

**SUPREME COURT OF APPEAL**

**OF SOUTH AFRICA**

**MEDIA STATEMENT – TRANSNET LTD v SA METAL  
MACHINERY COMPANY (Pty) LTD**

**FROM: The Registrar, Supreme Court of Appeal**

**Date: 29 November 2005**

**Status: Immediate**

The Supreme Court of Appeal, in a judgment handed down today, held that the public is entitled to know how much an organ of State has bound itself to pay when it enters into a contract of a public character and in the public interest. It is also entitled to know the contractual details.

In 2001 Transnet invited tenders for a two year contract for the removal of galley waste from ships in Table Bay Harbour. Tenderers included Inter Waste, a Johannesburg company, and a previous successful tenderer, SA Metal Machinery, a company based in Cape Town. This time Inter Waste won the contract. Subsequently, SA Metal, relying on the Promotion of Access to Information Act, asked Transnet to disclose the monetary rate which Inter Waste was charging for each item of the contract work. Transnet refused disclosure. SA Metal then successfully applied to the Cape High Court for an order granting access to the information. Transnet appealed to the Supreme Court of Appeal. Upholding the Cape High Court, the SCA held that Transnet's reliance on

Inter waste's claim to privacy and confidentiality was misplaced. Disclosure could not reasonably be expected to cause Inter Waste commercial harm nor would it breach a confidentiality clause to which tenders had been subject. Once the contract was awarded, Inter Waste's tender price and its composition could not be protected by the confidentiality clause. Transnet's appeal was dismissed.