



## ARMS PROCUREMENT COMMISSION

Improving Accountability in the Sector

Mr John Garrison  
Chief Executive Officer, Bell Helicopters  
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Tel: (450) 437 3400

Dear Mr Garrison

### ARMS PROCUREMENT COMMISSION: REQUEST FOR INFORMATION

The President of the Republic of South Africa has under section 84(2)(f) of the Constitution of the Republic of South Africa, 1996, appointed a Commission of Inquiry into the Allegations of Fraud, Corruption, Impropriety or Irregularity in the Strategic Defence Procurement (the Commission). In terms of Proclamation No R4, 2012 dated 8 February 2012 and published in the *Government Gazette* No 35023, regulations have been promulgated with reference to the said Commission. For ease of reference, these statutory enactments have been annexed hereto. The Commission is currently trawling for information that is relevant to its Terms of Reference.

On 25 November 1999, the South African government sanctioned the acquisition of corvettes; submarines; light utility helicopters; Lead in Fighter Trainers; and Advanced Light Fighter Aircraft. The total cost of the acquisition was initially estimated at R29.9 billion.

The prime conglomerates to whom the contracts to supply the weaponry were awarded are:

- |                                |                                  |
|--------------------------------|----------------------------------|
| (a) JAS Gripen:                | British Aerospace (BAe) and SAAB |
| (b) Hawk 100:                  | BAe                              |
| (c) Submarines:                | German Submarine Consortium      |
| (d) Corvettes:                 | German Frigate Consortium        |
| (e) Light Utility Helicopters: | Augusta                          |

There have been numerous allegations of corruption, fraud and irregularities in the awarding and conclusion of the aforementioned contracts. Some of the offences alleged to have been committed by people who were involved in this procurement process have been proven in court and the persons concerned have been convicted and sentenced by the courts. However, a number of issues remain unresolved, hence the appointment of this Commission.

Our preliminary investigations have revealed that: Bell Helicopters was one of the bidders for the supply of the Light Utility Helicopter, but withdrew from the bidding process as it was not



## ARMS PROCUREMENT COMMISSION

*Commission des Acquisitions d'Armement*

prepared to pay a bribe; a number of figures attached to the Bell Helicopter bid have indicated that not only were the figures manipulated in ensuring that Agusta emerged the preferred bidder but also that this was done by means of inducements offered by Agusta to connected political individuals, one such figure being George Trail III, Canada's diplomatic envoy to South Africa from 1980 to the early 1990.

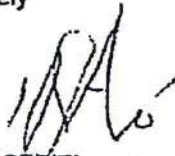
We invite your company to indicate whether there is any truth in these allegations and provide us with any information relating to this procurement that your company might have and that you think could be useful to this Commission in discharging its mandate.

The Commission would also appreciate receiving your views on whether it would be permissible under Canadian law to provide us with information at your disposal without a formal request for mutual legal assistance.

If there are any other institutions and/or persons that in your view might be able to provide useful information to the Commission, kindly provide us with their names and contact details.

We eagerly await your response.

Yours sincerely

 29/06/12

JUDGE W. L. SERITI  
CHAIRPERSON: ARMS PROCUREMENT COMMISSION

  
AHC





A Textron Company

John L. Garrison  
President & Chief Executive Officer

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VIA EMAIL: [lpainning@armscomm.org.za](mailto:lpainning@armscomm.org.za)

July 18, 2012

Judge W.L. Seriti  
Chairperson: Arms Procurement Commission  
The Republic of South Africa  
House A, Nzasm Court, 3<sup>rd</sup> Street, Salvokop, Pretoria, 0002  
Private Bag X02, The Tramshed 0127

REFERENCE: ARMS PROCUREMENT COMMISSION'S REQUEST FOR INFORMATION,  
LETTER DATED 29/06/12

Honorable Judge Seriti:

I received your letter requesting Bell Helicopter's assistance with the Arms Procurement Commission's inquiry into The Republic of South Africa's 1999 purchase of light utility helicopters. Bell Helicopter is committed to fair and ethical business practices and applauds the Commission's efforts to investigate possible improprieties in the referenced acquisitions.

Bell Helicopter can confirm it was one of the unsuccessful participants in the referenced Light Utility Helicopters acquisition program. Bell Helicopter Textron Inc. is headquartered in Ft. Worth, Texas, U.S.A., and is not subject to Canadian law with respect to complying with South Africa's request for information regarding the referenced procurement. If Bell Helicopter can be helpful, I assure you it will be happy to cooperate.

I have asked Sherry Houchin, Bell's Deputy General Counsel for International and Commercial Business, to investigate further to determine if Bell may have any relevant records or employees who may have knowledge with regard to this specific procurement. Please be aware, however, that most likely Bell has not retained any records relating to this procurement, given that it occurred more than 13 years ago. Ms. Houchin can be reached at: [shhouchin@bh.com](mailto:shhouchin@bh.com), phone 001-817-280-6190.

Bell Helicopter supports The Republic of South Africa's democracy and its efforts to enforce anti-corruption practices in its government procurement activities.

Very best regards,

Bell Helicopter Textron Inc. is a subsidiary of Textron Inc.

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Dear Mr Garrison

**RE: ARMS PROCUREMENT COMMISSION: REQUEST FOR INFORMATION**

We acknowledge receipt of your letter dated 18 July 2012.

We look forward to hearing from you in due course.

Kind regards

 19/7/2012  
**JUDGE WL SERITI  
CHAIRPERSON: ARMS PROCUREMENT COMMISSION**

Commissioners: LW Seriti JA (Chairperson); HTM Musi JP; FM Legodi J  
Head of Secretariat: P.N Laphondo

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Rob gives us a little bit of background

Judge seriti thanks the team for seeing us. He gives the team background about his and judge musi experience.

There are allegations by people who were not happy with the procurement: that Bell helicopter pulled out of the process after it refused to pay a bribe. It refused to acquire services of a company that would lobby on its behalf. That it was misled about the offsets. (refer to the letter from Mdumbe). The commission has to determine whether there was any corruption. Witnesses could not substantiate these allegations.

Bell is supportive of the efforts (mr rob). Has changed its compliance programmes to ensure that no such things happen. Could not find record that bell withdrew. Bell submitted the bid but was not selected. No services of the company were used. Bell was introduced by Shaik to FBS. A meeting was held and bell was required to make advanced payment and a monthly fee once a contract was identified. Bell rejected the notion of making advanced payment. A decision was taken not to engage the company in question, this need could be met internally.

Chippy role was to introduce FBS. They wanted a monthly fee for offset services. Bell didn't need any offsets services. The statement that appeared in the press was correct. Bell doesn't have to retain records beyond the bid. Commentary that bell was misled cannot be corroborated.

The commission has all the documents and the information bell has is consistent with what the information knows. No information relating to mr shaik's involvement in the whole process.

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## ARMS PROCUREMENT COMMISSION

*Integrity, Accountability and the Rule of Law*

Minutes of meeting between the Serious Fraud Office and the Arms Procurement Commission  
held in Travalgar Square in London on 10 January 2014

### Opening

The meeting commenced at 10h00.

### Present

Members of the Arms Procurement Commission: Judge Willie Legoabe Seriti and Adv Fanyana Mdumbe

Representatives of the Serious Fraud Office: Mr Raymond Amson, Brenda White and Mr Gary Murphy

### Purpose of the meeting

To follow up on numerous requests for assistance submitted by the Arms Procurement Commission to the Serious Fraud Office.

