vice President to consider returning to Lilongwe as there were indications that there was severe weather in Mzuzu.

The Special Assistant to the Vice President (Media), Ms. Winnie Nyondo gave evidence that she received a text message via Telegram at 10:10 hours from the Aide-de-Camp (ADC) to the Vice President, Inspector Chimaneni. The message read, "Too much turbulence." She later posted this message on her Facebook Account. She indicated that this was not the first time that the ADC and other members travelling with the late Vice President in an aircraft had communicated while in flight.

Evidence indicates that there were several phones which were active during the flight to Mzuzu. These phones belong to the late Assistant Commissioner of Police Kapheni; the late Inspector Chimaneni; the late Major Aidin. Evidence obtained from Telekom Networks Malaŵi plc shows that one of the phones belonging to the late Mr. Daniel Friday Kanyemba had gone off 10:16 hours on 10th June, 2024. The last tower that it used was the TNM Nthungwa tower the site of the accident. This information was given long after the aircraft was already discovered.

2.2.8 Preparations by Medical Personnel

Evidence was received that around 15:00 hours, the Mzimba District Hospital and Mzuzu Central Hospital were alerted of a possible aircraft accident in Chikangawa. The two hospitals were asked to prepare emergency ambulances and emergency centres. Mzuzu Central Hospital mobilized an emergency team medical personnel comprising a trauma surgeon, an anaesthetist, nurses, including a trauma and critical care nurse and three ambulances. Unlike Mzuzu Central Hospital, Mzimba District Hospital does not have an emergency centre. So, the hospital had to designate space

to accommodate any casualties if any. The Hospital therefore prepared their High Dependency Unit in case of injuries. This included mobilising resources from different wards such as oxygen cylinders, drugs, etc.

Further, Mzimba District Hospital dispatched two ambulances to Chikangawa to join the search team. The ambulance team included anaesthetists, clinicians, and nurses. The Director of Health Services for Mmbelwa District Council led the medical emergency preparatory team. Mzimba North District Health Office (DHO) also sent two extra ambulances from Mzuzu. The Mzimba North DHO is based in Mzuzu while Mzimba South DHO is based at the *Boma*. Amongst the team dispatched from Mzuzu Central Hospital was a surgeon.

Since the place and site where the aircraft may have come down was not ascertained, there was no prior decision of whether to ferry any casualties to Mzimba District Hospital or to Mzuzu Central Hospital. The determining factor was the distance.

2.2.9 Response from Raiply

Evidence was received that around 15:00 hours, the SPC called the Chief Executive Officer of Raiply to inform him of a possible incident involving the Dornier aircraft and also to ask for assistance in the search for the MAF-T03. Although the Chief Executive Officer was not on site at the Factory, Raiply immediately mobilised its staff, especially those who were working in the forest, and were very familiar with the area to help in the search. Raiply also provided vehicles to the search parties. The team from Raiply worked hand in hand with the MDF and the Police and other parties who were searching.

The central point of coordination was the old airstrip at Raiply. Initially the parties were searching blindly around a ten kilometres radius of the Raiply Airtel Tower. This was later expanded to twenty km but concentrating on the East of the tower (the Kalungulu Charge within Raiply Concession Area).

Raiply manages a plantation that is 20,000 hectares planted area. It has regular patrols, and a lot of people work on daily basis around the plantation. The plantation has four sections namely: Kalungulu; Chikangawa; Champhoyo; and part of Nthungwa. Each section has seven compartments. Each compartment has a number

and an area. At the time the MAF-T03 went missing, Raiply had just employed about 150 labourers to do weeding in their forest management area.

The MDF has a platoon stationed within the Raiply plantation. The platoon was brought in following cases of thefts of trees and timber as well as encroachment. This was a result of an agreement among the Ministry responsible for Forestry matters, the Ministry of Defence, and the Ministry of Homeland Security.

2.2.10 Search Leads, Evidence of Aircraft Sightings and Aircraft Navigation

The Commission received evidence that there were various search leads that were provided, mostly by members of the public within or in the vicinity of the Raiply plantation. However, most of these were false and led to waste of a lot of valuable time. There were reports of sightings of a crash or of an aircraft at the following:

- (a) around Raiply (15:37 hours);
- (b) around Elephant Rock (16:12 hours) by Mr. Luka Banda who called the RCC to say that there was an aircraft flying very low around the area;
- (c) Kawandama Hills up to Mzimba;
- (d) Eswazini.

While travelling to Kawandama, a search party saw some smoke downhill. The party walked into the forest (blue gum forest with trees that are just knee to shoulder high). When they reached the spot, they found that it was charcoal burners (*amakala*), so the party returned to their vehicles and proceeded towards Kawandama. The party proceeded to a tower which is East of Kawandama Forest Office in order to gain height so that they could see far but saw nothing. The men that were manning this tower told the party that they had seen or heard nothing. The party later returned as there was a lot of mist, visibility was poor, and it was also becoming dark.

Evidence was received that at the peak of a hill within the Chikangawa forest, there is a watch tower with a resident security guard. When asked, the security guard said that around 11:00 hours, an aircraft passed his position flying towards East and it was heading towards Wozi. He said it was producing a sound like a tractor flying near the

ground. He said it was foggy at the time, and he could not see it properly. This was around 17:30 hours.

The Commission received evidence that someone called the search teams after seeing a light in the bush. Upon reaching the place, there were tractors. It was a centre where the Chikangawa Forest had put up a kind of camp. The Group Village Headman of the village where this camp is said to have stated that one of the tractor operators who had knocked off from duty had explained that he saw an aircraft passing by and producing sound like a tractor. He said there was thick fog, and it was drizzling.

The Commission also received evidence was received that as the search party was strategizing to go to Wozi, information came in, around 18:00 hours, with a group that joined the search party that people have seen the aircraft at Tchiri. Tchiri is on the Mzimba by-pass road. The information was that at Tchiri, the aircraft had hit a tree. Another piece of information was that the aircraft had hit goal posts. The search team rushed there and met the headmaster of Tchiri Primary School who said that an aircraft had indeed passed their school two times. It was flying low, a few meters from the treetops, and had touched some blue gum trees. The second time it passed the school, it went towards Chikangawa. He also said that time, the learners were on break, and they were going back in class. He said the learners go back to class at 10.20 AM.

The search parties also received a lot of rumours which turned out to be false, for instance:

- (a) '*Ndege inauluka akuti inauluka kupita chauku*' including close to the residential area at Raiply;
- (b) '*Imafuna kugunda masamba a blue gum.*';
- (c) '*Ayi yatera*' at a village just behind the Raiply factory; and
- (d) 'It has not landed here; it has not crashed here it has taken the direction of Eswazini'.

The Deputy Headmaster at Kasangazi Full Primary School told the Commission that he was teaching Standard 6 and it was close to break at 09:50 hours. He heard the sound of an aircraft. Usually, most aircrafts when they are going to Mzuzu they pass through this direction. He allowed the learners to go for break a minute early and they

were excited. The aircraft was flying very low than usual (the altitude was not the usual altitude). He stated that during that day it was a little bit foggy. He thought that because of the fog, the pilots had decided to fly at a lower altitude. He also stated that there was nothing untoward with the sound. It passed through the school and disappeared towards Elephant Rock.

Mr. Colrerd Nkosi from Kasangazi told the Commission that it was foggy on that day, and they could not see far. He heard the sound of an aircraft. In the past, *kawuniwuni* (research) aircraft had been passing through the area. He then saw the aircraft flying very low. When the aircraft reached near the school, the learners got out of their classes to see it. Its tyres (landing gear) were out as if it wanted to land. While at the school, it circled at a place in this area and went through a graveyard. In his estimation, the aircraft was flying between ten and fourteen metres above the ground. After it circled, it flew at a high speed and disappeared in the clouds. When he saw the aircraft flying abnormally, he was thinking that it was a *kawuniwuni* aircraft. Later in the night he received a call from Lieutenant Colonel Herbert Lemani, Commanding Officer, Moyale Barracks who asked him about the missing aircraft.

On the northern side of the Nthungwa Hill is a human settlement. It is on the blind side of the hill where the aircraft wreckage was found. Evidence received indicates that some people at the settlement heard a sound on the day but thought that since the other side of Nthungwa there is a quarry mine, they were blasting rocks using dynamite (*mabomba*) as was usually the case. Others thought that it was within the forest and the poachers were exchanging gunfire with the Forest Guards, something that often happens. The day being very cold, windy, and foggy no one thought of investigating further bearing in mind the possible explanations. The estimated distance between the settlement and the site of the aircraft crash is around two km of the M1 Road.

It was the evidence of Mr. Manda, the TNM Tower guard at Pamphara Hill that as he was preparing food in the company of Mr. Lusale, the Forestry watchman, he heard a loud bang. He told the Commission that his initial reaction was that the generator which was powering the TNM tower had blown off. He stated that he quickly went out from his guard house where he was preparing food and went to check the generator. He told the Commission that he found the generator perfectly working and there was no problem. Since across the M1 Road near Pamphara Hill, there is a quarry site where

occasionally, there are loud banging sounds from rock blasting, Mr. Manda concluded in his mind that the noise was from rock blasting at the quarry site. Therefore, he returned to the guard house and continued cooking his food.

On his part, Mr. Lusale, stated that on this day he could not hear much because there was a generator at the TNM Tower that was producing a lot of noise. Therefore, he could not hear anything much because of the heavy winds and the noise from the generator.

The Commission considered the Interim Report from the BFU which detailed the actual flight path of the aircraft, and correlated the report with some leads and sightings as well as the evidence received from pilots who have previously flown to Mzuzu. On the flight path depicted in the BFU Interim Report, Brigadier General Kandula, Deputy Air Force Commander and also a pilot in the Air Force said:

Flying to Mzuzu there is a challenge when it comes to weather. There are two types of flights. What we call Instrument Flight Rules and Visual Flight Rules. When you are flying from Lilongwe to Mzuzu, you start with what you request on the flight where I want to be on the ground for you to fly. As we are transiting to land at Mzuzu, you need to be visual.

Now when you depart Lilongwe sometimes depending on the pilot, you see the way the weather condition is and you are able to after you have been flying some distance with safe light, you can maintain a low-level flight from Lilongwe to Mzuzu so that you are always level with the clouds. But you fly above the clouds.

Now once you are closer to Mzuzu and you see that the weather is not permitting you, you start turning around to look for areas which are open for clouds, so that you have visual contact with the ground that you can descend visually into landing in Mzuzu. So that explains those turns. This is looking for a place where they can enter and go visual to land in Mzuzu.

Brigadier General Kandula on the management of the flight to Mzuzu with respect to transition from instruments to visual flying, said:

First you have to be out of Lilongwe control zone. Kamuzu International Airport is controlled by the radar. And the radar is about 60 miles. After 60 nautical miles, you are outside of radar coverage of Lilongwe. So, after you have been released by radar, now it is when you start transiting to visual flying and it is when you start your descending, and you follow visual rules to make it into landing at Mzuzu. If it is a clear day, you proceed the same height and descend and if it is covered, you check area where it is open and then you go for those areas. And most of the times in Mzuzu, you hear it's open now we are able to see the skies after two to three minutes it's covered. So Mzuzu is unpredictable when it comes to weather.

On the issue of deviation from the Flight Plan route, this is the evidence that Captain Henry Nthani from the Zomba Air Base and rated on the Dornier 228K, stated:

It could be a number of things that makes it to go off the route. Firstly, it could be when you are encountering bad weather in front of you such that you see that this is not a safe area you may request Air Traffic Controller to turn left or right of the track. However, if my memory serves me well, that area is one of the areas we call a radar gap. You don't have access of radar services from Lilongwe which is the only radar service provider unit in Malaŵi.

So, in this particular area, it could be that they encountered the bad weather and they had to divert left of the track and they could be looking for some place whereby we call it a count procedure whereby there is a gap somewhere within the clouds where to descend down and then you need to have the visual contact with the ground. That is the procedure that we normally use if you fly from Lilongwe to Mzuzu if you encounter bad weather.

2.2.11 Suspension of Search

Evidence received indicates that the COMPOL-N was the most senior officer at the Command Centre at Raiply. It was in the evidence before the Commission further that the search and rescue mission was indeed very disjointed on the 10th June, 2024 due to:

- (a) lack of systemic and strategic approach to the search (Chikangawa Forest has a vast area of 50,000 to 55,000 hectares);
- (b) lack of knowledge on what to do, and where to search other than ten km around the tower at Raiply. After a search of a radius of twenty km from the tower was done, and there was no sign of the MAF-T03, without any further lead, it became difficult to coordinate a search;
- (c) most of those involved did not have the proper tools and equipment to continue the search in the night which was very cold, windy, foggy and drizzly;
- (d) most of those involved did not have proper attire bearing in mind that they just rushed and joined the search mission, and in view of the harsh weather conditions there was very high risk of injury to their bodies or hypothermia;
- (e) the participation of so many civilians that had joined in the search;
- (f) many false leads which led to the search party to waste time chasing after such leads;
- (g) the fact that no one had an idea of where to search or where to concentrate their resources; and
- (h) the search operation being done in full view of journalists and members of the public who were relaying information live.

At 22:00 hours, the COMPOL-N, after consulting with other stakeholders, decided for a *tactical pause* in the search. The parties agreed to reconvene at 05:00 hours, the next day. The Police and most of the entities that had convened at the Raiply Command Centre dispersed thereafter. However, a team of Police detectives was deployed and remained on the ground throughout the night to gather information from the surrounding areas to help the search party when it reconvened. This position was corroborated by the Regional CID Officer North who confirmed that indeed a number of detectives were on the ground to gather intelligence and more credible leads which would be used the following morning.

From the evidence received, the MDF did not suspend their search but simply withdrew from the Raiply Command Centre and reconvened at their base at Kasitu Camp where orders from the MDF Commander were that they should continue searching through the night, which they did. The MDF indicated that the order to

suspend the search would not apply to them because they have a different structure, and orders can only be received from their superiors in the MDF.

2.2.12 Communication among and within Various Organs and Agencies

The evidence received indicates that there was heavy traffic of communication from the moment the aircraft had failed to land at Mzuzu at 10:02 hours among various State and Non-State entities. Such communication was vertical (within: top-down) and horizontal (between and among organs) among the OPC; MDF; the Air Force; Malaŵi Police Service; the Civil Aviation Authority; Airport Development Limited and their airports (Chileka, KIA and Mzuzu); Malaŵi Red Cross Society; Ministry of Health and the Directors at Mzimba District Hospital and Mzuzu Central Hospital; Malaŵi Communication Regulatory Authority; TNM plc; Airtel Malaŵi plc; Fire Services; and the Department of Civil Aviation. The evidence reveals that the communication was not coordinated as such several people were contacted by multiple persons.