### Matters discussed

Judge Seriti gave an overview of the work done by the Commission since its hearings started on 19 August 2013 to date. He informed the meeting that shortly after it was constituted, the Commission relied much on the information that was in the public domain, especially the numerous books written on the subject, and that this was an oversight. A number of allegations contained in these documents have been refuted by officials from the Department of Defence and Armscor who have given oral evidence at the Commission and this has been bolstered by documents relied on by these witnesses. He informs the meeting that so far the Commission has focussed primarily on items 1.1 - 1.2 of the Terms of Reference. When the Commission resumes on 20 January 2014, witnesses will give evidence on the offsets and jobs created or anticipated to flow from the investment.

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Mr Gary Murphy of the SFO informed the meeting that a number of letters of request were transmitted to other jurisdictions and that the majority of these requests were never complied with. The investigation never got further. The Scorpions were also asked to assist and their investigation was abruptly stopped when the Scorpion was disbanded. However, this happened after he submitted an affidavit which set out in detail the findings of the SFO. He further states that they went to South Africa to receive information confirming that Adv Hlongwane was an adviser to Ms Sicgau who was then Minister for Public Enterprises after his resignation as adviser to the Minister of

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Defence. He says whilst they were on their way to the office of the Minister, his South African counterpart, Mr Johan du Plooy received a call informing him that a decision has been made that they should not be given access to the file. He further stated that most people who had consultancy agreements with BAE and SAAB seemed to be well off and had lots of money in their bank accounts. He says they were able to trace money going into the account and then the money would be used by the holder of the account in what appeared to be lifestyle expenses and this would break the chain. He stated that in the end the SFO removed from its radar Brookland Management and Zomita because there was no evidence that monies were paid to officials. In fact it appeared that Sir Alan Curtis of Brookland Management did work for BAE.

Judge Seriti then asked specific questions about some of the offshore entities that had consultancy agreement with BAE. The team could not respond without reference to documents. They requested the Commission to reduce these specific questions in writing and email them. Furthermore, an attorney who was responsible for the execution of a letter of request submitted by the German authorities in November 2007 was requested to come and explain whether the information was provided to the Germans. He confirmed that it was and that the SFO did not keep any of the documents that they found in the offices of Alandis and Mallar Inc, both of which are companies owned by Tony Georgiadis. He recommended that the Commission should liaise directly with German Prosecutor Martin Fischer and Lioba Borowski of the Landes Kriminalamt NRW in this regard.

Furthermore, the SFO advised the Commission to liaise with the Swiss authorities in relation to a transcript of Mr Alexander Roberts' interview which was conducted by Gary Murphy in Switzerland. Mr Emson elaborated that although the SFO was given permission by the Swiss authorities to share the evidence of Mr Roberts with their South African counterparts, this information cannot be provided to the Commission as the Commission's mandate and objective seems to be different. Judge Seriti asked him to explain what he meant. He stated that the Commission only has powers to make a recommendation and would not institute prosecution itself.

Furthermore, the SFO confirmed that it did not conduct an investigation into the affairs of Ian Pearce or his company called Merian Ltd. It undertook to do a background check for the Commission.

The SFO stated that during its investigation of BAE it never found any evidence of onward payments to officials of government. Gary Murphy emphasised that the SFO has no information beyond what is contained in his affidavit. He further stated if he is called to give evidence at the Commission public hearings, he would not be in a position to provide additional information. All that the SFO found is contained in his affidavit.

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#### **Adjournment**

The meeting adjourned at 12h00.

Minutes prepared by:

Approved by:

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*[Handwritten signature]*  
*[Handwritten initials]*



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BY EMAIL: [Raymond.Emson@sfo.gsi.gov.uk](mailto:Raymond.Emson@sfo.gsi.gov.uk)

Dear Mr Emson

As stated in our previous correspondence to your office, we have received vast amount of documents from the Directorate for Priority Crime Investigation, which inherited the investigations pertaining to the defence procurement packages from the now defunct Directorate of Special Operations. After painstakingly analysing the data, including information exchanged between your office and the former Directorate of Special Operations and the National Prosecuting Authority, we have identified certain individuals as potential witnesses. However, we require evidence with which to confront them or additional information to supplement what we already have. We believe your office might be able to assist us in this regard. The assistance we require from your office is dealt with in more detail in the ensuing paragraphs.

(a) Adv Fana Hlongwane

Mr Gary Murphy, in his email dated Wednesday 9 January 2008, to Special Investigator Colonel Johan du Plooy states:

"Further to our conversation this morning I can confirm that our enquiries here have turned up some very interesting evidence on Fana Hlongwane (FH)." He then requests the investigators in South Africa to check Nedbank account of Adv Hlongwane and the accounts of Tsebe Properties and Airborne Trust.

(b) Mr Seth Phalatse

In her email dated 27 September 2007, addressed to Senior Special Investigator Colonel Johan du Plooy, Ms Lydia Johnson says the following in relation to Mr Seth Phalatse:

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Head of Secretariat: P.N. Lufhondo

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"We have evidence of an intimate meeting in 1998 between him, Mbeki and BAE executives. I've not come across him before, so if you have any information that would be great."

We would be much obliged if you could provide us with copies of the evidence gathered by your office in relation to Adv Fana Hlongwane and Mr Seth Phalatse referred to by Mr Gary Murphy and Ms Lydia Jonson in their emails referred to in paragraphs (a) and (b) above.

(c) Adv Fana Hlongwane, Messrs Mike Davison and Chippy Shaik

In a document penned by Mr Gary Murphy, dated 12 February 2009 and titled "Notes Regarding the SFO Review of Bags Seized by the Scorpions on 26 November 2008, under the heading "Assistance Requested by the SFO", it is stated:

1. Further recent information suggests that Fana advised Stella after he advised Modise and while he was receiving money from BAE, possibly between 1999-2001.

2. I have received information that Mike Davison, a South African, was present at a meeting in Switzerland attended by Pellissier, Bredenkamp and others when they discussed how and to whom funds received from BAE, were to be dispersed. Davison was then to make money movement happen... we would provide you with an interview plan.

7. We have seen intelligence reports that indicate that during the Durban meeting, Ministers in support of the Hawk/Gripen bid were Stella Sigcau, Alec Erwin along with "Chippy", (213847). This is the first time that we have been aware of support from "Chippy".

We intend verifying whether Adv Fana Hlongwane acted as an adviser to the late Minister of Public Enterprises, Stella Sigcau, after he resigned as an adviser to the late Minister of Defence in January 1999. However, any information you might have which confirms that he was indeed an adviser to Minister Stella Sigcau would assist greatly, for example, evidence that he travelled with or accompanied the Minister on her official visits to other countries.

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We are keen to interview Mr Michael Davison; however, we need more evidence and detailed information with which to confront him. We believe that the information referred to in paragraph 2, including the interview plan, could assist and we would be much obliged if you could make it available to us.

In respect of Mr Chippy Shaik, we would appreciate it if you could provide us with copies of the Intelligence reports referred to in paragraph 7 above.

(d) Payments to FTNSA and Mr Basil Hersov

1. On pages 6 of the MLAs of 2006 and 2007 submitted to the South African authorities, signed by Messrs Matthew Cowie and Robert Wardle respectively, in which payments by Red Diamond to FTNSA are dealt with, it is stated that:

*'The documentation disclosed by BAE confirms that he [Basil Hersov] is a member of numerous advisory bodies and foundations in South Africa, and he is described as a "a man of considerable influence and will continue to be so in a new South Africa... an agreement with Basil Hersov allows access to the very top".'*

2. On page 6 of the 2007 MLA, it is stated in respect of payments to FTNSA, that:

*'Banking information received from the Swiss and Jersey authorities has identified approximately £3 million being transferred from FTNSA to companies and persons banking in Jersey. A further letter has been issued to the Jersey authorities in relation to these payments.'*

In relation to payments made to FTNSA and the involvement of Mr Basil Hersov in the procurement, we are interested in the documentation disclosed by BAE to the SFO in which Mr Basil Hersov is described as a man of considerable influence. We are also interested in the evidence you have gathered from Jersey and Swiss authorities relating to onward payments made by FTNSA. We are particularly interested in payments made to entities or persons in South Africa or to South Africans.

(e) Payments to the late Mr Richard Charter's Huderfield

- (1) On page 7 of the 2006 MLA, it is stated that Huderfield was paid almost £25 million through Red Diamond between December 1999 and July 2005, including £5.5 million settlement payment. It is further stated that:

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'Some of these monies were routed through a bank account in Geneva to a beneficiary in the Bahamas (this is the subject of separate letters of request to the Competent Judicial Authorities of Switzerland and the Bahamas).'

- (2) In relation to the covert and overt contracts that the late Mr Richard Charter had with BAE, it is further stated on page 7 of the MLA of 2007, that:

'The SFO is particularly suspicious about this split in-success fee, and has requested the Competent Authorities of the Bahamas to access the account documentation and transmit all relevant material to the SFO.'

Of particular interest is an upfront \$4 million payment to Huderfield, agreed by BAE on 2<sup>nd</sup> December 1999, prior to the contract being signed with the Government of South Africa on 3<sup>rd</sup> December 1999...Information recently obtained from a potential witness has led the SFO to suspect that it was being used to secure the support of public officials.'

- (3) On page 13 of the 2007 MLA and in relation to payments to Huderfield and Osprey Aerospace it is stated:

'The Competent Authorities of the Bahamas are yet to provide the SFO with the relevant banking information to enable the visibility of the ultimate beneficiaries of the Huderfield funds. It is hoped that the executor of Charter's estate will be able to provide this information.'

In relation to payment made to Mr Richard Charter's Huderfield, it is stated in the MLAs that separate letters of request were sent to the Swiss and Bahamian authorities. We are interested in your findings and analysis of the banking documentation provided by these authorities. As stated above, we are interested in onward payments to South African entities and/or individuals from the banking accounts of Huderfield. We would appreciate it if you could share with us information you got from the potential witness.

- (f) Measuring Instruments Technology

On page 8 of the 2006 MLA, the SFO requested that designated officers of the relevant banks in the Republic of South Africa be compelled to produce banking documentation relating to, among others,

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the account of Measuring Instruments Technology. It is not apparent from the MLA what prompted this request.

It is not apparent from the 2006 MLA why you were interested in the affairs of Measuring Instruments Technology. Any information you might have relating to this entity will be greatly appreciated.

(g) Zomita Development and Mr Nabil Hijazi

In relation to Zomita Development SA, it is stated on pages 7-8 of the 2007 MLA that:

'Its principal is Nabil Hijazi. A letter of request has been sent to Liechtenstein. We understand that this is currently being appealed by the account holder.'

We would appreciate it if you could share with us information provided to you by the Liechtenstein authorities relating to Zomita and/or Mr Nabil Hajazi, including the court records, if any, relating to the challenge referred to above, your assessment of banking documentation and inferences drawn from it and Mr Hajazi personal details such as his nationality, residential address and details of other entities wherein he is a shareholder.

(h) Mallar Inc, Alandis (London) Ltd and Mr Anthony Vassos Georgiadis

Amongst the documents we have is a document titled "City of Westminster Magistrates Court: Warrant to enter and search premises" dated 16 November 2007. Although certain sections of this document are not legible, it appears that on the said date an application was made in court by Mr Anthony Robert Wilson of the SFO for the issue of an order under section 2(4) of the Criminal Justice Act authorising police officials to enter the premises of Alandis (London) to search for documents relating to allegations of bribery of South African officials by Thyssen Rheinstahl Technik, a German company which was part of the German Frigate Consortium. This consortium sold the corvettes to the South African government in 1999 and comprised of Thyssen Rheinstahl Technik, Blohm + Voss and Howaldtswerke Deutsche. It further appears that a District Judge of the Westminster Magistrates Court issued the order prayed for on the same day. The order further sanctioned the seizure of documents to, from or concerning a host of individuals and/or entities listed in schedule 1 and 2 thereof, including documents related to Mr Anthony Georgiadis, Alandis and Mallar Inc.

It further appears from another document dated 20 November 2007, with reference number: MLA/D/02067, that the order referred to above was executed by the SFO. In this document the SFO instructed Needleman Treon Solicitors to produce any information relating to Mr Anthony Georgiadis, Alandis, Mallar Inc (Liberia) and any information relating to any company or individual named therein.

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The sale of the corvettes by the German Frigate Consortium to the South African government as part of the strategic defence packages procurement is a matter that this Commission is also investigating. As you may be aware, in 2006 the German authorities instituted an investigation into allegations of bribery of South African officials by the German Frigate Consortium. The request for mutual legal assistance referred to above was made in furtherance of that investigation. We would be grateful if the evidence gathered by the SFO and subsequently transmitted to the German authorities pursuant to this request could be made available to us.

(i) **Arstow Commercial Corporation**

The Directorate for Priority Crime Investigation has also given us a complete copy of Mr Gary Murphy's affidavit to which he deposed on the 9<sup>th</sup> of October 2008. In paragraph 37 of that affidavit, dealing with the payment of £15, 000, 000 by Red Diamond to Arstow for the Hawk/Gripen contract, he states:

'Mutual Legal Assistance requests have been directed to Liechtenstein, Switzerland and the People's Republic of China to trace the ultimate beneficiaries of the £15,000,000 paid by Red Diamond to Arstow. I am at present unable to share the results of the information received from these jurisdictions until permitted by the relevant authorities.'

We would appreciate if you could share with us the banking and other documentation you received from the China, Switzerland and Liechtenstein and your analysis and inferences drawn from it. As stated in the previous paragraphs, we are particularly interested in onward payments made to South African entities and individuals.

(j) **Airborne Trust and the late Minister of Defence Joe Modise**

In an undated document titled 'Requested Assistance from the Scorpion In Relation to a Domestic/Parallel Investigation', Mr Gary Murphy states:

'Joe Modise was, up until his death, a Trustee of the MK Military Veterans Association. This organisation is linked to receipts of money from BAE for purported social economic purposes. We understand that Joe Modise was also a trustee of the Airborne Trust. Intelligence suggests that this was a tool through which Modise moved corrupt funds.'

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We would appreciate it if you could provide us with documentation indicating or confirming donations made by BAE to the MK Military Veterans Association, especially donations made between 1994 and 2000. We would also be grateful if you could provide us with copies of the intelligence reports which suggested that the Airborne Trust was used to move corrupt funds.

(k) Dr Dilliza Mji

In relation to Dr Dilliza Mji, Mr Gary Murphy stated, in the same document referred to above:

'We understand that an individual, Dilliza Mji was on the board of BAE Systems SA. We further believe that he was also a physician to Joe Modise. What is known to the Scorpions about Mji? What intelligence is available?'