2.2.13 Notification of Missing Aircraft to Bereaved Families

Madam Chilima gave evidence that normally the late Vice President would keep her updated whenever he travelled. On this day, the late Vice President did inform her that they had departed but she never received a message that they had landed. She stated that because she was working on an academic paper for her Ph.D. studies, she did not realise that he had not contacted her. She then stated that she started watching the funeral of the late Mr. Kasambara, SC on local television when she noticed that the late Vice President was not present at the funeral. In her mind, she assumed he was already on his way back to Lilongwe bearing in mind, the earlier arrangement.

Madam Chilima told the Commission that around 15:00 hours, Mrs. Grace Valera, wife to Mr. Joshua Valera, came to her house and informed her that the aircraft carrying the late Vice President was missing. At this point, she tried to call the late Vice President's phones, but her calls could not go through. Madam Chilima confirmed that soon after the message of the missing aircraft was given to her by Mrs. Valera, she was told that the Inspector General of Police and the Minister of Health were at the house to see her. This was followed by a few other people who came to the house.

It was the testimony of the Inspector General of Police and the Minister of Health that on instructions of His Excellency the President, they visited Madam Chilima to relay the message of the missing aircraft from His Excellency the President.

It is in the evidence before the Commission, that most of the members of the bereaved families did not receive official notification of the missing of the aircraft. They mostly heard it from social media. They however all acknowledged the speech from His Excellency the President to the Nation regarding the missing aircraft.

2.2.14 Discovery of Aircraft Wreckage

At about 05:00 hours on 11th June, 2024, the Police, medical personnel, Red Cross, Department of Civil Aviation, Northern Region Water Board and Raiply met at the Command Centre which had been set up at Raiply airfield to continue with the search. The MDF joined later because they had continued with the search throughout the previous night and also because they were following up on some leads they had received. Such leads had taken them to Kasangazi where they met some teachers and residents.

The search team was also joined by several other teams such as the team from the Malaŵi University of Science and Technology (MUST) who had brought drones with them; the team from the RCC including Civil Aviation Authority, and ADL; and from the Red Cross who also brought a drone. Based on the intelligence received during the night, the he Police officers were divided into twelve groups of ten officers each and each group was joined by people from MUST, Ministry of Health, Red Cross, Raiply and later by MDF.

At around 09:00 hours, a team from the Air Force, including Col. Mdokhwe, arrived from Zomba to join in the search. They were briefed as to what had happened the previous night and what was to happen that morning as the search for the missing aircraft continued. At that point, the Police had also received some information that the area around Pamphara Hill at Nthungwa should also be searched.

After the groups were dispatched, a team of Police officers, including Commissioner of Police Akis Muwanga, the Head of Operations at National Police Headquarters; Deputy Commissioner of Police Mitayi; Assistant Commissioner of Police Alex Simenti,

the Officer in Charge, Airport Police decided to undertake supervision of the search teams. They were joined by Raiply staff who knew the forest well and settled to commence their supervision at Nthungwa. The team went to Nthungwa Forest Office where they met four men whom they asked if they had seen some Police officers conducting a search there and the men said they had not. The team also asked the four men if they had seen or heard anything unusual the previous day in the morning. The four men responded that that they had heard noise like a gunshot behind Pamphara Hill.

The Police team then drove behind the Pamphara Hill where the men had pointed. Their vehicle broke down. While on the spot, they were rescued by a team of four MDF soldiers who were accompanied by two sawyers. The MDF team of four, was led by Second Lieutenant Obed Mwenebanda, a Platoon Commander based at Kasitu Camp. With him were Corporal Chadaine Haji Zako, Corporal Makwakwa and Corporal Dominic Malema. It was their evidence that the sawyers had told the team that they were very familiar with the terrain and landscape of the area. The sawyers told the MDF team that, that morning, they had noted some strange object near the top of a hill across the river. From a distance, the search team saw something which looked like a metal object on the slope of Pamphara Hill on the other side of the Nthungwa settlement.

Immediately, the team wanted to walk to the slope where this strange object was, but the sawyers told them that they could not use a shortcut as there was a river which they could not cross with a motor vehicle. Instead, the team was advised to drive back, go up Pamphara Hill up to the telecommunication tower where they would park the cars and then walk around to search where that strange object was. The team indeed drove back and then up the Pamphara Hill and parked their cars by the tower.

At the tower, the team found two watchmen, a Mr. Lusale and a Mr. Manda. The two watchmen testified that they were surprised that the Police were asking them about an aircraft when they had not encountered any person around the towers for some days. They testified that no other person had been around the tower than themselves for over a week.

Having found no leads from the watchmen, the team continued their search by walking down the slope and when the team was about 200 meters away, they saw a piece of the aircraft. As they approached, they started spotting some of the passengers and crew members outside the aircraft wreckage lying lifeless.

From this moment, the Police and the MDF Officers present at the site began to contact their respective superiors. The Police called the COMPOL-N that they had found the aircraft while the Platoon Commander called the Commanding Officer, Moyale Barracks who in turn called the Brigade Commander to also relay the news that they had found the aircraft. All other search teams and stakeholders were informed by telephone and they all headed to Pamphara Hill. According to the evidence, it was between 10:30 hours and 11:00 hours when the aircraft wreckage was found.

Colonel Julius Mdokhwe gave his opinion as to why the aircraft did not catch fire. Although it was difficult to determine this, it was his evidence that this was not the first time that this kind of aircraft, Dornier 228, crashed and did not catch fire. He gave an example about an accident at Mpatsanjoka Aerodrome in Salima, where a similar aircraft crash-landed on its belly without catching fire after the landing gear failed to extend. It was explained that perhaps this happened because the aircraft is a high wing aircraft. He said high wing aircrafts are those that have wings on top of the fuselage like the Dornier 228, such that when it crashes, it is likely the fuselage touches the ground first before the wings where the fuel tanks are located. And in this case it appears that after initial contact with the tree, the aircraft hit the ground at high velocity and disintegrated on impact. And being a high wing aircraft, this possibly contributed to its not catching fire, although at the time of impact there was fuel endurance of approximately three hours.

The Commission heard evidence that the first persons at the accident site were four senior officers of the Malaŵi Police, four MDF soldiers, the two sawyers, two officers from Nthungwa Forest Office and two other unidentified persons. The Commission also heard evidence that after these persons had arrived on the accident scene, an order from the Commanding Officer to the Platoon Commander who was on site, was issued to the effect that he should immediately cordon off the area. This order was

carried out and when more personnel both from the Police and MDF arrived, the cordon was properly executed.

The Commission observed that from around noon on 11th June, 2024, both mainstream and social media posted pictures of the accident site and the deceased persons. Both the Police and the MDF showed the Commission the pictures that they took when they arrived at the accident site. The Commission heard evidence that it was not until Colonel Mdokhwe of the Air Force came to the accident site that there were restrictions on the taking of photographs. According to Colonel Mdokhwe, he did not prevent the right and properly identified personnel from taking pictures but wanted to ensure that that only those who have an obligation and the mandate to do so, were taking pictures.

The Commission heard the testimony of several Police officers who told the Commission that they took some pictures at the scene of the accident when they arrived but were abruptly stopped by the military. The Police identified Colonel Mdokhwe as the officer who stopped them, despite their identifying themselves to the Colonel. The Commission heard evidence from the Police that the Police officer who was stopped from taking pictures was in fact the Regional Police photographer responsible for scenes of crime.

It is in evidence that some persons who were allowed near the accident site attempted to take pictures of the wreckage or dead bodies but were prevented from doing by either the MDF or the Police. Some persons who had taken pictures on the site were forced to delete the pictures they had taken. Further, it was in evidence that no media practitioner came to the accident scene as everyone was kept at a distance.

2.2.15 Items found at the Accident Site

It was the testimony of Assistant Superintendent Harry Mbewe of Regional Police Headquarters (Northern Region) that at the accident site and inside the aircraft, the team found and retrieved the following items:

- (a) six assorted smartphones;
- (b) one cell phone, blue in colour;
- (c) cash amounting to K1,894,000.00;

- (d) cash amounting to K69,500.00;
- (e) one hymn book;
- (f) one Diplomatic Passport;
- (g) two USB flash disks, silver in colour;
- (h) three bunches of car keys;
- (i) one black jacket;
- (j) one diary;
- (k) one handbag; and
- (l) two pistols (one pistol was missing but was later found by MDF).

Dr. Sikwese testified that he collected the sum of K5,000,000 from Mr. Samson Ngutwa, the Clerk to Cabinet as the amount approved by His Excellency the President as bereavement money at the funeral of the late Mr. Kasambara, SC. Dr. Sikwese personally passed on the sum of money to the late Vice President on departure. This sum of money was not found at the scene of the accident.

It was the testimony of Assistant Superintendent Harry Mbewe that all the above listed items which he found were handed over to his superiors from Area 30 at Chikangawa Command Centre and that his bosses took the items with them.

2.2.16 Retrieval of Bodies

When the medical personnel, members of Red Cross, Civil Aviation and Fire Department arrived at the crash site, the process of retrieving and identifying the bodies started. The Director General of Mzuzu Central Hospital took charge of this process. Bodies were identified and taken to a place away from the wreckage. It was then discovered that there were other bodies missing and could be trapped in the aircraft.

The Mzuzu Airport Fire Services Department then used its equipment to cut the aircraft in order to extract the bodies that were trapped inside and under the aircraft wreckage. After all the bodies were identified, placed on stretchers, covered with blankets, they were taken to the ambulances that were waiting at the top of Pamphara Hill near the towers.

Evidence from medical personnel and others on site indicates that on the day that the aircraft wreckage was discovered, there was no proper path from the tower to the accident site. The actual spot where the aircraft had lodged was on a smaller hill which was itself very steep with substantial growth of shrubs at the time of the accident. The tower, where the ambulances had parked, was on another higher hill with very steep terrain as well. In the harsh weather of the day, it took over two hours to carry the bodies uphill.

The bodies were all then taken to the Command Centre at the Raiply Airfield. Upon arrival at Raiply Airfield the bodies were taken into a tent where they were placed in body bags supplied by the Mzimba District Hospital.

2.2.17 Repatriation of Bodies to Lilongwe

The Commanding Officer of Moyale Barracks was informed that the bodies were going to be airlifted from Mzuzu Airport to Lilongwe Air Base, so he sent orders to have Mzuzu Airport cordoned off. As this was about to be done, he got further information that the bodies will be air lifted from Raiply Airfield to Lilongwe Air Base by two Zambian Air Force Helicopters. He then ordered that Raiply Airfield be cordoned off in order to control the crowd that had gathered there.

At exactly 16:25 hours, the bodies were airlifted from Raiply Airfield to Kamuzu International Airport and not to Lilongwe Air Base as originally planned because the Lilongwe Air Base has no landing lights. The two Zambian helicopters stopped over at Kasungu Airport to refuel because they had offloaded some fuel on their way to Chikangawa in order to accommodate the weight of the bodies. Thereafter proceeded to land at Kamuzu International Airport.

2.2.18 Arrival in Lilongwe

Around 18:00 hours, the helicopters carrying the remains of the deceased passengers and crew arrived at KIA. His Excellency the President received the remains in the company of Cabinet Ministers, the SPC, Senior Government officials, the MDF Commander and other military officers, the Inspector General and other Police officers,

members of the Diplomatic Corps, leaders of several political parties, the clergy, members of the bereaved families, among others.

After that, the late Vice President's body was taken to the mortuary at Goodwill Funeral Services in Area 4 and the rest of the bodies were taken to Sunset Funeral Services at Kanengo. The body of the late Vice President arrived at Goodwill Funeral Services and was received by the MDF who began to stand sentry until the burial.

2.3 AUTOPSIES

2.3.1 Conduct of the Autopsies

2.3.1.1 Procurement of Autopsy Services

It is in the evidence of Dr. Ben Chilima, that on 11th June, 2024, the Chilima family privately had started making arrangements for an autopsy to determine the cause of death of the late Vice President. The family initially contacted Dr. Tamiwe Tomoka and then Dr. Steve Kamiza.

Dr. Tomoka told the Commission that at around 19:00 hours on 11th June, 2024, she was contacted sequentially by Mr. Kwesi Msusa and a family member, Mr. Sazuze, both requesting a postmortem on the body of the late Vice President. She advised them that ideally, looking at the profile of the deceased, the State should ordinarily be the one requesting the autopsy. Dr. Tomoka also told the Commission that soon after this communication, the Secretary for Health, Dr. Samson Mndolo also contacted her requesting postmortem services. She responded that as there were many bodies, and considering the sensitivity of the case, she would need support from another senior pathologist and settled for Dr. Steve Kamiza. She further recommended that all bodies undergo autopsies so as to assess possible causes of death in relation to patterns of injuries sustained in all the victims.

In his evidence, Dr. Samson Mndolo confirmed that he was aware that the family of the late Vice President was requesting an autopsy. Accordingly, he recommended that all families should have the right to choose a pathologist of their choice rather than

have Government impose a pathologist to avoid conflicts in future. Government would however facilitate and pay for the autopsy services rendered.

Dr. Tomoka further told the Commission that Dr. Kamiza would only be able to join her the following day and the postmortems were scheduled for 13th June, 2024 in order to allow Dr. Kamiza to travel to Lilongwe on 12th June, 2024. Dr. Kamiza confirmed in his testimony that he was contacted on the evening of 11th June, 2024 by a family member of the deceased and also by officials from OPC who arranged for his travel from Blantyre to Lilongwe on 12th June, 2024.

2.3.1.2 Pathologists

The autopsies were conducted by the two specialist pathologists:

- (a) Associate Professor Dr. Steve Kamiza MBBS; FC Path (SA) Anat. of the Kamuzu University of Health Sciences, Blantyre; and
- (b) Dr. Tamiwe Tomoka MBBS; MSc EPI; FC Path (SA) Anat. of University of North Carolina, Lilongwe Campus. She is the Lead Pathologist and Heads the Malaŵi Cancer Programme.

The family of the late Madam Dzimbiri requested that a third pathologist, Dr. Charles Dzamalala, who is a Lecturer in Pathology at the Kamuzu University of Health Sciences be in attendance during her autopsy. Dr. Dzamalala duly attended the procedure in observer capacity but did not submit any report. He was also asked several times to come and give evidence but gave several excuses not to attend to the Commission.

2.3.1.3 Site for the Autopsies

It was in evidence that all autopsies were conducted on 13th June, 2024, three days after the accident. This meant that the bodies had been in ambient environment for about thirty-three hours from approximately 10:00 hours on 10th June, 2024 when the aircraft crashed to 19:00 hours on 11th June, 2024 when the bodies were delivered to the mortuaries and put in a refrigerated environment. The seven bodies were examined at the Sunset Funeral Services mortuary in Kanengo and one body was

examined Goodwill Funeral Services mortuary at Area 4. Autopsies for seven bodies were conducted between 07:13 hours and 10:35 at Sunset Funeral Services while the autopsy on the body of the late Vice President was conducted from 12:51 hours at Goodwill Funeral Services.

It is in evidence that an autopsy was not conducted on the body of the late Mr. Lapukeni following the request by his family to be buried as soon as possible as demanded by the Islamic faith. The body of the late Mr. Lapukeni was therefore released on the morning of 12th June, 2024 and was buried the same day at his home village in Mangochi.