We can confirm that Dr Dilliza Mji is one of the people whose affairs and shareholding in South African entities controlled by BAE we are probing. We would therefore be grateful if you could provide us with any documentation you might have that relates to Dr Mji. In a document titled "SPC 01: review of material obtained from BAE Systems under the 23<sup>rd</sup> section 2 notice dealing with the South African notice", which we assume emanates from your office, there is mention of meetings involving Dr Mji. It is also stated in this document that Messrs Richard Charter, Phalatse and Niall Irving, Dr Mji and former President Mbeki held a dinner. Were you able to establish from Messrs Irving and MacDonald what the purpose of this meeting was and where this meeting took place? We would appreciate it if you could provide us with evidence confirming that the meeting of 1998 referred to above indeed took place.

(l) Brookland Management Limited

With regard to Brookland Management, Mr Gary Murphy stated in the document referred to in paragraphs (j) and (k) above:

'Letters of request have been sent or are in the process of being sent to Guernsey and Jersey for banking evidence. These will also be analysed.'

David Clark the administrator of Brookland Management has been interviewed in Switzerland and gave a credible account, indicating that Alan Curtis was the principal behind Brookland Management and provided the services to BAE under his agreement with them. We also understand that Clark told of a close link between the Airborne Trust and a charitable trust based in the UK operated by Curtis and into which BAE made generous donations. We are awaiting the translated script of the interview to establish full facts.'

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Lillian Ngoyi Streets,  
Pretoria  
South Africa  
www.armscomm.org.za



## ARMS PROCUREMENT COMMISSION

*Transparency, Accountability and the Rule of Law*

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The Tramshed  
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Pretoria  
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We would be grateful if the banking evidence received from Guernsey and Jersey and your analysis of that evidence and a certified copy of Mr David Clark's evidence could be made available to the Commission.

(m) Mr Ian Pearce and Merian Ltd

Another entity whose affairs we are looking into is Merian Ltd, registered in the United Kingdom. This entity entered into a consultancy agreement with Thyssen Rheinstahl Technik on 8 October 1998, for a commission of \$3 million. This consultancy agreement was signed by Mr Ian Pearce, a South African national, on behalf of Merian Ltd.

We are not certain whether your office has ever been approached by the German authorities to assist in their investigation of allegations of bribery of South African officials by Thyssen Rheinstahl Technik through Merian Ltd. We also believe that this entity was incorporated in the United Kingdom but there seems to be no record of the same in the UK. We would appreciate it if you could make available to us whatever information you might have which relates to this entity. It is also requested that a simple background check of this entity be conducted.

Now that we have an inventory of documentation you handed over to the Scorpions and a clear idea of the people and entities whose affairs you were probing, we would, once again, appreciate the opportunity to visit your office, at a date suitable to you, to peruse the documentation in your possession and, with your approval, make copies of documents we deem crucial for the purposes of our investigation.

Thanking you in advance for your assistance and cooperation. Please do not hesitate to contact our office should you require supplementary information.

We are looking forward to hearing from you.

Kind regards

  
Judge WL Seriti

Chairperson of the Arms Procurement Commission

Commissioners: LW Seriti JA (Chairperson); HTM Musi JP; FM Legodi J  
Head of Secretariat: P.N. Lufondo





Bredenkamp has denied all of the allegations against him. As we noted above, when he was questioned by SFO investigators, he claimed that, while he was a shareholder in Kayswell Services, he was not involved in the day-to-day running of the organization and had no insight into its operations. He has also denied the claims outlined in placing him on US/OFAC and EU sanctions list, claiming that they are erroneous on a number of points. Far from being a 'Mugabe regime crony', Bredenkamp alleges that he has been targeted by the Mugabe regime: 'I have been imprisoned by the Zimbabwe government, had my passport seized and my farm designated. This is hardly the manner in which Mugabe treats his cronies.'<sup>263</sup> He is also contesting his placement on US and EU sanctions lists via legal challenges and maintains that his placement on the lists continue to be an affront to justice.<sup>264</sup> In 2012, Bredenkamp and his entities were removed from EU sanctions lists, although he remains a 'designated individual' on the US OFAC sanctions list.

The second company contracted by Red Diamond Trading was Arstow Commercial Corporation, which received roughly £15m via accounts in Liechtenstein and China. Most notably, Arstow received three large payments from Red Diamond Trading (£75 000, £30 000 and £100 000) just prior to the signing of the contracts between South Africa and BAE. Interestingly, Allan McDonald claimed in his interview with the SFO that a portion of the money paid to Arstow were to be forwarded to Fana Hlongwane (of whom more below) in return for advice on 'black empowerment partners and offset opportunities'.<sup>265</sup>

Earlier drafts of the affidavit submitted by the SFO, of which we are in possession (and relevant sections of which have been included amongst our annexes), included additional detail regarding the role of Arstow. The draft claimed that Arstow was explicitly used to make payments to both Fana Hlongwane and Stella Sigcau. Sigcau was a member of the Cabinet sub-Committee overseeing the Arms Deal. To quote from the affidavit:

'Arstow was incorporated in the British Virgin Isles on 16<sup>th</sup> September 1998, and was later dissolved and re-incorporated in Panama. According to the documentation received from BAE following service of a compulsory notice from the SFO, the personnel involved in Arstow are Alexander Roberts OBE (a UK national), Dr. Hugh Thurston (a financial advisor based in Jersey) and Johannes Matt (a trust administrator based in Liechtenstein. In August 2007 the SFO interviewed a senior BAE employee, Allan McDonald, who was the marketing manager responsible for the South African campaign until he left BAE in early 1999. Mr. McDonald stated that Arstow was partly used by BAE to make commission payments to Fana Hlongwane, who had been special advisor to Joe Modise (Minister of Defence 1994 – 1999) and Stella Sigcau (Minister for Public Enterprises 1994-9 and Minister for Public Works 1999-2006) until some time in 1999.'<sup>266</sup>

In 2009, one of the authors of this document (Paul Holden) was told by a senior member of the Serious Fraud Office that the SFO had conducted a wide-ranging investigation into claims that Stella Sigcau had received improper benefits from BAE. According to the investigator,

<sup>263</sup> [www.johnbrenkamp.co.za](http://www.johnbrenkamp.co.za)

<sup>264</sup> *Ibid*

<sup>265</sup> Murphy, G. 2008. Affidavit submitted as Annexure JDP-SW12 in the High Court of South Africa (Transvaal Provincial Division) in the matter of *Ex Parte* the National Director of Public Prosecutions (applicant) in re: an application for issue of search warrants in terms of Section 29(5) and 29(6) of the National Prosecuting Authority Act, No. 32 of 1998, as amended, para 41. Attached as Annex S.

<sup>266</sup> Extract from draft version of SFO Affidavit, undated. Attached as Annex YY.

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the SFO had located significant evidence of benefits accruing to Stella Sigcau from BAE during the Arms Deal selection process and thereafter. The investigator claimed that Sigcau had received monies from BAE as well as benefits in kind. The benefits in kind included paying the school fees of Stella Sigcau's daughter at an exclusive English school, possibly based in London. The SFO had allegedly secured the audit trail indicating that the school fees were indeed paid by BAE. We have never seen such documents and cannot attest to their validity, but we are of the opinion that the investigator was a reliable source of information. We thus urge the Commission to approach the SFO to access such documentation, if such documentation is still in the possession of the SFO.