2.3.1.4 Autopsy Methodology, Environment and Findings

It is in the evidence of Dr. Kamiza that ideally, he should have visited the crash site after the accident as possible to appreciate first-hand the accident circumstances. Without visiting the site, he relied on verbal information from interviews with the Police, military officers, and medical personnel who were first on the scene, as well as some limited photographic evidence taken by the Police and military officers. He stated that the photographs that were taken were not as enough and not professionally taken. Further, most of them were taken after the crashed aircraft and site had been tampered with in the process of removing bodies that had been ejected from the aircraft and those that had been trapped and had to be extracted from the aircraft. However, he indicated that they did their best with the available photographs.

Deputy Commissioner of Police Mitayi testified that as Police, they initially took a few photographs, but they were eventually stopped by Colonel Julius Mdokhwe of the Air Force for security reasons. In his testimony, Fire Officer Toby Khunga of Mzuzu Airport also testified that they were only allowed to take pictures by the Air Force cutting the aircraft to extract trapped victims and therefore did not record the untouched accident site. Similarly, Senior Medical Officer for Mzuzu Central Hospital who was on the medical team first to arrive at the scene testified that they were prevented from taking pictures for forensic purposes.

In the evidence of Dr. Tomoka, she testified that it was difficult to get interviews from the military and Police who were first responders at the site, due to tight timelines, the highly charged environment, and the pressure to conduct the autopsies quickly. She

told the Commission that they did as much as they could in the environment they worked in.

In his evidence, Dr. Kamiza told the Commission that the aim of the autopsy was to:

- (a) catalogue in detail all injuries in order to determine injury patterns and possible correlation of these to the mechanism of injury;
- (b) determine the manner of death, whether accident, natural, or homicide;
- (c) determine the cause of death; and
- (d) reconstruct the possible sequence of events at the accident site.

It was the evidence of Dr. Kamiza that the autopsies started at the Sunset Funeral Services mortuary in the morning of 13th June, 2024. Where the cause of death was obvious from exterior factors and the body cavities were closed, an internal examination was not done. All autopsies had either family or official persons present to identify and observe the process. This is recorded and reflected on the autopsy reports from the pathologists. However, Dr. Kamiza reported lack of coordination amongst the various stakeholders including the OPC, Police, MDF and the private mortuaries, as a result of poor communication relating when and who would do the autopsies. Of concern he noted the following:

- (a) The bodies at Sunset Mortuary had all been interfered with by morticians who had already cleaned, packed and sutured some wounds and injuries. It was not clear who had given permission to the morticians to start handling the bodies. Some morticians took pictures of the bodies before working on them. The ethics of morticians taking pictures of bodies and where such pictures potentially ended up is an area of concern.
- (b) Police forensic photographic evidence was done prior to the arrival of the pathologists but some after the morticians had already interfered with the bodies.
- (c) The MDF insisted on having bodies of MDF officers autopsied first and insisted on a fast process so that MDF can arrange for funerals of the officers.

2.3.1.5 Pathologists Findings on the Cause of Death

Dr. Kamiza gave evidence that for all the deceased, their finding was that the manner of death was the aircraft accident. The cause of instant death was high velocity injury to the head leading to fracture disintegration of the skull with complete spillage of brain tissue in seven cases; and high velocity blunt force impact to the chest wall leading to multiple thoracic cage fractures, complete severance of the aorta, ruptured heart, causing massive intrathoracic hemorrhage and circulatory collapse in one patient. All victims also had severe multiple injuries to the face, chest and limbs indicating high velocity impact against solid structures in front of them, likely the back of the seat they were facing. All the injuries were nonsurvivable.

Both Dr. Kamiza and Dr. Tomoka testified that there was no possibility nor evidence of homicide or injury from wild animals before or after the accident as a cause of or contribution to death. Dr. Kamiza further explained to the Commission the condition of one body with evidence of 'cadaveric spasm' of the hand tightly grasping a personal object as evidence of an instant, violent and emotional death that was being anticipated as the aircraft crashed.

In his reconstruction of the possible sequence of events, Dr. Kamiza suggested that the aircraft hit the ground with the nose at high velocity and breaking up instantly at the point of impact, evidenced by the large crater that was created, and aircraft debris being seen from the point of impact all the way to for about 30 meters to where the aircraft rested. Jet A-1 fuel, and soil dust was found in the cabin and deep in open wounds on the bodies whether they were ejected from the aircraft or trapped in the aircraft. This is consistent with instant breaking up of the aircraft on impact and the fatal wounds being sustained instantly on impact. He stated that some bodies were ejected out as the aircraft was rolling after the initial fatal impact resulting in torn garments or clothing. It was his testimony that death had already occasioned at the point of ejection, evidenced by lack of blood at the site where they were found.

It was evidence of both pathologists that it was not possible to exclude medical impairment due to conditions such as stroke or heart attack in the pilots because tissues of the heart and brain were not sampled due to severe injuries from the impact. However, it was noted that it would be very unlikely that both Pilots would suffer these

conditions simultaneously or concurrently. They further submitted that they did not have access to normal medical records to confirm pre-existing conditions that could potentially lead to in-flight impairment.

Both pathologists told the Commission that specimens for toxicological assessment were not done because the bodies had no blood or urine to sample at the time of autopsy. Tissue from the eye (vitreous fluid) of one crew member was obtained and preserved and can potentially be used for toxicological assessment. This specimen has been preserved at the Kamuzu Central Hospital Laboratory. Dr. Kamiza confirmed that tissue was kept only from one crew member, despite his listing on injuries on the other Pilot stated that he had lost only one eye, and potentially vitreous fluid could also have been taken from this crew. He gave the opinion that probably both eyes were lost, and he recorded the injury list wrongly.

Dr. Kamiza told the Commission that although he could not rule out intoxication by way of toxicological investigations, he did not feel the crew would be intoxicated as they were military officials, and they were flying a Vice President so he would not expect them to be so, and this possibility was pushed aside. Nonetheless he instructed the mortician to keep the sample, in case further investigations may be needed. At the time of the autopsy, there was minimal communication with the Civil Aviation Authorities on specific specimens that would be required for analysis. Dr. Tomoka told the Commission that the sample preserved, if sent to a laboratory in South Africa, the results could be back in three to four weeks. In view of the time lag between the accident and the time of sample collection, the results obtained for any toxicological assessments are not likely to be adversely affected.

2.3.1.6 Survivability

In light of the manner and extent of injuries suffered by all persons on board as described under 2.3.1.5, death occurred instantly upon impact. By the time, some passengers and crew were thrown out of the aircraft, death had already occurred. The accident was not survivable.

2.3.2 Submission of Autopsy Reports

The pathologists submitted the autopsy reports to the relevant authorities for onward transmission to the relevant families. Dr. Kamiza told the Commission that the late Vice President's report went to the Chilima family. Dr. Mndolo told the Commission that the report of the late Madam Dzimbiri was passed on to her family on request. The reports for the crew members were sent to the MDF Commander. For the Police, the reports were sent to the Inspector General of Police.

Copies of all autopsy reports were sent to OPC through the Secretary for Health as the OPC was officially responsible for the requesting for the conduct of the autopsies on the rest of the bodies.

2.3.3 Family Involvement in Autopsy Process and Proceedings in the Mortuary

The experiences of how families assessed their participation in autopsies and proceedings in the mortuary varied. Dr. Kamiza gave evidence that due to the severe nature of injuries he recommended against viewing of the bodies. He also told the Commission that the autopsies were done in an open space where all the bodies were in full view of everyone who entered the room. Such that a relative going into the area would be exposed to all the other bodies which could be very traumatizing. For this reason, relatives were not allowed to view the bodies during the autopsies.

That notwithstanding, Dr. Kamiza observed that the autopsy area did not provide enough privacy, and it was overcrowded with Police and MDF officers, all taking pictures, as well as performing investigations and other activities on their officers like dressing them up in military clothes after the autopsies, ready for burial. The space was not most ideal for autopsies, but the pathologists had to do with what they had. Nearly all the bodies were grossly disfigured, and they were placed in body bags before being laid in the coffins and a recommendation was made to each family not to view the bodies for fear of deep trauma resulting from the viewing. For family members who testified, the following were their experiences:

(a) Dzimbiri Family

Mrs. Lucy Dixon (nee Muluzi), daughter of the late Madam Dzimbiri, testified as a family member. She was grateful for the support the Dzimbiri and Muluzi families received. She wondered if this was because of the privileged position they have as a family. She is aware that many other families have not received the autopsy report. As regards the autopsy process, she told the Commission that their appointed pathologist, Dr. Charles Dзамalala did not have an input in the autopsy report, and he just observed. Dr. Kamiza confirmed that Dr. Dзамalala only observed the process.

Mrs. Dixon also wondered why any samples were not taken from the body of her mother as this may have helped in diagnosis of the cause of death and not just assume trauma was the obvious cause of death.

(b) Chilima Family

On 12th June, 2024, the SPC visited the Chilima family who had felt the Government was slow in making burial plans. The family privately had already started planning for an autopsy and purchase of a casket. SPC informed the family what plans Government was putting in place for the deceased:

- (a) all the deceased would undergo Government sponsored autopsies by privately identified pathologists;
- (b) the late Vice President would be honored with a State Funeral considering wishes of the family;
- (c) the late Vice President would be laid to rest after all other deceased in order to give a befitting ceremony to the late Vice President.

On 13th June, 2024, 12:51 hours, an autopsy was conducted on the body of the late Vice President. Dr. Ben Chilima, a relation to the late Vice President represented the family at the autopsy and gave evidence as follows:

- (a) The family was happy with the team of Drs. Kamiza and Tomoka as pathologists, as they were the ones they had contacted privately.

- (b) At the mortuary there was good Police security, and all Police and civilians were identified by IDs.
- (c) The pathologists did a thorough job and allowed the family members to ask questions for clarification. They asked specifically for verification that there were no malicious injuries such as gunshot injuries, and the pathologists took family members for a visual inspection of the body and there was no evidence of gunshot injuries.
- (d) The family noted that indeed the nature of the injuries sustained were not survivable and that death was probably instantaneous.
- (e) The family were shared the autopsy report and were satisfied with it.

The former Second Lady also gave evidence. In relation to the autopsy process, she is aware that this took place and has seen the autopsy report. She particularly wanted to know if any toxicological tests were done on the crew and what the results are.

(c) Lapukeni Family

Mrs. Sarah Lapukeni, spouse to the late Mr. Lapukeni whose body was taken for burial on 12th June, 2024 without undergoing an autopsy, was very emotionally distraught.

(d) Rest of the Bereaved Families

Due to the fact that the requests for the autopsies came from the OPC, the pathologists submitted the autopsy reports to the requesting party, the OPC. For this reason, most of the families were not aware that the autopsy reports in which they had an interest could be sourced, on request, from the employers of their deceased relatives.

2.4 GOVERNMENT'S ROLE DURING THE FUNERALS

2.4.1 Ministerial Committee

The Commission received evidence from the Minister of Justice, Hon. Titus Edward Songiso Mvalo, that on 11th June, 2024, His Excellency the President appointed a Ministerial Committee that was tasked with the responsibility of organising the State Funeral for the late Vice President as well as the funerals of the other eight deceased persons. He was appointed as the Chairperson of the Committee. The other members of the Committee were:

- (a) Hon. Harry Mlekanjala Mkandawire - Minister of Defence;
- (b) Hon. Michael Usi - Minister of Natural Resources and Climate Change;
- (c) Hon. Simplex Chithyola Banda - Minister of Finance and Economic Affairs;
- (d) Hon. Nancy Tembo - Minister of Home Affairs;
- (e) Hon. Khumbize Kandodo - Minister of Health;
- (f) Hon. Richard Chimwendo Banda - Minister of Local Government, Unity, and Culture;
- (g) Hon. Ken Zikhale Ng'oma - Minister of Homeland Security;
- (h) Hon. Vera Kamtukule - Minister of Tourism;
- (i) Hon. Moses Kunkuyu Kalongashawa - Minister of Information and Digitalization; and
- (j) Hon. Jacob Hara - Minister of Transport and Public Works.

He submitted that the Committee co-opted the then Secretaries General of the Malawi Congress Party and the UTM Party namely:

- (a) Mr. Eisenhower Mkaka; and
- (b) Dr. Patricia Kaliati, respectively.

He further added that the Ministerial Committee was supported by a Technical Committee which was composed of Principal Secretaries from various Ministries, as well as some heads of Government institutions as follows:

- (a) General Paul Valentino Phiri - MDF Commander
- (b) Ms. Merlyne Yolamu - Inspector General of Police
- (c) Pastor Dokani Ngwira - Director General, National Intelligence Service
- (d) Mr. Godwin Kaonongera – Principal Secretary (Finance), OPC
- (e) Dr. Betchani Tchereni - Secretary to the Treasury
- (f) Mr. James Chiusiwa - Secretary for Defence
- (g) Mr. Richard Hara - Secretary for Local Government
- (h) Mr. Benard Sande - Secretary for Foreign Affairs
- (i) Dr. Steve Kayuni - Secretary for Homeland Security
- (j) Dr. Luckie Sikwese - Secretary to the Vice President
- (k) Dr. Samson Mndolo - Secretary for Health

- (l) Mr. Charles Kalemba - Commissioner for Disaster Management Affairs
- (m) Mr. Samson Ngutwa - Clerk to the Cabinet
- (n) Eng. David Mzandu - Secretary for Transport and Public Works
- (o) Mr. Chisomo Kasamba - National Public Events.

In his testimony, Hon. Mvalo stated that the very first task undertaken by the Committee was to facilitate the ferrying of the bodies of the deceased passengers and crew from the airfield at Raiply in Mzimba to KIA on 11th June, 2024. The bodies were flown to KIA, via Kasungu, by two helicopters that were sourced from the Republic of Zambia. He stated that they had to stop at Kasungu airfield for refuelling. Upon arrival at KIA, the bodies were taken into respective ambulances that had been arranged by the Committee. The Late Vice President's body was taken to Goodwill Funeral Services, and the rest to Sunset Funeral Services at Kanengo. This was on account of the advice from the military that the late Vice President's body should be accommodated alone.

It is in his testimony that the Committee met on 12th June, 2024 at the Main Conference Room of the OPC building to further plan the funeral arrangements and programmes for the burial of the deceased. At that time, the bodies of the deceased, except that of late Mr. Lapukeni, remained at their respective mortuaries pending the conduct of autopsies on 13th June, 2024. The Commission was informed that the body of late Lapukeni was released in the morning of 12th June, 2024 at the request of the family in order for them to comply with Islamic rites of burial of the body as soon as is practical or at least within 24 hours of death.

2.4.2 Burial of the Crew and Passengers

It is in the testimony of Hon. Mvalo that the Ministerial Committee collaborating with the Technical Committee agreed and put in place all logistics regarding the funeral ceremonies of the eight deceased passengers and crew who were in the MAF-T03. In that regard, he informed the Commission that Government took the responsibility of meeting all the logistics and expenses relating to the funerals.

In line with the foregoing, the Government met the mortuary costs including the cost of the autopsies, and also bought coffins or caskets, as applicable, for each of the

deceased persons. Government further provided transportation from Lilongwe to the respective burial places of all deceased. Government also provided the sum of K2,000,000 for food and other related expenses, and the sum of K1,000,000 bereavement money for each of the seven families.

In respect of the late Madam Dzimbiri, former First Lady, the Government provided the sum of K5,000,000 for food and related expenses, and K5,000,000 as bereavement money to the family. As former First Lady, the late Madam Dzimbiri was buried with full military honours.

It is in the testimony of Hon. Mvalo that all the eight deceased persons were accorded befitting burial with dignity. He further stated that Government was represented by Cabinet Ministers and other Senior Government officials at all the funeral ceremonies, on different dates, respectively.

In its engagement with families of the deceased persons, the Commission confirmed Hon. Mvalo's submission and took note of the dates of the funeral ceremonies accordingly. In that regard the Commission established the following:

- (a) The burial of the late Mr. Lapukeni was on 12th June, 2024 in Mangochi. According to Mr. Abdullah Ajeeb, a nephew of the deceased, he confirmed that they proceeded and collected the body of his uncle at the mortuary on the early morning of 12th June, 2024 and left for Mangochi. Burial was on the same day. He told the Commission that the transport arrangements and all logistics were met by Government. He further confirmed that several Cabinet Ministers and senior government officials attended the funeral.

His evidence was corroborated by Ms. Sarah Lapukeni, wife to the late Mr. Lapukeni. She stated that everything to do with the funeral of her husband was managed and met by the Government. She however complained to the Commission that since the burial ceremony there had been no further contact or assistance from Government even on the process of trying to get documentation for the death benefits. She explained how she had been forced to move up and down from one office to another trying to arrange for a Death

Certificate for over two months until Sunset Funeral Services stepped in and helped her to process it. She submitted that all the paperwork has been done and was submitted to the Accountant General.

- (b) The burial of the late Mr. Kanyemba was on 13th June, 2024 at Chiseka in Lilongwe District. It was the evidence of Mr. Creto Kanyemba, the deceased's uncle that indeed, all the expenses relating to the funeral were met by Government. He acknowledged that the family also received bereavement money accordingly.

He also lamented that after the burial of the late Mr. Kanyemba there has been no contact on the part of Government and expressed his anxiety that his nephew has left kids, including an eight-year-old, and wondered how they should proceed.

- (c) The burial of the late Assistant Commissioner of Police Kapheni was on 13th June, 2024 at Santhe in Kasungu District. While the spouse of the deceased, Ms. Martha Kapheni, attended the inquiry and recounted the events of the 10th and 11th June, 2024, she was unable to complete her testimony of the events in respect of the funeral ceremony and the burial as she broke down during the hearing and could not continue.

However, the Commission heard the testimony of Mr. Christopher Kapheni, the older brother to the deceased, who testified that when the news about the death of his brother broke, they got assurances from the Police Welfare that they were going to help the family accordingly. He submitted that the family was provided transport to KIA to receive the bodies of the deceased and to the mortuary. Further Government met all logistics and expenses relating to the funeral.

He further explained that the Police has since started helping them on the paperwork for them to access gratuity and death benefits for the deceased.

- (d) The burial of the late Inspector Chimaneni was on 13th June, 2024 at Makwaule Village in Ntchisi District. The Commission was unable to meet any relatives of the late Inspector Chimaneni in the course of its inquiry.
- (e) The burial of the late Major Selemani was on 14th June, 2024 at Magunda in Thyolo District. According to her husband, Mr. Mabvuto Ngwilinji, the Government assisted in respect of all the funeral arrangements and confirmed having received the sum of K2,000,000 as assistance at the funeral.
- (f) The burial of the late Colonel Sambalopa was on 14th June, 2024 at Malosa Village, Traditional Authority Chikowi in Zomba District. According to the younger brother of the deceased, Mr. Nathan Sambalopa, all funeral logistics and arrangements were done by the Air Force.
- (g) The burial of the late Major Aidin was on 14th June, 2024 at Nankumba in Mangochi District.
- (h) The burial of the late Madam Dzimbiri was on 14th June, 2024 at Senzani in Balaka, she was buried with full military honours. According to the daughter of the deceased, Lucy Dixon, they received full support from the Government in respect of the funeral logistics and expenses.

2.4.3 Funeral of the late Vice President

It was in the evidence of Hon. Mvalo that in respect of the late Vice President, he was accorded a full State Funeral, and the sequence of the events were as follows:

- (a) On Friday, 14th June, 2024, the body of the late Vice President was taken from the mortuary to St. Patrick's Church at Area 18 in Lilongwe for a Requiem Mass. Thereafter the body was taken to the late Vice President's official residence in Area 12 in Lilongwe.
- (b) On Saturday, 15th June, 2024, the body of the late Vice President was taken from the official residence in Area 12 to Parliament Building to lie in State where the public would view the body. The viewing of the body went up to 20:00 hours.

(c) On Sunday, 16th June, 2024, the body of the late Vice President was taken to Bingu National Stadium for a funeral service. The funeral service was attended by a number of foreign dignitaries from Botswana, Ghana, Uganda, Mozambique, Namibia, Zambia, and Zimbabwe. After the funeral service at Bingu National Stadium, the body of the late Vice President was taken by the MDF in a funeral procession to his home in Nsipe, Ntcheu for burial on 17th June, 2024.

2.4.4 The Funeral Procession to Ntcheu

It has been taken in testimony that the late Vice President's funeral procession from Lilongwe to his final resting place in Nsipe, Ntcheu was not a smooth one. It is in the testimony of Madam Chilima, the late Vice President's wife, that the funeral procession was attacked by some unknown people along the M1 road to the extent that the casket carrying the remains of the late Vice President was dented after it was pelted with stones. It was her view during the testimony that the funeral procession did not have enough security as it had been assigned only ten security officers. She wondered whether the incident had been investigated by the security agents or was part of the current ongoing investigation.

Concurring with the same, His Excellency the President submitted in his evidence having received reports that the funeral convoy was pelted with stones at some point on the M1 Road on its way to Nsipe, Ntcheu. Both testimonies were corroborated by Hon. Mvalo who stated that he was aware about the unfortunate incidences that happened along the M1 Road, including the stoning of the convoy and other vehicles and the setting fire to a Government vehicle, as the funeral procession was heading for Nsipe in Ntcheu. He however deferred the issue to the Ministry of Homeland Security whom he stated, were the right parties to explain the same.

On her part, the Inspector General of the Police, Ms. Merlyne Yolamu acknowledged having received reports in that regard. In her testimony, she stated that after the funeral ceremony at the Bingu National Stadium, the MDF took the body of the late Vice President on a funeral procession to Nsipe, Ntcheu. She confirmed having received

reports about incidents along the M1 Road including the torching of the Ntcheu District Commissioner's motor vehicle. She submitted that these incidences resulted in the Police deploying extra security all along the M1 Road all the way to Nsipe, Ntcheu. She testified that calm and security was restored along the M1 Road, and at Ntcheu town, the very same evening.

According to the testimony of Mr. Akis Muwanga, Commissioner of Police responsible for Operations of the Malaŵi Police Service based at the Headquarters in Lilongwe, stated that on the day the body was going to Ntcheu, he was out of the country, and indicated that he never received any information that the convoy was pelted with stones.

2.4.5 Burial of the late Vice President

The burial of the late Vice President took place on Monday 17th June, 2024 at his home Nsipe in Ntcheu District amid very heavy security presence. It was the testimony of the Inspector General of Police that due to the incidents the previous day, extra Police was deployed at the burial ceremony. The Police were assisted by the MDF in making the route to Nsipe and the venue secure. The heavy presence of Police and the MDF at the burial ceremony of the late Vice President was acknowledged by His Excellency the President in his testimony. Accordingly, the ceremony proceeded and concluded without any problem.

2.4.6 Other Government Expenses During the Funeral

It is in evidence that being a State Funeral and having taken full responsibility and met all the expenses relating to the funeral the late Vice President, the Government also took extra measures to ensure that people from all walks of life had an opportunity to bid farewell to the late Vice President. To this end, it is in the testimony of Hon. Mvalo and the SPC that Ministerial Committee, being aware that the late Vice President was a key member of the Tonse Alliance, provided support to the said Alliance partner parties to help each individual political party meet the cost associated with the attendance of their members at the late Vice President's funeral.

The SPC testified that as Government they did not want to manage everything centrally but resolved that the political parties submit their budgets so that the political

parties themselves should take responsibility of their expenses in respect of their supporters during the funeral. She further stated that Government further contributed by providing transport in form of vehicles.

The monetary support to respective political parties was disbursed to the political parties as follows:

- (a) UTM - K61,150,000.00
- (b) People's Party - K15,750,000.00
- (c) Malaŵi Congress Party - K30,000,000.00
- (d) PETRA - K5,100,000.00
- (e) AFORD - K12,000,000.00
- (f) Umodzi Party - K5,000,000.00
- (g) Mafunde Party - K3,988,000.00
- (h) Freedom Party - K9,350,000.00
- (i) PPM - K4,450,000.00.

The Commission was further informed that the Ministerial Committee also received a request from the UDF Party and provided them with a sum of K15,000,000.00 to help them meet the cost of their membership's attendance at the funeral of the late Madam Dzimbiri who was a former First Lady during the tenure of former President, His Excellency Bakili Muluzi.

It was received in evidence that in total, the overall total cost of the funerals for the late Vice President and the eight others came to K1,572,093,021.67.

3.0 FINDINGS OF THE COMMISSION

Having conducted a thorough inquiry into the circumstances prior to, during and after the aircraft accident involving the MAF-T03, the Commission now presents its findings. The findings are based on the testimonies of several individuals either on their own behalf or on behalf of various institutions that were summoned for the hearings as well as documents that were tendered as part of that testimony.

It must be noted, in respect of the foregoing, that the Commission has endeavored to analyze all the evidence presented before it before pronouncing its findings. It must be noted, however, that the preceding Chapters of this Report have already extensively captured and analyzed a lot of evidence and directly or indirectly exposed some findings in respect of the areas that the Commission was requested to address under its Terms of Reference. In that regard, the Commission shall not repeat such analyses and will simply isolate the issues therein and pronounce its findings. The Commission's findings are hereby presented in the same order as the Terms of Reference are set out as follows:

3.1 Manner and Procedures of Procuring the Use of the MAF-T03

From the evidence presented before the Commission, it is the Commission's finding that over the years, the manner in which aircraft from the Air Force has been procured for use on non-military missions has changed. Previously the procedure was for any interested party or person or organization to first seek authority, in writing, from His Excellency the President in his capacity as the Commander in Chief of the MDF, through the OPC. The OPC would deploy a Memorandum to His Excellency the President seeking approval. Only after such an approval had been given and the information was officially relayed to the MDF, would the internal MDF processes such as issuing of an Air Transport Order and an Operation Order and estimates for the trip would then be triggered.

The Commission established that recently there seems to be a hybrid approach to the manner of procurement of the Air Force aircraft where in some instances, the request to use the aircraft is made to His Excellency the President and in other instances, where the request to His Excellency the President is not made. The Commission was told that there is formal communication in form of a Memorandum that was issued

effecting the change. However, in the absence of proof of the actual Memorandum to the Commission, it was the Commission's finding that such change in the procurement of the MDF aircraft was simply as a result of practice.

Further it is the Commission's finding that having alternated between the previous system of chartering aircraft from the Air Force to the other direct system, the Office of the Vice President did not complete the procurement process of the aircraft from the Air Force as per the practice. It is in the evidence before the Commission that at the time of making the request to the MDF, the necessary request to His Excellency the President had not been made and was only, in retrospect, going to be done later, as a formality.

When the requests were made to the MDF, and MDF in turn issued instructions to the Air Force, the procurement process thereafter was in order. The Air Force issued a transport order to its base in Zomba where the aircraft was based. Zomba Air Base prepared its estimates and sent back the same to the Malaŵi Air Force headquarters which in turn presented it to MDF Headquarters. MDF Headquarters then dealt with the issue of payment accordingly.

3.2. State and Performance of the MAF-T03 on 9th and 10th June, 2024

Based on the evidence presented to the Commission, it is the Commission's finding that the MAF-T03 was in good condition both on the 9th June, 2024 when it left Zomba Air Base through Chileka International Airport to Mzuzu Airport, and on 10th June, 2024 when it left Mzuzu Airport to KIA to pick the late Vice President and on its way back to Mzuzu Airport.

In reaching this conclusion, the Commission took cognizance of the fact that there was clear evidence that the aircraft was duly maintained and inspected in accordance with manufacturers' maintenance instructions. The aircraft had been maintained by the Air Force engineers that have been in employment of the MDF since the acquisition of this aircraft and were extensively trained by the aircraft's manufacturers in Germany and had acquired comprehensive knowledge and skills in the maintenance of the aircraft.

The Commission considered the fact that this type of aircraft generally has a life span of 29,600 flying hours, yet MAF-T03 had only completed about 3,489 flying hours.

From the evidence before it, the Commission found that the aircraft was also equipped with VHF radio, Automatic Direction Finder (ADF), Very High Frequency Omnidirectional Range (VOR), and Instrument Landing System (ILS) navigation and approach equipment. The VHF radio on board was also in working order as evidenced by normal radio communication with air control tower at Zomba, Chileka, Lilongwe and Mzuzu on the 9th June, 2024, and on the 10th June, 2024 with Mzuzu and Lilongwe control towers. In terms of ADF and ILS, the aircraft was cleared and the aircraft successfully performed a homing to an aviation beacon and executed an ILS approach into Runway 14 at KIA as it was coming from Mzuzu.

From the evidence before it, the Commission believes that the airborne VOR and DME equipment were functional as they must have been used as the initial navigational and homing stations for direction and distance information while the aircraft was some distance from KIA before commencing approach.

Most importantly, it is clear from the evidence before the Commission that the three crew members who flew the aircraft from Zomba Air Base to Mzuzu Airport via Chileka, and then to KIA, and were flying from Lilongwe back to Mzuzu did not report any problem at any point in respect of the aircraft. It is also very clear from the evidence that at the time the crew spoke with the Mzuzu control tower at 10:12 hours to inform them about the approach to Mzuzu Airport there was no indication from the crew that the aircraft had developed a problem or a fault. There was also no indication that the pilot was under any stress, pressure or anxiety.

3.3 Status, Conditions, Experience and Capacity of the Crew

It was the Commission's finding that the Pilot-in-Command of the MAF-T03 on the flight from KIA to Mzuzu on 10th June, 2024, the late Colonel Sambalopa was a very competent and professional pilot with extensive flying knowledge and experience. He was an instructor pilot at the Air Force and had amassed in excess of 2,367 flying hours experience. He held a Commercial Pilot License (CPL) which was converted into a Military Pilot License No. 127 issued on 5th November, 1996. He also held an MDF Radio-Telephony Operator's Licence also issued on 5th November, 1996.