The third company was Huderfield Enterprises Inc, which received about £26m. Huderfield was the vehicle of Richard Charter, who, as described above, was BAE's official agent in South Africa. Interestingly, Charter was well-known to be the official agent of BAE in South Africa: his company, Osprey Aerospace, had received payments directly from BAE and had been the main vehicle through which BAE had made a series of donations to the ANC. Huderfield, however, was a 'covert' vehicle, and was paid by Red Diamond Trading, raising questions as to why Charter would need both overt and covert vehicles for his consultancy.

Other recipients of 'covert' commission payments, albeit smaller than those describe above, were Commercial International Corporation (CIC), which received £290 000, and against which Fana Hlongwane was issued a gold credit card; FTNSA Consulting, which received £5m, and was a company operated by former FNB Chairperson Basil Hersov (Hersov, when questioned by the *Mail & Guardian*, claimed that he had once worked as an overt consultant for BAE but that the figure mentioned by the SFO was considerably too high<sup>267</sup>); Zomita Development, which received £7.9m; and Brookland Management Ltd, which received approximately £8.5m.<sup>268</sup> Brookland Management was allegedly run by Sir Alan Curtis,<sup>269</sup> who has long been alleged to be closely linked to the infamous BAE deal in Saudi Arabia, Al Yamamah, through his links to the so-called 'Savoy Mafia': a group of bankers and intelligence operatives that met at the Savoy Hotel to set plans for major defence equipment sales throughout the world.<sup>270</sup> One of the alleged luminaries of the Savoy Mafia is Mark Thatcher, the son of former British Prime Minister Margaret Thatcher. Mark Thatcher, it has been alleged, received a £12m commission for his role in the BAE deal in Saudi Arabia.<sup>271</sup> Mark Thatcher's introduction to the 'Savoy Mafia' was allegedly effected by his father, Denis, who had long been a friend of Sir Alan Curtis.<sup>272</sup> Curtis has repeatedly denied that he operated Brookland Management.<sup>273</sup>

The largest South African recipient of funds directly from Red Diamond was Fana Hlongwane. Hlongwane was special advisor to Joe Modise from 1994 until Modise's resignation from the SANDF.<sup>274</sup> He was also appointed as a Board Member of Denel by

<sup>267</sup> 'BAE's web of influence in South Africa', *Mail & Guardian*, 12 January 2007

<sup>268</sup> Murphy, G. 2008. Affidavit submitted as Annexure JDP-SW12 in the High Court of South Africa (Transvaal Provincial Division) in the matter of *Ex Parte* the National Director of Public Prosecutions (applicant) in re: an application for issue of search warrants in terms of Section 29(5) and 29(6) of the National Prosecuting Authority Act, No. 32 of 1998, as amended, para 15 – 16. Attached as Annex S.

<sup>269</sup> *Ibid*

<sup>270</sup> 'Arms probe reopened', *Mail & Guardian*, 20 March 2008

<sup>271</sup> Hollingsworth, M. and Halloran, P. *Thatcher's Fortunes: The Life and Times of Mark Thatcher*,

Edinburgh: Mainstream, 2005.

<sup>272</sup> *Ibid*

<sup>273</sup> 'BAE paid £100m to secure South African deal, police files allege', *Guardian* (UK), 5 December 2008

<sup>274</sup> That this was publicly advertised is confirmed by Hlongwane's business card, attached as Annex T.

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-----Serious Fraud Office-----



+01252283053

17/02/99 11:06 17:01/02

3400.026.354

**BRITISH AEROSPACE****Memorandum****STRICTLY PERSONAL  
& CONFIDENTIAL**

<b>To</b>	Terry Morgan	<b>Location</b>	Warwick House
<b>Department</b>	Group HR		
<b>From</b>	Alan Wharton	<b>Tel.</b>	4864
<b>Department</b>	Personnel	<b>Fax.</b>	3053
<b>Location</b>	Lancaster House		
<b>Date</b>	19 February 1999	<b>Our Ref.</b>	ARW2728/h:
<b>Subject</b>	ALLAN MACDONALD		

Update on Allan's activities which have been passed to me from a number of sources.

During the first week after you and Kevin spoke to him, he was fairly quiet although he did speak directly to Steve Meighan, Angus Greene, Andy Humphries, Keith Pates, Catherine Robinson and John Twiddy.

His conversation with some of them revolved around blaming Jim McDowell for his demise and he asked a number of them for a deposition to be sent to him on exactly what had been said to them and also to confirm his words at the team meeting. As far as I know, nobody responded.

After seeing Dick the second week, his attitude changed and he was telling a number of people that Dick had asked him to stay on to deal with South African issues, certainly until June. We also became aware that he was speaking to a number of people in South Africa and Brunei. This was confirmed when he asked to be put through to certain key people. They were Jules Pelessier - South Africa, Fama Hlongwane - South Africa and John Cars, Brunei. He also spoke and, we believe, met Portia Sigau, the daughter of Stella Sigau, Minister - South Africa, who I subsequently found out has been influenced to send a letter of support regarding Allan into the Company. For your information, Portia is being supported by Bae while doing a course in London. This includes accommodation and all furnishings, plus a large number of other items.

After Allan spoke to John Cars, Jim McDowell was refused a meeting with Sayed Jaffrey in Brunei.

We also believe that he has put a lot of pressure on Stuart McIntyre, again to write in a letter of support to the Company.

SIVED TIME 19.FEB. 12:25

PRINT TIME 19.FEB. 12:25

-----Serious Fraud Office-----



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3400.026.205

I have appraised Neils Petersen of this situation and asked him to ensure that in our South African budget we make provision for three years' support for the Minister's daughter. He has indicated that monies will be found to deliver this.

Of course I fully understand I need your blessing to all of this, as well as you and your team's proactive support. I am belatedly seeking this and I apologise to you for the delay in communicating with you on this important matter.

Regards,

Allan MacDonald

P. 002

FAX: 01252 383010

SECURE-FX TRANSMISSION

7-SEP-98 (MON) 07:21 BAE HQ, REC. MARKTG.

---Serious Fraud Office---



-----Serious Fraud Office-----

FAX 1: PANASONIC FAX SYSTEM

PHONE NO. :

Oct. 12 1998 01:57PM P1



## Fax Message

P O Box 8322, Centurion 0046, Tel (012) 428-2704; Fax (012) 428-0783

TO: Mr. Niels Petersen	FROM: Portia Ndzamela
COMPANY: British Aerospace	PAGE/S: 1
FAX NO.: 01252 384802	DATE: 1998/10/12



3471.001.292

Dear Niels,

I would like to take this opportunity to thank you for the wonderful hospitality you gave to me whilst I was in London. The support services provided was outstanding and of the highest order.

Further, I would like to say that the discussions we had around the opportunities available to me within Lloyds Bank took place in a very relaxed and friendly manner, which allowed me to make decisions based on sound advice and good judgement.

I would also like to thank you for incorporating the position of my little girls into our discussions, and thus giving the comfort that they are not forgotten in the greater scheme of things.

Finally, I would like to say that I look forward to joining you in London and developing a friendly and professional relationship that will be mutually beneficial.

My kindest regards to you and your team.