In terms of his Aircraft Ratings, the late Colonel Sambalopa was rated on the Dornier 228 and Xi'an MA 600 aircraft. He had passed instrument rating flying tests on the Dornier 228 in 1996, 1997, 2002, 2004, 2007, 2008, 2013, 2014, 2015, 2017 and finally on 22nd May, 2019. The late Colonel Sambalopa was rated as Co-Pilot on the Dornier 228 from 25th July, 1996 to 29th May, 2008 when he passed his first flying test as a Pilot-in-Command on the Dornier 228. He was rated as a Class Rating Instructor (CRI) on a multi-engine aircraft including the Dornier 228 at Simtec Simulation Technology GmbH on 2nd August, 2017. The On 24th January, 2024, the late Colonel Sambalopa passed an instrument rating flying test on the Xi'an MA 600 aircraft.

The Commission did not establish how frequent the instrument ratings ought to be done in the military for purposes of maintaining the validity of the Military Pilot Licence. However, the Commission established that in the last ninety days prior to the crash he had flown a total of twenty-four hours ten minutes. In the twenty-four hours before the crash, he had completed two hours forty minutes of flying.

In terms of medicals, the last available record that the Commission received in evidence for the late Colonel Sambalopa, is an aviation medical assessment on 25th November, 2020 and it expired on 25th February, 2021.

From the evidence presented before the Commission, the late Colonel Sambalopa had previously flown on this route between KIA and Mzuzu Airport as the Pilot-in-Command on a number of times. He further had previously flown successful approaches to Mzuzu Airport, including, via the lake under varying weather conditions for a number of times.

In terms of the Co-pilot, the late Major Selemani, the Commission established from the evidence before it that she held a CPL issued on 24th June, 2013 at the South African Civil Aviation Authority and obtained a Military Pilot Licence No. 130 issued on 2nd August, 2017. She also held an MDF Flight Radio-Telephony Operator's Licence also issued on 8th August, 2017. The Commission was unable to examine the actual Licence but noted that the photocopy of the Licence had some particulars missing although it could be verified through other records documents The signature of the issuing officer were endorsed. Her Licence included the Dornier 228 aircraft type rating as Co-pilot and she passed the Instrument Rating Flight Tests in 2014, 2016 and last

flight test on the Dornier 228 was conducted on 2nd August, 2017. From the evidence presented before the Commission, the photocopy of her Licence which was made available to the Commission did not include any aviation medical records.

The Commission further established that the late Major Selemani undertook Ground School covering aircraft systems and cockpit re-familiarization. After completion of Ground School, the late Major Selemani flew on recap (training) missions for seven hours and on operational missions for seventeen hours making a total of twenty-four hours and twenty-nine landings as part of her Recurrency Training under the Air Force Training Programme from 2nd to 5th April, 2024 and from 8th to 23rd April, 2024 following two-year period of inactivity while she was away in South Africa attending to her child who had an illness. As Co-pilot, the late Major Selemani had, during the last ninety days, flown a total of twenty-three hours and fifty minutes and during the last twenty-four hours prior to the crash, she had done a total of two hours and forty minutes as a Co-pilot.

The Commission established that although the late Colonel Sambalopa and the late Major Selemani possessed adequate flying knowledge and experience according to the evidence presented, their Licenses including medical certificates were not kept current.

In respect of the combination and compatibility of the late Colonel Sambalopa, a senior and very well experienced pilot and the late Major Selemani, a junior and less experienced Co-pilot for the VIP flight, it was established from the evidence before the Commission that the combination of the two was recommended in the aviation industry, especially in the military. It is a practice that is also common everywhere even in commercial airlines. The Commission established that in May, 2024, the late Major Selemani as Co-pilot, undertook two VVIP (as opposed to a VIP mission on 9th June, 2024) mission from KIA to Club Makokola flying in total for seventy-five minutes. It was heard in evidence that the pairing of the late Colonel Sambalopa and the late Major Selemani on this day was normal. The previous landings of the two pilots together were on 28th April, 29th April and 30th April, 2024 and on 9th June, 2024.

From the evidence before the Commission, it was established that sometimes two equally experienced pilots would be rostered to operate such a VIP flight. This

arrangement of pairing two equally experienced pilots to execute a VIP mission on 10th June, 2024 would not have been possible owing to the fact that the late Colonel Sambalopa and the late Major Selemani were already in Mzuzu with the MAF-T03. Looking at the tight timelines, it was going to be logistically difficult for both or one of them to be replaced because it meant somebody travelling all the way from Zomba to Mzuzu that evening to take over the mission, which was not possible or would not allow for the other pilot to rest adequately before flying.

As for the late Major Aidin, the Commission established that he held a National Diploma in Aircraft Engineering (Electrics) obtained at the Air Force School of Technical Training in Zimbabwe on 31st day of May, 2008. He also attended the Harare Institute of Technology from October to November, 2008 and also completed Part 66 CAT B1 Line and Base Maintenance Airframe/Engine (TPE)/ Avionics LRU's Training in 2010 at the Aviation Training Center under Aero Bildungs GmbH in Germany.

In terms of their condition on the day of the flight, from the evidence before the Commission, they were all in good flying condition. The Commission bases the same from the evidence of the MDF driver who dropped them the previous night at their place of abode and collected them in the morning to go to Mzuzu Airport. It was also the evidence of the Senior Flight Information Officer, Mr. Moyo at Mzuzu Airport that all the three crew members looked very fine, fit and relaxed on the morning of 10th June, 2024 when they arrived at the airport ready to fly. The crew had a small chat at the airport with Mr. Moyo, as usual as they were submitting their Flight Plan ready for departure for KIA. Likewise at KIA, the crew had about an hour and from the evidence before the Commission, they were all in good condition.

While the Commission did not have any evidence on any toxicological tests results, it is the Commission's finding that from the evidence before it that the condition, experience and capacity of the crew operating the ill-fated aircraft was good, but their status as pilots was not good as their medical records, training and licenses were not current.

3.4 Aviation Protocols at KIA and Mzuzu

From the evidence presented during the Commission, it is the Commission's finding that, except for aviation protocols on weather briefings, all aviation standard procedures and protocols at the point of departure and expected destination of the aircraft were followed.

From the evidence before the Commission, the crew failed to obtain official weather briefing for the flight from KIA to Mzuzu although they were aware of weather situation at destination and *en route*. They, however, received a weather report. From the evidence before the Commission, the crew opted to fly from KIA using the direct route to Mzuzu instead of using the normal route of W601 route because they had encountered bad weather on that route during the inbound flight. Having decided to change and use the direct route, the crew did not obtain weather briefing for the route as required by aviation protocols.

Form the evidence before the Commission the Airport Meteorological office provides such weather briefings only on demand. The Commission established that the crew did not request for such a briefing at Chileka as well the previous day as they were travelling to Mzuzu Airport.

3.5 Communications During the Flight

The Commission established that during the course of the flight, the telecommunications network towers kept pinging some of the phones during the flight indicating that some of the mobile phones were on during the flight. It was also established that some of the phones showed some data activity meaning that some of the passengers were using data while on the flight and may have been communicating or browsing or accessing social media platforms or that their mobile phones were using data, such as making updates etc. during the flight without the knowledge of their owners.

While it is the Commission's findings that there was use of mobile phones by some passengers on board the aircraft during the flight, it was not possible for the Commission to establish the nature or content of such data as it is not kept or recorded by the applicable telecommunications service providers.

However, the Commission received evidence of two communications via WhatsApp and Telegram between the passengers in the aircraft during the flight as follows:

- (a) communication between 09:30 and 10:07 hours between the late Vice President and the Secretary to the Vice President, Dr. Sikwese. The communication was in respect of the rescheduling of some meetings that the late Vice President had scheduled;
- (b) communication at 09:25 hours and at 09:34 hours by way of calls received by the phone belonging to the late Major Aidin; and
- (c) communication at 10:10 hours between Special Assistant (Media) in the Office of the Vice President, Ms. Winnie Nyondo, and the Vice President's Aide-de-Camp, Inspector Chimaneni. The conversation originated from Inspector Chimaneni, and it simply said, "Too much turbulence." Ms. Nyondo replied "*Pepani*", but that text was never delivered.

3.6 Notification of the Missing Aircraft to the Air Force and its Reaction

The Commission was given the task to consider the sequence of events from the time the notification of the missing aircraft, when the Air Force was informed and the course of events thereafter. In that regard, the Commission, for the sake of pure clarity, has endeavored to examine the whole sequence of the events on the two days. Since that sequence of events includes individuals and institutions outside the Air Force, the Commission has presented it under paragraph 3.14 below. It is, however, the Commission's finding that the Air Force was notified of the missing aircraft almost immediately the aircraft could not be contacted via radio. It is also the Commission's finding that the Acting Air Force Commander, Brigadier General Robray Ismael, contacted the MDF Commander and informed him of this information by 10:45 hours.

Other than informing the MDF Commander, the Air Force immediately started looking for the aircraft by contacting other aerodromes where the MAF-T03 would have landed both within and outside Malaŵi. The Air Force also started mobilizing personnel to join the search as evidenced by the presence of Colonel Mdokhwe and his Air Force colleagues from Zomba Air Base at the accident scene.

3.7 Notification to His Excellency the President, Content and Response

In respect of the above, it is the Commission's finding that the MDF Commander alerted the His Excellency the President through a telephone call at or about 11:35 hours on the 10th June, 2024 on the missing aircraft. It is the Commission's finding that during the call, the MDF Commander informed His Excellency the President that the late Vice President had gone to Mzuzu in the aircraft to attend the funeral of late Kasambara, SC, and that there was very bad weather in Mzuzu that day.

The Commission further established that at 12:15 hours, His Excellency the President understood the MDF Commander's telephone call as an alert to the effect that the aircraft was failing to land in Mzuzu due to bad weather and may be on its way back to KIA. At this point His Excellency the President advised the MDF Commander to report back on the progress within four hours.

At around 15:00 hours, the SPC, the MDF Commander, the Inspector General of Police, and the Minister of Health went to Kamuzu Palace to see His Excellency the President. It was during that meeting that His Excellency the President understood the gravity of the situation and immediately instructed that a more comprehensive search for the aircraft needed to be instituted, and also asked the SPC to draft a Press Statement. Furthermore, His Excellency the President started preparing for an emergency Cabinet meeting at 18:00 hours. However, when he recognized that other Cabinet Ministers may be far outside Lilongwe the Cabinet Meeting was convened at 22:00 hours. At 23:00 hours, His Excellency the President addressed the Nation on what had happened and called for prayers and continuation of the search and rescue efforts.

3.8 From Search and Rescue to Discovery of Wreckage

From the evidence before the Commission, it is the Commission's finding that extensive search and rescue efforts were mounted by various stakeholders led by the MDF and the Malaŵi Police. The Commission's findings in respect of the sequence of events in the two days does in some respect highlight the extent of the search and rescue efforts that was mounted on these two days.

The Commission considered the evidence regarding the last communication received from the MAF-T03 at 10:12 hours as reported by Mzuzu Airport Tower. The

Commission found that the report that the aircraft was twenty NM North of Mzuzu and was going towards Ekwendeni was not credible. The military from Zomba Air Base reported that they had been informed by the same source that the last location of the MAF-T03 was twenty NM North East of Mzuzu which was around Usisya.

The Interim Report of the BFU shows that the aircraft did not go anywhere north of Mzuzu. It is therefore the Commission's finding that, in the absence of voice recorders in the aircraft cockpit and the Mzuzu Airport Tower, on the one hand and flight data recorders, on the other, the last reported location of the aircraft is not credible and had adverse impact on the commencement of the search for the aircraft since the initial physical search had been directed towards Ekwendeni until such time that the information regarding the Raiply Airtel tower was received.

However, for the avoidance of doubt, it is the Commission's finding that according to evidence presented, the commencement and overall search and rescue operation by aviation authorities and their main partners, MDF and Police, started very early into the emergency. According to evidence before the Commission, the authorities had exhausted the internal search and rescue emergency response and had already escalated the same to the neighbouring countries by 10:47 hours.

On the physical search and rescue on the ground, the Commission established that the first day of the search was very challenging in that there was no clarity as to where exactly the search should have been directed to. There was numerous misinformation sent to the search and rescue team most of which was based on speculation. It was also the Commission's finding that the search was hampered with very bad weather coupled with the team's lack of appropriate search and rescue equipment.

From the testimony before the Commission, the search and rescue required search lights for the night, yet people were using lighting from smart phones and whatever they could lay their hands on. They also could not penetrate the thick forest because of lack of machetes or panga knives and the like. The people undertaking in the search were not properly clothed and exposed them to multiple risks including snake bites, hypothermia and the like.

It is the finding of the Commission that the search coordination was much better the following day after the security teams had gathered enough intelligence and the weather had somehow improved.

The Commission made several observations regarding the testimony of the two watchmen at the towers at Pamphara Hill, one of whom, Mr. Manda, thought he had heard a sound of the generator blowing off as follows:

- (a) the distance between the actual accident site and the towers was around five hundred metres with the towers being located at a higher point;
- (b) there is a copse in the line of sight between the towers and the accident spot. In fact, it is in evidence that a group of Policemen reached the towers and when they came to one side of the copse, they did not proceed to the other side considering the limited visibility;
- (c) the actual accident site is on the other side of the hill on a steep slope, and considering the copse barrier in between and the heavy fog on both days, the 10th and the 11th June, 2024, visibility is impaired.

The Commission also observed that the whole search and rescue mission would have greatly benefitted from the presence of a functioning Emergency Locator Transmitter (ELT) in the MAF-T03. The Commission received evidence that when battery for the ELT on the MAF-T03 became obsolete in 2004, the Air Force requested an avionics upgrade known as "7 JAR OPS 1 and Avionic Upgrade" which would have involved an upgrade of the ELT system including installation of the new version of battery; installation of the flight data recorder (FDR); and installation of the cockpit voice recorder (CVR). The avionics upgrade was quoted at Euro 741,318.82. The military gave evidence that this upgrade does not in any way prevent an aircraft accident.

A functioning ELT on the MAF-T03 would have greatly impacted on the human and financial resources expended on the SAR mission and the anxiety that the delayed discovery brought on the bereaved families and the Nation at large.

3.9 Alleged Suspension of the Search and Rescue efforts

From the evidence before the Commission, there was a united search party on the 10th June, 2024 comprising MDF, Police, Raiply, locals and media houses. It is the Commission's finding that the Police tactically suspended the search at around 22:00

hours because of various factors including lack of information to guide search strategy, poor visibility, hostile weather conditions, lack of equipment and lack of proper attire. The evidence before the Commission attested to the fact that despite this tactical suspension, the Police deployed a team of detectives and Community Police Officers into the communities to gather information which would help the search the next day.

It is also the Commission's finding that the MDF never suspended its search and continued to search throughout the night until the aircraft was found.

3.10 The Probable Cause of the Aircraft Accident

From the evidence before the Commission, aircraft accidents are attributable to three factors: human factors; environmental factors (including weather); and technical factors.

From the evidence gathered by the Commission, there was no proof of technical factors as the cause of the aircraft accident. However, the Commission is aware of a technical investigation underway being undertaken by the BFU. Apart from the Interim Report, the Commission has not been provided with any other information by the BFU. The Commission, however, took note of the Interim Report by the BFU and its contents.

The Commission observed that the GPS flight data obtained from the BFU Interim Report indicates that on 10th June, 2024, on the flight to Mzuzu, after 09:50 hours, the aircraft started deviating off-track towards the west, then it went towards the south, later to the east before resuming course towards north or north eastwards in the right direction. Throughout these manoeuvres the aircraft was in some places climbing and in others descending, yet it was several miles away from destination meaning that these manoeuvres were not actions intended to make an approach to the destination airport.

The Commission noted from the BFU Interim Report that at some point the aircraft made one full circle orbit before performing two more full three-sixty degree turns while descending between five hundred feet and two hundred feet above ground level (AGL). This can be correlated with ground witnesses who reported seeing the aircraft flying very low at treetops and near a football pitch. The Commission heard testimony

that the headmaster of Kasangazi Full Primary School sent learners out of class to witness this rare sight.

Considering that the crew did not declare an emergency at 10:12 hours when they contacted Mzuzu Airport Tower, the Commission infers that these manoeuvres performed by the crew of MAF-T03 were not a result of an emergency. The Commission is of the view that these manoeuvres were performed by the flight crew to stay away and out of instrument meteorological conditions (IMC) in order to continue the flight under visual meteorological conditions (VMC) that would facilitate a visual approach and subsequent landing at the destination aerodrome. This view is supported by the prevailing meteorological conditions at destination which reported a near-overcast sky at or below 1,500 feet AGL although ground horizontal visibility was somewhat between five and eight km.

The Commission observed that had the aircraft continued to fly to Mzuzu at an altitude above 7,000 feet, it would have arrived over Mzuzu approach area above the layer of overcast clouds. This could have rendered a descent into Mzuzu difficult considering that there were no instrument and approach aids at Mzuzu. It is the Commission's finding that this could be the reason why the crew decided to fly low. Even if the GPS was fully functional or the crew were not lost but only misspoke about being twenty NM North, the aircraft was being navigated by the pilots around high terrain, along valleys which seemingly were devoid of low clouds. This is except for the portion of the high ground which was most probably covered by low clouds and fog where the aircraft was headed to when it was turned westwards heading 283 degrees when it impacted the ground.

The Commission observed that at the point of impact, the landing gear was down and the flap selection was at position one. The Commission is unable to conclude why the crew configured the aircraft in this manner when they did not have the destination aerodrome in sight.

In terms of who was in control of the aircraft at the time of crashing, the pathologists who conducted the autopsies on both pilots testified that using the pattern of injuries test on the Pilot-in-Command and the Co-pilot, it would be difficult to conclude. However, the autopsy reports confirmed that the injuries on the late Colonel

Sambalopa were more consistent with injuries on the Pilot-in-Command than for the late Major Selemani as evidenced by bilateral open fractures of the left and right tibia and fibula with internal rotation of both feet meaning that the feet were on the pedals. The Commission took cognizance of the roles that the late Major Selemani had undertaken during all flights at the originating and destination airports, the fact that the communication in-flight was done by the late Major Selemani and that the late Major Selemani was licensed as P2 (Co-pilot) and concluded that the Pilot-in-Command at the time of the accident was the late Colonel Sambalopa.

Based on the evidence that the Commission has received, it is the Commission's finding that the probable cause of the accident was a combination of environmental factors and human factors. This finding is based on the analysis of the overall evidence received by the Commission, including the aircraft data, the flight data, the communication between the crew and the Mzuzu Airport Tower, the weather along the flight path, especially around Nthungwa, that disoriented the aircraft crew contributing to the accident. It is the Commission's view that the spatial disorientation occurred in these marginal weather conditions when the pilots, using VFR, lost visual reference to maintain their orientation due to low clouds, fog, strong winds and drizzles.

The Commission observed that the absence of cockpit voice recorders and flight data recorders on the MAF-T03 means that the Commission cannot listen in to the conversations between the pilots just before the accident nor obtain any flight data to analyse. Therefore, while the Commission cannot, on account of the foregoing, establish the actual cause of the aircraft accident, the Commission has established the probable cause based on the totality of the evidence received.

3.11. Cause of Death

From the evidence before the Commission, the cause of death for all persons on board the aircraft was high impact velocity injuries due to the aircraft accident. The Commission also found that death, for all persons on board was instant. From the evidence before the Commission, there is no evidence of the possibility of homicide or other causes of death such as animal bites or any other third-party agents before or after the accident.

3.12 Survivability of the accident

From the evidence before it, it is the Commission's finding that all persons on board the aircraft died instantly upon the aircraft impacting the ground. It is, therefore, the Commission's finding that no one on board the aircraft could have survived the accident. All the injuries were non-survivable.

3.13 Photographs at the Accident Scene

The Commission heard evidence from a number of persons who indicated that their roles in the aircraft accident would have been performed better if there were proper and professional forensic pictures of the scene of the accident and the deceased. This includes the pathologists and criminal investigators, among others, in case such need arises in future.

The Commission noted that most of the pictures in circulation were graphic in nature. The Commission took notice of the congruence between the pictures that were taken by the Police and those pictures that were in circulation, both in mainstream and social media. The Commission observed that the pictures in circulation did not respect the privacy and dignity of the deceased persons.

The Commission found that the persons responsible for taking the pictures did not exercise their duty of care towards the bereaved families and the Nation at large by allowing unauthorised access of the pictures that were taken for official purposes by persons who circulated the pictures in both mainstream and social media.

In the course of gathering evidence, the Commission was informed that the Police had conducted interviews and taken statements from a number of witnesses which is in a docket that would be availed to the Commission. Despite several and specific reminders to the Police, this docket was not provided to the Commission.

3.14 Other Findings

(1) The Commission found that in the filed Flight Plan for the stretch from KIA to Mzuzu, the aircraft's identification or call sign was indicated as Malaŵi 2. There was evidence through flight progress strips that during radio communication, the aircraft's call sign was Malaŵi 2 when it was under Lilongwe (KIA) Control but its call sign was AF88M when it was communicating with Mzuzu Airport Tower. However, in their respective accident reports filed by

KIA Air Traffic Control and Mzuzu Airport Tower, the call sign for the flight is provided as AF88M.

(2) The Commission also found that the cruising altitude of 9,000 feet (FL090) filed in the Flight Plan for MAF-T03 was below the published minimum flight altitude of 11,000 feet (FL110) according to AIP Malaŵi, ENR 3.1.5, published on 21st July, 2017. However, it was the Commission's finding that on departure from KIA, the MAF-T03 was cleared by the KIA Tower for direct routing to climb and maintain FL090 using Runway 14. The KIA Tower clearance was read back correctly as the pilot reported ready for take-off. When the aircraft was passing 4,800 feet on runway heading, it was cleared to climb to Flight Level 090 direct to Mzuzu. The Commission also received evidence that while *en route* and upon reaching 7,000 feet, MAF-T03 requested and was re-cleared by KIA Tower to maintain 7,000 feet due to weather.

(3) The Commission found after hearing evidence from the Inspector General that during the period of the funerals there was very high security risk and tense moments everywhere across the country. She submitted that as Police, they were stretched to the limit in terms of equipment and other resources. She however observed that the Police has very resolute and patriotic men and women who did the best they could, in the prevailing circumstances at the time, within the limited resources they had. The Commission concurs with this view.

(4) The Commission found that since State aircraft, in this case, the MAF-T03, are exempt from the provisions of the Convention on International Civil Aviation under the Convention's Article 3, the installation of equipment such as the ELT, flight data recorders and cockpit voice recorders is not mandatory. The Commission also observed that the military is not bound to insure its aircraft in the same mandatory fashion that civil aviation demands. The Commission found that previously, the military has insured its aircraft in order to either recover or replace the aircraft in case of need.

3.15 Order of events and Roles of Individuals and Institutions - 10th to 11th June, 2024

From the evidence before it, it is the Commission's finding that the circumstances and order of events were in accordance with the table below. The table also includes the role and activities of various individuals between 10th and 11th June, 2024.

Table 1: Chronology of Events on 10th and 11th June, 2024

Time	Event
06:15	Crew arrives at Mzuzu Airport and is thereafter briefed on the weather
07:05	MAF-T03 departs Mzuzu Airport for KIA
07:48	MAF-T03 lands at KIA
08:00	SPC alerts His Excellency the President that the late Vice President is back from South Korea and is proceeding to attend the late Mr. Kasambara, SC's funeral
09:05	Crew receives weather report via radio
09:17	MAF-T03 departs KIA for Mzuzu as Malaŵi 2
09:55	Mzuzu Air Traffic Controller tries to establish contact with MAF-T03 without response.
10:00	Mzuzu Air Traffic Controller calls KIA to verify the ETA for MAF T03
10:05	Mzuzu Air Traffic Controller checked again with KIA on ETA of MAF-T03
10:10	ADC for the late Vice President sends a text message to colleague talking about "too much turbulence."
10:12	Crew of MAF-T03 radios Mzuzu indicating twenty NM away from Mzuzu Senior Flight Officer relays critical information to the crew
10:17	Mzuzu Airport Tower tries to contact MAF-T03 to warn the crew of deteriorating weather without a response.
10:30	Mzuzu Air Traffic Controller contacts KIA to check if MAF-T03 has contact KIA or has diverted to KIA due to bad weather.
10:30	KIA tries to establish contact with AF88M on inbound frequency (128.0 MHz) to check if the traffic was inbound KIA.
10:45	Air Force Commander informs the MDF Commander of the missing MAF-T03.

10:45	The Air Force joins the search for the MAF-T03 and calls Mzuzu Airport Tower and is informed that the MAF-T03 is twenty NM North-East of Mzuzu
10:47	KIA Air Traffic Control calls nearby aerodromes as well as their counterparts in neighbouring countries to check if AF88M may have landed there.
10:47	Air Traffic control asks two aircrafts over the Malaŵian Airspace to try to contact MAF-T03 on 118.1 MHz
11:30	Mzuzu Air Traffic Controller reports to KIA Airport Manager and Director of Aerodromes and Air Navigation Standards (Civil Aviation Authority) that he has a missing aircraft.
11:31	RCC is activated at KIA (by the Airport Manager and the Air Traffic Controller)
11:35	MDF Commander contacts the President and informs him of the missing MAF-T03.
12:15	MDF Commander goes to Kamuzu Palace to brief the President in person.
12:42	ADL and Mzuzu Airport deploy teams to search around Ekwendeni area.
12:55	Brigade Commander (Moyale Barracks) called the Commanding Officer (Moyale Barracks and leading the MDF contingent in Nkhata Bay) to inform him of the missing aircraft.
13:00	Two sections and an ambulance are mobilised at Moyale Barracks destined for Ekwendeni.
13:17	The RCC concludes that the aircraft is no longer in the air and a search and rescue mission is mobilised.
13:30	Police, MDF, Mzuzu Airport Civil Aviation and Red Cross are mobilised.
13:31	RCC is established.
15:00	Mzimba District Hospital and Mzuzu Central Hospital informed of possible aircraft accident and told to prepare emergency wards and ambulances.
15:00	Madam Chilima is alerted of missing aircraft by Mrs Valera
15:30	MDF Platoon unit stationed at Raiply (Kasitu Camp) is mobilised and starts searching around Airtel Tower at Raiply
16:00	Police arrive at Raiply (epicentre of search mission)

16:00	MDF officers and soldiers from Moyale Barracks join the Platoon.
16:00	Reports of a crash around Raiply and then Tchiri (west of Raiply towards Mzimba)
16:12	Phone call to the RCC by Mr. Luka Banda of seeing a low flying aircraft around Elephant Rock
17:00	Press Statement by SPC
18:00	Reports of a crash around Tchiri (west of Raiply towards Mzimba)
19:00	Drone team from MUST mobilises from Blantyre
21:00	Activation of troops from Mbalachanda to join the search mission
22:00	Cabinet Meeting
22:00	Police suspends search, but MDF continues searching
23:00	National Address by His Excellency the President

Table 2: Chronology of Events on 11th June, 2024

Time	Event
06:00	Search resumes and several teams are despatched to different areas of Chikangawa Forest
08:00	MDF rejoins the search teams. Air Force team arrives from Zomba Air Base and joins the search.
10:05	Commissioner Muwanga from National Police Headquarters and Mr. Simenti, Officer-in-Charge, Airport Police arrive at Command Centre and are briefed.
10:10	This team together with a team from MDF then leaves for Nthungwa Forest Office because there was intelligence gathered that the aircraft is at Elephant Rock. The team met some locals who claim to have heard a noise the previous day. The team leaves for Pamphara Hill, park their cars and start searching.
10:30-11:00	MAF-T03 wreckage discovered at the slope of Pamphara Hill by a team of MDF and Police Officers in the company of Raiply staff, Nthungwa Forest Office staff two sawyers and two unidentified people.

11:00	<p>Accident scene cordoned off.</p> <p>Medical personnel, Red Cross and other begin retrieval of bodies from accident scene.</p> <p>Picture of accident scene begin appearing on mainstream and social media.</p>
14:00	All bodies are retrieved, identified, and taken into ambulances parked at Pamphara Hill.
15:00	Bodies carried to Raiply Airfield and placed in body bags and put in one of the helicopters from Zambia Air Force.
16:25	Zambia Air Force helicopters start off for Lilongwe stopping over at Kasungu Airfield to refuel.
18:00	Zambia Air Force air ambulances arrive at KIA in Lilongwe
18:45	Ambulances carry the bodies to Sunset Funeral Services and Goodwill Funeral Services mortuaries.
19:00	Ministerial Meetings underway in preparation for the funeral

4.0 RECOMMENDATIONS

In accordance with the Terms of Reference for the Commission, the Commission, having made its findings, presents its recommendation on the aircraft accident and incidental matters. The Commission wishes to particularise the institutions that it considers appropriate to implement the recommendations accordingly. The recommendations are as follows:

4.1 Office of the President and Cabinet

- (a) The OPC should develop clear guidelines on the manner of procurement of military equipment for non-military missions, especially where civilians are likely to use the military equipment for the carriage of persons or goods. The guidelines must be made available to the public and must be updated from time to time. There is need to ensure that the set guidelines are complied with prior to releasing the equipment to the requesting party.
- (b) Government should adequately invest in and provide resources for the operations of the MDF and its Services, the Malaŵi Police Service, the Department of Civil Aviation and emergency medical services. This should include resources for procurement of equipment like aircraft (helicopters and fixed wing aeroplanes, Unmanned Aerial Vehicles (UAVs), maritime vehicles (speed boats, rescue boats, excavators, air, ground and marine ambulances, among other things.
- (c) Government should make arrangements to ensure that VVIPs travel in aircrafts commensurate with their route and destinations.
- (d) The OPC should reach out to the families of the deceased that have not accessed the autopsy reports and offer the reports.