Yours sincerely

PORTIA NDZAMELA

-----Serious Fraud Office-----



**Adv F Mdumbe**

**From:** Raymond Emson <Raymond.Emson@sfo.gsi.gov.uk>  
**Sent:** 14 December 2012 07:40 PM  
**To:** Fanyana Moses  
**Cc:** Gary Murphy; Robert Ellis; Alun Milford  
**Subject:** RE: Letter of request (BAE)

**Sensitivity:** Confidential

Dear Fanyana,

Further to my last e-mail, I had a meeting today with two investigators (BAE), including Gary Murphy, for an initial assessment of your request. You are asking for a lot of information, or information which could take some time to track down, so (as previously explained) we need to try to focus our searches as much as we can, and we must avoid any unnecessary duplication.

To this end, could I please first check a few points with you and let you know where we stand following our preliminary meeting:

1. Have you managed to obtain Gary Murphy's lengthy affidavits and exhibits? There are two versions, one for criminal proceedings and one for civil proceedings, each with a bundle of exhibits. The version for use in criminal proceedings is the more comprehensive of the two. I ask this question because we believe a lot of the information you are requesting is set out in the criminal affidavit and bundle of exhibits. To save us unnecessary work at this end, and to avoid unwarranted delays, we should be grateful if you would let us know whether you have these documents and (if so) whether you have gone through them.
2. The criminal affidavit referred to above sets out comprehensively the fruits of the SFO's investigation into BAE's activities in the RSA. Accordingly, that is the first place to look for anything material the SFO discovered.
3. That affidavit also contains some information obtained from other jurisdictions, but not all jurisdictions. We need to obtain the consent of the providing jurisdiction before we can forward information obtained under a letter of request we sent them. Some countries will not provide, or will only rarely provide, consent, but other countries are more willing to consent. The criminal affidavit contains information for which consent was obtained but contains no information from jurisdictions which did not provide consent. Where consent was not obtained, it is unlikely we will now be able to obtain consent to provide the information to the Arms Procurement Commission. Accordingly, as before, Gary Murphy's affidavit is the best place to look for information obtained from other jurisdictions. If we obtained information from pursuant to a letter of request, and that information is not in Gary Murphy's affidavit and bundles, then I doubt very much whether we will ever be able to provide it to you.
4. For many of your requests it would be incredibly difficult simply to provide a bundle of documents: there may be thousands if not hundreds of thousands of digitally stored documents, so we need to narrow down the searches. Accordingly, for many of your requests (eg, your request relating to "Adv Fana Hlongwane") we propose liaising with you (through Gary Murphy) to agree specific search terms based on linked key words which are most likely to lead to relevant information coming to light. That is the only practicable way to deal with the breadth of some of your requests.
5. Once we have narrowed down the scope of your request, with reference to Gary Murphy's affidavit and the efficient use of search terms, we will be in a position to decide what might be relevant and whether we are able to provide relevant documents to you. Our domestic law places a number of obstacles in our way as to what we can disclose, and what we need to do before disclosure (eg, seek the views of the persons from

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whom the information was obtained) and in some cases we may also have to liaise with other Government departments.

- 6. We will need some undertakings from you as to the use to be made of any information we might be able to provide, but we can come back to that issue later.
- 7. Please note that some of your requests relate to information we clearly do not have; for example, we received no assistance from the Bahamas.

In the next few weeks Gary Murphy will go through his affidavit and (i) see whether he can find answers to your requests there and (ii) see if he can think of practical ways to address your requests. We will be in touch thereafter to see if we can come to agreement with you on search terms.

Finally, are you envisaging that Gary Murphy should be called to give live oral evidence to the Commission in the RSA? If so, when is this likely to be?

Best wishes,

Raymond

Raymond Emson | Associate General Counsel | Serious Fraud Office | 2-4 Cockspur Street | London SW1Y 5BS | Tel: +44 (0)20 7230 7291 | Mob: (0)7584 218692

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**From:** Fanyana Moses [mailto:fmdumbe@armscomm.org.za]  
**Sent:** 10 December 2012 15:00  
**To:** Raymond Emson  
**Subject:** Letter of request  
**Importance:** High  
**Sensitivity:** Confidential

Dear Raymond

Attached hereto please find a letter from the Arms Procurement Commission for your attention.

Kind regards



**ARMS PROCUREMENT  
COMMISSION**

Adv Fanyana Mdumbe  
Head of Legal Research Division  
Arms Procurement Commission  
21<sup>st</sup> Floor, Ishvuna House  
Corner Lilian Ngoyi and Madiba Streets  
Pretoria  
Tel: +27 12 358 3999  
Cell number: +27 78 095 9452  
Email: fmdumbe@armscomm.org.za

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*Handwritten initials: JM and DC*



**ARMS PROCUREMENT  
COMMISSION****ALLOCATION OF SPECIFIC TASKS TO MEMBERS OF THE INTERNAL LEGAL TEAM****A Background**

Last year, after looking at various reports and documents in our possession, I came to a firm conclusion that we do not have the necessary skills to deal with items 1.3 and 1.4 of our Terms of Reference. Consequently, I appointed Mr Jabu Mahlangu to deal with these items. I also made it clear that in carrying out his duties, Mr Mahlangu and his team would be assisted by Adv Mdumbe and Ms Riena Charles.

In December last year, I requested reports from various members of the internal legal team. After studying the reports, I came to a firm view that we do not have sufficient people with the skills required to deal with items 1.1 and 1.2 of our Terms of Reference. After such realisation, during the December break, I contacted and had full discussion with Adv Robin Palmer of the Institution for Professional Legal Training. After my discussion with him, I came to a conclusion that he and his team have the sufficient qualification, skills and the required diligence to assist

us to deal with items 1.1 and 1.2 of our Terms of Reference. I am in the process of appointing Adv Palmer and his team and I hope that by the end of the week, a contract would be entered into between the Commission and Adv Palmer and his team. After their appointment, Adv Palmer and his team will, if the need arises, be assisted by Adv Mdumbe and Ms Riena Charles.

Mr Mahlangu and Adv Palmer will prepare reports dealing with the above-mentioned items for consideration by the Commission. They may also make suggestions about how to fully carry out our mandate in relation to these items.

Because of the arrangement alluded to above, the internal legal team will concentrate on item 1.5 of our Terms of Reference. In doing so, as mentioned in the directive, each member will be allocated a specific task. Attached please find the topics of issues that need to be dealt with and which will be allocated to internal legal practitioners.

**B The role of the internal legal practitioner to whom an investigation has been assigned**

The internal legal practitioner to whom an allegation has been assigned for investigation is expected to:

- Collate the relevant documentation,
- Create a properly paginated and indexed dossier or working file
- Peruse documentation, evidence gathered by the DSO, or its successor, the Directorate for Priority Crime investigation and/or foreign investigative bodies, and prepare a preliminary report for consideration by the Commission.

**C. The preliminary report**

*Adv M*



To ensure that there is consistency or uniformity in the work undertaken by and produced by the internal legal team in respect of the work, the legal practitioner is required to prepare a preliminary report relating to the work assigned to him or her for consideration by the Commission.

The preliminary report must deal with the following:

- Allegation(s) investigated by the official
- Issues that require to be investigated or that have been investigated by the official following the analysis of allegation
- Set out documentation studied or considered by the official
- Analysis of evidence and information amassed by the IDSEO, DSO, NPA or DPCI or foreign investigative bodies
- Indicate whether there is a need for further information or evidence, and what needs to be done to secure such evidence or information
- Propose investigative steps to be undertaken by the Commission for consideration and approval by the Chairperson of the Commission
- List of persons who could have relevant information or who should be interviewed and/or subpoenaed to attend the public hearings
- Analysis of relevant legislation, case law and government policies
- Evaluation of evidence and information obtained during the investigation.