4.2 Malaŵi Defence Force

- (a) The Commission recommends that the MDF needs to upgrade the equipment in the existing fleet of aircraft in order to meet the emerging needs for the military and other users.
- (b) The military needs modern equipment in adequate numbers to meet the needs of the military and the Nation.
- (c) The Commission recommends that as much as is practicable, there is need to ensure that the minimum equipment that comes with the aircraft is maintained

in good order at all times. Where some equipment becomes obsolete and is upgraded, the owner of the equipment must ensure that the equipment is upgraded on time.

4.3 Malaŵi Air Force

- (a) The Commission recommends that, as is the standard practice applicable to civil aviation, Air Force pilots should always comply with weather report requirements prior to departure of aircraft at civilian aerodromes.
- (b) The Air Force should have in place clear regulations, guidelines and procedures for operations in marginal weather conditions in respect of civilian missions including obtaining weather briefings at origin, *en route* and at the destination.
- (c) The Air Force should at all times, ensure that any equipment capable of interfering with aircraft navigation, such as mobile phones, is not allowed or permitted to be used during flights. This must be particularly be enforced when carrying civilian passengers.
- (d) The Air Force needs specific regulatory instruments such as regulations under the Defence Force Act, 2023 to ensure that there are clear rules and regulations for the Air Force to ensure that the standards and operating procedures of the Air Force have legislative effect and are complied with a required by statute.
- (e) The Commission recommends that the Air Force should be adequately funded to enable it discharge its mandate effectively, for the proper maintenance of aircraft, payment for equipment insurance, recurrency and other training for the pilots and related squadrons, and for their daily operations.
- (f) The Commission recommends that the Air Force should have own vote under the MDF.
- (g) The Air Force should maintain and enforce minimum standards of accommodation for the crew when outside duty stations to ensure that the accommodation is appropriate and is secure enough.
- (h) The Commission recommends the immediate release of resources to enable the Air Force to service and repair all aircrafts which are parked due to lack of service.
- (i) The Commission recommends that the Air Force should update their licencing regulations and ensure that there is full compliance in terms of aviation safety

regardless of whether the licensees are performing military or civilian operations.

- (j) The Air Force should ensure that the crew undergo regular and mandatory trainings, simulator tests and medical examinations in order to keep their licences current. In particular, the Commission recommends that the Air Force flight crew should immediately undergo a terrain awareness refresher or training program consisting of ground and simulator sessions.
- (a) The Air Force should ensure refresher training of flight crews and related personnel on rules of the air and related flight procedures, phraseology, flight plans and Malaŵi airspace structure.

4.4 Malaŵi Police Service

- (a) The Commission recommends that the Police should be fully equipped with aerial, ground and marine equipment in order to ably discharge their constitutional mandate and also to meet the needs of society, from time to time.
- (b) The Commission recommends that the Police should adequately be resourced to procure their own aerial equipment such as unmanned aerial vehicles, aircraft, speed and rescue boats, air, ground and marine ambulances and appropriate search and rescue equipment.
- (c) The Police should be funded to introduce a fully-fledged multi-sectoral and interdisciplinary in-house Forensic Pathology Service that includes pathologists, toxicologists, forensic scientists, forensic photographers and other relevant specialists as part of law enforcement generally and also as a form of national disaster response.
- (d) The Police and relevant institutions should heavily invest in Forensic Pathology Services by coming up with regulatory instruments such as legislation, regulations and similar instruments such as a National Code of Practice and Performance Standards for Forensic Pathology in Malaŵi either review the legislation or where necessary, enact new legislation.
- (e) The Police should immediately investigate the leakage of the pictures at the accident scene and hold to account those responsible for the leakage. Further, since the leakage may also have emanated from the Police themselves, the Commission recommends that the Director of the Independent Complaints

Commission established under the Police Act (Cap. 13:01) should also commence investigations on the Police accordingly.

- (f) The Commission further recommends that the Police must ensure that the regulation of both mainstream and social media must be enforced and that people propagating misinformation, false and misleading information must be held to account.
- (g) The Commission also recommends that the Police must immediately investigate the stoning of the funeral procession and other vehicles and the burning of the Government vehicle along the M1 Road on the way to Nsipe. In the event that the Police are already investigating the matter, the Police must conclude the investigation and prosecution of the matters.

4.5 Department of Civil Aviation and Civil Aviation Authority

- (a) The CAA should oversee the development of a comprehensive National Search and Rescue Plan in order to enhance operations of the RCC.
- (b) The Commission recommends that the CAA must review and update aeronautical information in the AIP and any other related documents and enforce its implementation in line with the Civil Aviation Act and related regulations.
- (c) The CAA must ensure that the entire Malaŵi Air Space is properly monitored and that Air Traffic Services (Flight Information Services) are provided on a continuous basis.
- (d) The CAA must develop proper guidelines on preservation of scenes of aircraft accidents and how taking of photographs and which categories of persons are allowed to take pictures at the scenes. The guidelines should specify how the pictures once taken, should be kept and the circumstances under which they can be released.
- (e) The CAA, in conjunction with ADL ensure refresher training of relevant air navigation services staff (ATS) on phraseology, flight plans, rules of the air and related flight procedures, basic search and rescue, and Malaŵi airspace structure is carried out.

4.6 Airport Developments Limited

- (a) ADL must reclaim, secure and operationalize all gazetted airports, aerodromes and airstrips as applicable to ensure that an aircraft in distress could easily land.
- (b) ADL should ensure that essential Airport equipment such as Air Traffic Control Voice Recorder, Radar Data Recorders and Radios are properly maintained and in operable.
- (c) All airports in Malaŵi (of particular and urgent need being the Mzuzu Airport) should have functional navigation equipment for take-off or landing in any weather conditions.

4.7 Ministry of Health

- (a) The Commission recommends the need for adequate human capacity and infrastructure development to achieve state-of-the-art pathological services in Malaŵi.
- (b) The Commission recommends that there should be appropriate and adequate training of emergency medical services personnel who can provide immediate response in times of need, especially along major roads of Malaŵi.
- (c) The Commission recommends that the Ministry should establish and strengthen trauma centres along the major roads in Malaŵi, especially the M1 Road and in other designated places. The emergency and trauma teams should be fully and appropriately equipped and should undergo and undertake regular drill.
- (d) The Ministry should enhance capacities of high dependency units at major public hospitals and refurbish public mortuaries.

4.8 Department of Disaster Management Affairs

- (a) Where there is need to use information from telecommunication providers, the Department should have easy and immediate access to all services, including telecommunications access in order to provide a more responsive reaction to emergencies that would activate proper search and rescue operations.
- (b) The Department must provide guidance on leadership and coordination of search and rescue operations on the ground must be provided with adequate equipment to work in any condition.

(c) The Commission recommends that the Search and Rescue Cluster under the National Disaster Response Plan should be undertaking mandatory emergency drills on search and rescue have emergency toll free number.

ANNEXES

ANNEX 1: GOVERNMENT GAZETTE

GOVERNMENT NOTICE NO. 64

IN THE MATTER OF AIRCRAFT ACCIDENT THAT OCCURED ON THE 10th DAY OF
JUNE, 2024 AT NTHUNGWA, NEAR CHIKANGAWA IN MZIMBA DISTRICT.

COMMISSIONS OF INQUIRY ACT

(CAP. 18:01)

APPOINTMENT OF A COMMISSION OF INQUIRY

WHEREAS on the 10th day of June, 2024, an aircraft accident involving a Malawi Air force Dornier 228 (MAF-T03) occurred at Nthungwa, near Chikangawa in Mzimba district claiming the lives of the late Right Honourable Dr. Saulos Klaus Chilima, Vice President of the Republic of Malawi, the former First lady, Miss. Shanil Dzimbiri, Mr. Abdul Lapukeni, Mr. Daniel Kanyemba, Assistant Commissioner Lucas Kapheni, Inspector Chisomo Chimaneni, Colonel Owen Sambalopa, Major Wales Aidini and Major Florence Selemani;

WHEREAS the aircraft accident is deemed to be a matter of public interest that an inquiry be held into the circumstances leading to and surrounding the accident;

NOW, THEREFORE, in exercise of the powers conferred by section 2 of the Commissions of Inquiry Act, and subject to the provisions of that Act, I, DR. LAZARUS MCCARTHY CHAKWERA, President of the Republic of Malawi, do hereby issue this Commission and appoint a Commission of Inquiry as follows —

1. The following persons are hereby appointed to be Commissioners and Secretaries of the Commission of Inquiry—

Commissioners
and Secretaries

- (a) JUSTICE JABBAR ALIDE — *Chairperson*
- (b) MR. JUSTIN MKANDAWIRE — *Member*
- (c) BRIGADIER GENERAL COSGROVE MITUKA (Retired)—*Member*
- (d) MONSIGNOR DR. PATRICK THAWALE — *Member*
- (e) BISHOP MARY NKOSI — *Member*
- (f) PASTOR TONY Y. NYIRENDA — *Member*
- (g) INKOSI YA MAKHOSI M'MBELWA V — *Member*
- (h) SENIOR CHIEF INKOSI MAKWANGWALA — *Member*
- (i) DR. SUNDUZWAYO MADISE — *Member*
- (j) DR. RUTH MWANDIRA — *Member*
- (k) MR. ALAN CHINULA, SC — *Member*
- (l) MRS. EMMA KALIYA — *Member*
- (m) MR. DIXIE KWATANI — *Member*
- (n) PROF. NYENGO MKANDAWIRE — *Member*
- (o) MS. LIDIA CHIOThA — *Member*
- (p) MS. NIMIA MZEMBE — *Member*
- (q) MS. MIRRIAM WEMBA — *Member*

- (r) MR. SYLVESTER NAMIWA — *Member*
- (s) MRS. ESTHER CHIOKO — *Member*
- (t) MR. CHIZASO NYIRONGO — *Secretary*
- (u) HIS WORSHIP PAUL CHIOTCHA — *Secretary*.

- Powers of the Commissioners** **2.** The Commissioners shall act in accordance with the provisions of the Act and Act and, subject thereto, shall have power to consider, determine and inquire into all aspects of the accident.
- Report** **3.** The Commissioners shall take oath and shall, on the 30th day of November, 2024, submit a written report of their findings and recommendations to the President.
- Procedure** **4.** The Commissioners shall have power to determine —
- (a) their own procedure;
 - (b) the place or places where the inquiry shall be held;
 - (c) whether or not the inquiry shall be held in public;
 - (d) the format of the report the Commissioners will render upon completion of the inquiry; and
 - (e) such other matters as the Commissioners deem expedient for the purpose of the inquiry.
- Quorum** **5.** A quorum at every meeting of the Commission shall be constituted by half of the members of the Commission.

Issued under my hand and the Public Seal of Malawi, this 25th day of October, 2024.



(FILE NO. 11/01/32)

DR. L. M. CHAKWERA
President

ANNEX 2: TERMS OF REFERENCE



REPUBLIC OF MALAWI

TERMS OF REFERENCE

**COMMISSION OF INQUIRY INTO THE AIRCRAFT ACCIDENT
INVOLVING A MALAWI AIR FORCE DORNIER 228 (MAF-T03) AT
NTHUNGWA, NKHATA BAY ON 10th JUNE, 2024**

(Commissions of Inquiry Act (Cap. 18:01))

October, 2024

TERMS OF REFERENCE

1. BACKGROUND

On 10th June, 2024, a Malaŵi Air Force Dornier 228-202K aircraft, Registration Number MAF-T03 departed Kamuzu International Airport for Mzuzu Airport carrying the Vice President of the Republic of Malaŵi, the Late Right Honourable Dr. Saulos Klaus Chilima, and his entourage of five personnel. The Vice President had intended to attend the funeral of the former Minister of Justice, the Late Mr. Raphael Kasambara, who was being buried later that day.

The aircraft did not arrive in Mzuzu at its designated time, a matter which prompted search and rescue mission of the said aircraft. Attempts to communicate with the aircraft did not yield a response. On 11th June, 2024, a search team led by the Malaŵi Defence Force discovered the wreckage of MAF-T03 with all passengers and crew deceased. Funerals were conducted for the deceased personnel and crew, and the late Vice President was buried on 17th June, 2024.

Prior to the burial, at the funeral ceremony of the Vice President on 15th June 2024 at the Bingu National Stadium, calls were made by various entities to, His Excellency Dr. Lazarus McCarthy Chakwera, the President of the Republic of Malaŵi, to conduct an independent and credible investigation into the aircraft accident. In his address at the funeral, His Excellency the President appealed to the international community to assist with the investigation into the probable cause of the aircraft accident and matters surrounding the accident.

The Government of the Federal Republic of Germany responded to the request and sent an investigation team of three experts, comprising two experts from the German Federal Bureau of Aircraft Accident Investigations (BFU) and one expert from General Atomics, the current manufacturers of Dornier aircraft. The investigation is underway and an Interim Report of the investigation team was released on 30th August, 2024. The investigation team expects that, all factors being constant, the BFU shall release its Final Report on the aircraft accident in May, 2025.

2. LEGAL AUTHORITY

The mandate to appoint a Commission of Inquiry is derived from the Commissions of Inquiry Act (Cap. 18:01) ("the Act", hereinafter). Under section 2(1) of the Act, the President may issue a Commission under his hand and the public seal of Malaŵi appointing one or more Commissioners and authorizing the Commissioners to inquire into any matter in which an inquiry would be for the public welfare. His Excellency the President has deemed that the aircraft accident involving MAF-T03 is a matter in which an inquiry would be for the public welfare.

A Commission as constituted under section 2(1) of the Act shall, under section 2(2) of the Act, specify the subject, nature and extent of the inquiry, and may contain directions on such matters as the President may direct.

The Commission of Inquiry shall be guided by the following legal instruments:

- (a) the Constitution of the Republic of Malaŵi;
- (b) the Commissions of Inquiry Act (Cap. 18:01);
- (c) the Defence Force Act, 2023 (Act No. 24 of 2023);
- (d) the Civil Aviation Act, 2017 (Act No. 28 of 2017);
- (e) the Convention on International Civil Aviation of the United Nations, including Annex 13 on Aircraft Accident and Incident Investigation; and
- (f) any other relevant instrument with legal authority within Malaŵi.

3. MANDATE

The President, in exercise of his powers under section 2(2) of the Act mandates the Commission of Inquiry appointed in accordance with section 2(1) of the Act, for a period of up to 30th November, 2024, to:

- (a) conduct a thorough investigation into circumstances prior to, during and after the aircraft accident involving MAF-T03 owned and operated by the Malaŵi Air Force, from the time the aircraft departed from Kamuzu International Airport until the aircraft was discovered on 11th June, 2024, including but not limited to establishing the following matters:
 - (i) the manner and procedures of procuring the use of MAF-T03 from the Malaŵi Air Force;
 - (ii) the state and performance of MAF-T03 the previous day and on the day of the aircraft accident;
 - (iii) the status, conditions, experience and capacity of the crew operating MAF-T03;
 - (iv) the aviation protocols followed at the point of departure and the expected destination;
 - (v) any communications between the passengers on board the MAF-T03 and any persons on the ground during the flight;

- (vi) notification of the missing aircraft – when the Malaŵi Air Force was informed and the course and order of events taken in response;
 - (vii) escalation of the notification of the missing aircraft to His Excellency the President, what was communicated to the President, and what directives the President gave;
 - (viii) the search and rescue efforts, from commencement, through areas of focus, to the point of discovering the wreckage of the aircraft on 11th June, 2024;
 - (ix) the alleged suspension of the search and rescue efforts on 10th June, 2024; and
 - (x) the probable cause of the aircraft accident.
- (b) consider, determine and inquire into all aspects surrounding the death of the late Vice President and eight others, including but not limited to establishing the following matters:
- (i) the cause of death for all persons on board the aircraft;
 - (ii) the survivability of the accident;
- (c) consider, determine and inquire into the circumstances and order of events, to every extent possible, the events and the role and activities of various individuals between 10th and 11th June, 2024; and
- (d) make such inquiry and such findings and recommendations as are incidental to and connected with the aircraft accident of MAF-T03 on 10th June, 2024.

4. COMPOSITION AND POWERS

His Excellency Dr. Lazarus McCarthy Chakwera, President of the Republic of Malaŵi, in exercise of his powers vested in him under section 2(1) of the Act appointed nineteen persons to serve as Commissioners to inquire into circumstances surrounding the aircraft accident involving MAF-T03 belonging to and operated by the Malaŵi Air Force on 10th June, 2024. His Excellency the President has, under section 6 of the Act, appointed two Secretaries to the Commission.

At any meeting of the Commission, half of the composition of the Commission shall constitute a quorum. The Commission shall, unless the context requires otherwise, conduct the inquiry between 08:00 hours and 17:00 hours on any day, including public holidays and weekends at such place as the Commissioners may deem fit in Malawi.

The members of the Commission, so appointed, shall enjoy the privileges and immunities granted to Commissioners under the Act. Further, the Secretary to the President and Cabinet shall provide the Commission of Inquiry with all the resources necessary to fulfil its mandate. The Office of the President and Cabinet has therefore put at the disposal of the Commission, a secretariat with specialized skills as well as the administrative, technical and logistical assistance needed for the implementation of the Commission's mandate.

In accordance with the Act, the Commission shall have such powers as are conferred on the Commission under section 10 of the Act and shall, by reason thereof, benefit from:

- (a) unhindered access to any person and place, and freedom to meet and interview military and civil aviation authorities, community leaders and members surrounding the scene of the accident, civil society organizations and other institutions, and any person whose testimony is considered necessary for the fulfilment of its mandate;
- (b) unhindered access for individuals and organizations wishing to provide information to the Commission;
- (c) free access to all sources of information, including documentary material and physical evidence;
- (d) appropriate security arrangements for the Commission's members, staff and documents; and
- (e) protection of persons and witnesses and all those who come into contact with the Commission, and an undertaking that no such person shall, as a result of such contact, suffer harassment, threats, acts of intimidation, ill-treatment or reprisals.

5. COOPERATION

In the implementation of its mandate, the Commission of Inquiry should enjoy the full cooperation of all Government Ministries, Departments and Agencies and of all other relevant non-State institutions, actors and individuals.

In particular, the Commission will try to ensure the cooperation of the Malaŵi Air Force and Civil Aviation authorities through organized meetings with the main actors, establish dialogue with stakeholders and ensure follow up activities, including the protection of victims, witnesses and other sources.

In order to fully discharge its mandate, His Excellency the President urges Government agencies, private entities, civil society organizations and members of the public with relevant information to cooperate fully with the Commission of Inquiry, to grant it access to relevant documents or materials and to provide it with all the information necessary to fulfil its mandate.

6. THE REPORT OF THE COMMISSION

The Commission shall present its Report of findings and recommendations to His Excellency the President of the Republic of Malaŵi at the conclusion of the inquiry no later than 30th November, 2024. The Report, in writing, shall include a set of recommendations on any matter the Commission may deem fit. The Report shall then be published on the website of the Government after being presented to His Excellency the President.

ANNEX 3: LIST OF WITNESSES

LIST OF WITNESSES

Northern Region

1. Mr. Ginton Mitayi, Deputy Commissioner of Police for the Northern Region
2. Mr. Christopher Burton Mwamande, Senior Superintendent - Operations Officer, Regional Police Headquarters, Northern Region
3. Lt. Colonel Herbert Lemani, Commanding Officer, Moyale Barracks
4. Mr. Krishna Das Nair, Chief Executive Officer, Raiply
5. Mr. Overton F. Banda, Mzuzu Police
6. Mr. Dalitso Chimwala Phiri, Public Relations Officer, Raiply
7. Dr. Prince Chirwa, DHO, Mzimba
8. Mr. Nathaniel Nthala, Forestry Manager, Raiply
9. Mr. Toby Khunga, Senior Fire Officer, Department of Civil Aviation
10. Ms. Emma Gondwe, Officer in charge – Mzuzu Airport
11. Ms. Olive Chavunguma, Meteorologist – Department of Climate Change and Meteorological Services
12. Mr. Richard Banda, Senior Fire Officer, Department of Civil Aviation
13. Mr. Charles Mwanamanga, Fireman, Department of Civil Aviation
14. Mr. Easter Njula, Officer, Police
15. Mr. Gilbert Julio Matsoka, Officer - Airport Police
16. Mr. Kwaniskani Nyirenda, Meteorological Officer - Department of Climate Change and Meteorological Services
17. Mr. Paul Khumbanyiwa, Meteorological Officer, Department of Climate Change and Meteorological Services
18. Mr. Joseph G. Moyo, Senior Air Traffic Information Officer, Officer-in-Charge, Mzuzu Airport, Department of Civil Aviation

19. Mr. Kingsley Ntope, Officer in Charge, Police
20. Mr. Shidah S. Kanyika, Critical Care & Trauma Nurse, Mzuzu Central Hospital
21. Dr. John Chipolombwe, Director General, Mzuzu Central Hospital
22. Mr. Bright Mtambo, Anesthetist, Mzuzu Central Hospital
23. Dr. Patrick Magoli, Senior Medical Officer, Mzuzu Central Hospital
24. Assistant Superintendent Harry Mbewe, Regional Detective Officer, Police
25. Mr. Joseph Mwale, Bureau Supervisor, National News Paper
26. Mr. Feston Malekezo, Bureau Chief, Times Group
27. Mr. Jackson Sichali, Reporter, Malaŵi Broadcasting Corporation
28. Ms. Esther Mulande, Airport Police
29. Mr. Reinford Gondwe, Driver, Raiply
30. Mr. Victor Muva, Councillor, Walula Ward
31. Ms. Angela Saidi, Mzuzu, Zodiak Broadcasting Corporation
32. Mr. Vanani Nyirenda, Mzuzu, Zodiak Broadcasting Corporation
33. Mr. Steve Zimba, Mzuzu, Zodiak Broadcasting Corporation
34. Mr. Precious Mandala, Director of Public Works, Mzuzu City Council
35. Mr. Whyton Lusale, Guard, Nthungwa Forestry Office
36. Corporal Peter Makina, Moyale Barracks
37. Ms. Beatrice Kasila, Nthungwa Forest Office
38. Ms. Tawonga Ngoma, Chikangawa
39. Mr. Lloyd Kamwendo, Mzuzu Airport Police
40. Private Gift B. Mgodi, Driver, Malaŵi Defence Force
41. Mr. Benson Manda, Guard, Telecom Networks Malaŵi, Nthungwa
42. Mr. Royd Mfuno, Deputy Head Teacher, Kasangazi Primary School
43. Mr. Chris Lalley, Businessman, Kasangazi

44. Mr. Colrernd Nkosi, Director, Kasangazi Hydro Electricity

Eastern Region

45. Brigadier General Kandula, Deputy Air Force Commander, Zomba Air Base

46. Colonel Julius Mdokhwe, Chief Inspector, Zomba Air Base

47. Captain H.H. Nthani, 76 Flying Wing OPS & LRG Officer, Zomba Air Base

48. Private Mumbuzza, Flight Information Officer, Zomba Air Base

49. Major General Ian Chirwa (Rtd), Former AFC/Pilot, Zomba Air Base

50. Major Daud Mtambo, Squadron Leader, Logistic Aircraft Maintenance, Zomba
Air Base

51. Major Nyirenda, Former Engineer, Zomba, Air Base

52. Col. Mkandawire, Avionics Engineer, Zomba Air Base

53. Major Amin K. Kalinga, Operations and Training Officer, Zomba Air Base

54. Colonel Alex Mwachande, Base Commander, Zomba Air Base

55. Mr. Patrick Bisika, PJ Consultants, Volunteer, Zomba

56. Mr. Mabvuto Ngwilinji, Spouse to the late Major Selemani, Zomba

Southern Region

57. Dr. Steve Kamiza, Pathologist

58. Mr. Nathan Sambalopa, Brother to deceased

59. Mr. Oscar Yokonia, Airport Manager, Airport Development Limited

60. Mr. Cassim Aubi, Reporter, Zodiak Broadcasting Station

61. Mrs. Maggie Kasambara, Auditor, GTI

62. Mr. Buxton Namizinga, Accountant, DMC

63. Mr. Sydon Mpina, Officer-in-Charge, Neno Police

64. Mr. Wonder Msiska, Reporter, Times Group

65. Mr. Victor Chidziwisamo, Acting Chief Technical Officer, Telekom Networks
Malaŵi
66. Mr. Michel Herbert, Chief Executive Officer, Telekom Networks Malaŵi
67. Mr. Peter Munthali, CIO, TNM
68. Mr. Kamuzu Chibambo, President, PETRA
69. Ms. Ndapile Mkuwu, Drone Operator, MUST
70. Mr. Vincent Katonda, Drone Operator, MUST
71. Dr. Chikondi Chisenga, ADDA Coordinator, MUST
72. Mr. Peter Chambonga, Ass. Meteorologist, DCCMS
73. Mr. Stanford Kachibade, Duty Forecaster, DCCMS
74. Ms. Esnart Selemani, Representative of the Selemani's family

Central Region

75. H.E. Dr. Lazarus McCarthy Chakwera, President of the Republic of Malaŵi
76. The Right Honourable Dr. Michael B. Usi, Vice President of the Republic of
Malaŵi
77. Madam Mary Nkhamanyachi Chilima, Spouse to the late Vice President
78. Hon. Richard Chimwendo Banda, M.P., Minister of Local Government, Unity
and Culture
79. Ms. Colleen Zamba, Secretary to the President and Cabinet
80. Dr. Luckie Sikwese, Secretary to the Vice President, Office of the Vice
President
81. Ms. Chimwemwe Kachikuwo, Special Assistant (Special Duties), Office of the
Vice President
82. Ms. Winnie Nyondo, Special Assistant, Office of the Vice President

83. Mr. Eric E. Yesaya, Principal Secretary (Administration), Office of the Vice President
84. Mr. Felix Washon, Communication Coordinator, Malaŵi Red Cross Society
85. Dr. Samson Mndolo, Secretary for Health
86. Mr. Chifundo Kalulu, Secretary General, Malaŵi Red Cross Society
87. Dr. Tamiwe Tomoka, Pathologist, UNC Project MW/KCH
88. Brigadier General Robray Ismael, Air Force Commander, Malaŵi Air Force
89. Col. Madi Pilo, Director - Maintenance & Tech Support, Malaŵi Air Force
90. Lt. Col. Harold Mapando, Pilot SASO, Malaŵi Air Force
91. Hon. Zikhale Ng'oma, Minister of Homeland Security
92. Mr. Abdullah Ajeeb, Representative of the Lapukeni's family
93. Major Emmanuel Mlelemba, Public Information Officer, Malaŵi Defence Force
94. Mr. Joshua Varela, Special Advisor, Office of the Vice President
95. Mr. Jarson Sokosa, Meteorologist, DCCMS
96. Hon. Moses Kunkuyu Kalongashawa, Minister of Information
97. Mr. Allan Banda, Head of IT, Airtel Malaŵi
98. Mr. Abdul Shaik, Acting Managing Director, Airtel Malaŵi plc
99. Mr. Mphatso Manda, Network Director, Airtel Malaŵi plc
100. Mr. Fredrick Chisepeya, Director of Aerodromes and Air Navigation Standards, Civil Aviation Authority
101. Ms. Lonely Ntaba, Senior Assistant Meteorologist, Meteorological Office
102. Hon. Khumbidze Chiponda, Minister of Health
103. Mr. Charles Mediseni, Principal Fire Officer, Civil Aviation
104. Mr. Richard Luhanga, Commissioner of Police for the Northern Region
105. Dr. Patricia Kaliati, Former Secretary General, UTM Party

106. Dr. Ben Chilima, representative of the Chilima family
107. Mr. Akis A. Muwanga, Commissioner (Operations), National Police
Headquarters
108. Mr. Alex Simenti, Officer-in-Charge, Airport Police, KIA
109. Mr. Samuel Kalua, Ag. Director General, Civil Aviation Authority
110. Mr. Gripps Chimzimu, APO, Foreign Affairs
111. Eng. David Mzandu, Secretary for Transport and Public Works
112. Mr. Gift Matewere, Airport Manager, Airport Development Limited
113. Ms. Mary Chirwa, Senior Aeronautical Information Officer, Civil Aviation
114. Hon. Nancy Tembo, Minister of Foreign Affairs
115. Mr. Daud Suleman, Director General, Malaŵi Communication Regulatory
Authority
116. Hon. Harry Mlekanjala Mkandawire, Minister of Defence
117. Mr. Victor Lungu, Chief Executive Officer, Airport Development Limited
118. Mr. Sylvester Namiwa, Executive Director, CDEDI
119. Ms. Sarah Lapukeni, Representative of Lapukeni's family
120. Ms. Laika Chibwana, Depot Manager, Puma Energy Limited
121. Hon. Titus Edward Songiso Mvalo, Minister of Justice
122. Ms. Merlyne N. Yolamu, Inspector General, Malaŵi Police Service
123. General Dr. Paul Valentino Phiri, Commander, Malaŵi Defence Force
124. Mrs. Taona P.C. Aidin, Spouse to late Major Aidin
125. Mr. Felix Njawala, National Publicity Secretary, United Transformation
Movement
126. Mr. Good Munyonga, Retired teacher, Volunteer

127. Mrs. Martha Kapheni, spouse to late Mr. Kapheni, Assistant Commissioner of
Police

128. Mr. Steven Ngwilinji, Brother in-law to late Major Selemani

129. Mr. Henry Magombo, Air Traffic Controller, Department of Civil Aviation

130. Mr. Creto Kanyemba, Uncle to the late Mr. Kanyemba

131. Mr. Christopher Kapheni, brother to late Mr. Kapheni, Assistant
Commissioner of Police

Virtual Testimony

132. Brigadier General Richard Tobias Chagonapanja, Brigade Commander,
Moyale Barracks

133. Mrs. Lucy Dixon, Daughter to the late Madam Dzimbiri