The official must set out the chronology of events.

D Specific tasks that will be allocated to members of the internal legal team

1. Acquisition policies and processes in the Department of Defence and Armscor

In view of the allegations that have been made in connection with the process that was followed in the acquisition of the Strategic Defence Packages, we need, in addition to examining specific allegations, to determine:

- Armscor/ Department of Defence's standard process followed for all acquisition programmes and to determine the role players and their functions and responsibilities in the procurement process.
- We also need to determine the acquisition process that was followed in respect each of the programmes in the Strategic Defence Packages. In other words, determine which forums were involved in relation to each programme, establish who served in those forums, collate the minutes, RFIs, RFOs, staff targets, staff requirements, project studies, development plan

As a starting point, officials to whom this investigation is assigned are advised to peruse the transcripts of evidence given Messrs Grieg, Vester, Steyn and Esterhuyse, all of whom were officials in the Department of Defence and gave evidence during an inquiry in terms of section 28 of the NPA Act of 1998 which was conducted as part of the JIT investigation.

## 2. Details of prime contractors and subcontractors

A myriad of allegations have been made against a number of companies in connection with the acquisition of armaments which is the subject of this inquiry. For the Commission to be able to determine where each of the entities implicated in this investigation fits into the equation, detailed information pertaining to the prime contractors and subcontractors, including their shareholding structure, names of board members, entities in which these companies are shareholders from the date of incorporation to date must be gathered.

WJ  
CCT



### 3. Specific allegations

The issues that will be assigned to internal legal team members for examination relate to discontent about the process of the arms procurement, conflict of interest or allegations of criminal conduct.

#### 3.1 Process

##### 3.1.1 BAE Systems PLC (BAE) and BAE/SAAB

- There were material deviations from procurement procedures in respect of the LIFT programme which resulted in the contract being awarded to BAE to supply the Hawk aircraft
- ALFA programme did not have prior approved staff targets and staff requirements. These were obtained for the Advanced Fighter Trainer, which was later changed to Advance Lead-in-Fighter Aircraft
- LIFT programme had no approved staff targets and staff requirements

#### 3.1.2 Corvettes

- German ship did not meet minimal military criteria and was not affordable

#### 3.1.3 Submarines

- German Submarine Consortium failed to submit a business plan for DIP activities as required by the RFO and its proposal should have been excluded.

*Page 10*

- The selection of Zeiss as the main supplier (subcontractor) of periscope was not optimal from DIP point of view. The German Submarine Consortium in their proposal included a US company which would have invested R20-30 million into South Africa

#### 3.1.4 Light Utility Helicopters

- LUH programme had no approved staff targets and no staff requirements
- The selection of a subcontractor for the supply of the engines for the LUH programme shows that the process up to awarding of the contract to Turbomeca might have been irregular. Proposals from Turbomeca and Pratt and Whitney were evaluated against an approved value system. The results favoured Pratt and Whitney. The main bidder, Agusta recommended Pratt and Whitney. Intervention by Shaik and Llew Swan led to a new evaluation that resulted in the contract being awarded to Turbomeca

#### 3.1.5 Other

- Minutes of briefings to the then Deputy President and Cabinet Ministers were changed by Chippy Shaik
- Chippy Shaik never recused himself from the deliberations in respect of the corvette programme, he merely handed chairmanship of the meeting to someone else and continued to participate and influenced decision-making.

#### 3.2 Criminality

##### 3.2.1 Deimler Chrysler Aerospace South Africa/Discounts on luxury vehicles

See M



- Daimler Chrysler Aerospace South Africa (Pty) Ltd imported cars and sold them at bargain prices to people involved in or close to this procurement process.

### 3.2.2 BAE

- BAE took Numsa shop steward on holiday to the UK and Sweden, made a donation of R40 million to Numsa's education fund that only needed R2.8 million through two Swedish unions for a project of building a school. The rest was pocketed by Mr Mayekiso.
- BAE made a donation to Orange Farm MK Veterans
- BAE paid for a bursary and employed Stella Sigcau's daughter
- BAE paid a bursary of R250 000 to a certain Nhlenhla Ndebele to write a book on the history of the ANC
- Bae sponsored the wedding of Sipho Mavimbela (Head: NIA) and employed his wife.
- BAE paid success fee of R1 million to SA officials and politicians in 1999.
- Airborne Trust received a donation of R500 000 from BAE in March 1998. The board of trustees of this entity included Dilisa Mji, Ron Haywood, Richard Charter, Basil Hersov Llew Swan and Gen L Moloi. The late Minister Modise was a patron.
- Joe Modise received one payment from the Trust to enable him to make a trip to the UK.
- SFO has information of an intimate meeting which took place in 1998 between former President Mbeki, Seth Phalatse and BAE executives.
- DSO investigator received information from a consultant that Seth Phalatse and Hendrik Jaap Grimbek, both shareholders in Global Eagle Strategic Empowerment Alliance Systems. The subsidiary of this company, Global Eagle Medical Corporation (GEMCO) receives

*Handwritten signature/initials*

funding from BAE. It is alleged that Phalatse and Grimbek negotiated with one Sipho Zikode of the Department of Trade and Industries under promise of a bribe in the form of a share in the company (the Durban branch of GEMCO) to increase the value of the trade in the given to BAE to the value of \$350m and that BAE allowed this deal to go ahead as a result of Phalatse's relationship with the former President Mbeki and various ministers.

- Dr Diliza Mji was promised R250 000 if the BAE bid was successful. It is alleged that he was Minister Modise's physician, served on the board of BAE Systems SA.

- Chippy Shaik received gifts and jewellery paid for by BAE.

- Payment by BAE of £115 million to the following agents who had overt and covert consultancy agreements, in connection with the Hawk/Gripen contract. It is alleged that these entities contributed no significant value to the BAE campaign to secure the contracts:

- o Fana Hlongwane/Hlongwane Consulting and Fana Hlongwane
- o Kaywell Services (Pty) Ltd belonging to John Arnold Bredenkamp and four other people.
- o FTNSA, Basil Hersov and Richard Friedman's entity incorporated in Nevis in the West Indies
- o Osprey Aerospace (Pty) and Huderfield Enterprises, both founded by the late Richard Charter
- o Brookland Management Ltd, a Swiss based entity belonging to Sir Alan Curtis, a UK national
- o Zomita Development SA, an entity registered in the British Virgin Island and its principal is Nabil Hajazi

- Mike Davison, a South African citizen and an employee of Arnold Bredenkamp, was present at a meeting was present at meetings in Switzerland attended by Pelissier, Bredenkamp and others when they discussed how and to whom funds received from BAE, were to be dispersed. Davison was then to make the money movements happen.

Lee



- R24 million was paid from BAE Systems to Sanip. These payments were transferred to a South African consultant.

### 3.2.3 Corvettes: German Frigate Consortium

- Nicolaas Stuart Achterberg, a South African citizen was told by Sven Meoller that a payment of 40 million Duetsche Mark was paid into an account belonging to the former President, Thabo Mbeki
- Tony Yengeni entered into a consultancy agreement with Thyssen in terms of which he stood to benefit 2.5 million in commission if GFC's bid was successful. Germans have evidence that Georgiadis booked a flight for Yengeni for 30 October 1996. Georgiadis also took part in meetings involving Yengeni and Hoenings between 1995 and 1997.
- Vice Admiral Simpson Anderson, CINC of the South African Navy had meetings with Georgiadis and Von Nitzsch in January 1996, supposedly to arrange a bribe.
- Vice Admiral Putter sent a letter to Blohm + Voss, using the letter heads of a company called Contact Management Consultants, in October 2000 that of the promised \$1 000 000 he only received \$100 000 from Georgiadis. It is not clear what work he performed.
- Yusuf Surtee, the fashion designer who designs Mandela's shirts, had several meetings with Georgiadis, Hoenings of Thyssen in London and Johannesburg in 1998 and 2004. He also met the two individuals in 1995.
- Mallar Inc, an entity registered in Liberia and belonging to Anthony Vassos Georgiadis, a Greek national, was paid \$20.5 million by Thyssen Rhein Stahl Technik, which amount was paid into the account of this entity held at Credit Suisse First Bcston in Zurich

For any progress to be made in respect of this leg of the investigation, evidence obtained or in possession of the German authorities is required. A request for mutual legal assistance was submitted by the Commission to the relevant authorities in Germany in July 2013. A response, raising certain queries was received by the Commission in November 2012 to which the Commission responded on 11 January 2013.

Cal

- Chippy communicated to certain bidders that they would need to come to an arrangement with FBS or ADS if their bids were not successful.
- A cheque was issued to the African National Congress on 29 January 1999, supposedly by Georgiadis.
- Another cheque of the same amount was issued to the Foundation for Community Development, an organisation based in Mozambique and chaired by Ms Graca Machel.

#### Bell Helicopters

- Yusuf Mohammed was the representative who met with a Bell representative and conveyed the need to cut a deal with FBS.

#### Submarines

- Joe Modise was paid \$10 million to initiate the submarine contract.

#### Other

- Chippy received money and jewellery from parties interested in the deal.

W6  
BU



### 3.3 Conflict of interest

- Chairperson of the International Offers Negotiating Team, Jayendra Naidoo was a director of a company called Worldwide Africa Holdings and chairman of Motu which was negotiating with Altech, a major shareholder in ADS.
- Keith Mokoape, a director at Denel was also the head of Applied Logistics Engineering which benefited from the procurement.
- Chippy Shaik holds shares in FBS via Ian Pearce.
- Chippy Shaik's brother had an interest in ADS and FBS.
- Joe Modise was a shareholder and chairman of Conlog which benefited from BAE offset programme.
- Moloi held shares in certain companies on behalf of Modise.

Seriti JA

Chairperson of the Arms Procurement Commission

*WJ*  
*SAC*



## ARMS PROCUREMENT COMMISSION

*Transparency, Accountability and the Rule of Law*

Minutes of meeting at Riksenheten mot Corruption, Hantverkargatan 25A on 31  
August 2012

### Opening:

The meeting was convened at 09:11.

### Present:

Members of the Arms Procurement Commission: Judge W.L. Seriti, Advocate Mdumbe  
and Ms Painting

Representative of Swedish National Anti-Corruption Unit: Mr Gunnar Stetler, Director of  
Public Prosecutions

### Purpose of Meeting

To discuss the National Anti-Corruption Unit's investigation into the affairs of Saab,  
Sanip and a South African consultant and a request for mutual legal assistance.

### Matters discussed

Judge Seriti thanked Mr Stetler for meeting with us. He described that we have met with  
several institutions, including Saab. He informed him that the Commission has most of  
the information Saab has given us and that we have received copies of requests for  
mutual legal assistance from our Central Authority, the Director-General of the  
Department of Justice and Constitutional Development, including one from the Serious  
Fraud Office, and that we now have tie up loose ends. Judge Seriti indicated that we had  
enough information pertaining to Hlongwane.

Mr Stetler set out the history of the investigation. He informed us that the investigation  
was initiated by his predecessor Christer van der Kwast and that the focus at the  
beginning was the Czech Republic and Hungary. He added that even though Mr Van der  
Kwast began an investigation into bribery allegations pertaining to South Africa, the

*Handwritten signature*



Investigation was structured in such a way that the SFO did the majority of the investigation and merely asked Sweden to assist. A minor investigation was done in Sweden and the SFO handed the matter over to them with restrictions that they would only release the information or make it public if it was going to be used for the purposes of indictment. He indicated that he is not permitted to divulge the information. The Swedish investigation was then closed, including the South African leg in June 2009 and the SFO closed their investigation in 2010. A year ago a Swedish TV Channel broadcast a program containing "new" information however most of it was known to the investigation team. He was handed documentation by Saab. He sent a letter to South Africa and received a response from the Hawks in August 2011, they wanted to meet with him in October 2011. He did not hear anything until he received a notification that the Commission had been appointed. He was waiting to see what the next step was but he was concerned that we are not a judicial body.

Judge Seriti stated that we are a judicial body, that he is a judge and that the Commission has authority to recommend that prosecution be instituted against any person or entity. He also informed Mr Stetler that the Commission has taken over documents from the Hawks and Department of Justice and Constitutional Development (the Central Authority in South Africa), which are under the control of the Commission. He emphasised that the Commission may take control of the documents that in possession of any institution and that the Commission has extensive powers than the police.

Mr Stetler indicated that he requires an MLA but he didn't think the information he had would be of any value to us. With regards to the bribes, investigations must be done in South Africa. Saab is a technical company and did not know how to market its product, this is where BAE came in and Saab didn't concern itself with how BAE carried out the marketing.

Judge Seriti stated that we understood this but needed to investigate Saab's sub-contractors in South Africa as this was the area where the bribery occurred. He stated that he could not understand why Saab had blocked out names in their documentation and that we would require the same, particularly if those were South African names, eg Conlog, which has a politician as a shareholder.

Mr Stetler agreed and felt that it was not "smart" that Saab removed the names. Miss Painting indicated that the consensus at the end of the Saab meeting was that they would provide us with the names if we required them.

Miss Painting posed the question whether if permission was obtained from the SFO would Mr Stetler give us the relevant information without the need for a MLA. Mr Stetler stated that he would have to think about it and revert back to us.

*ms*



Advocate Mdumbe enquired whether most information was received pre or post 2009. Mr Stetler indicated that most information was received pre-2009, very little was received from Saab and the UK after that date.

Advocate Mdumbe enquired whether the 2011 television broadcast revealed new information. Mr Stetler stated that as far as he was aware all the information was known to the investigation team, perhaps bank accounts but the "scheme" was the same. He had to reconstruct information from Van der Kwast and he has to consider Swedish law, and would require an MLA.

Judge Seriti asked whether the nature of the information relates to payments made in South Africa or only matters in Sweden. Mr Stetler stated that it was mostly information gathered in Sweden pertaining to Saab's role and *mens rea* in terms of payments to South Africa.

Judge Seriti asked if there was any mention of payments made to South Africa other than payments to Hlongwane. Mr Stetler required these questions in writing, as he needs to peruse the documentation in order to answer them properly. He tried to place the South African information in one file but it was not always easy to split the information as there were overlaps. He stressed that most of the information is with the SFO, as the Swedish investigation was a satellite investigation.

Judge Seriti enquired how long it would take if we sent an MLA. Mr Stetler stated that they are very efficient and would try their best and according to general statistics it would take a month from the date of receiving the MLA.

Advocate Mdumbe asked who we should send the MLA to and Mr Stetler indicated that the Foreign Department was the correct institution.

Advocate Mdumbe enquired about a Swedish book on the arms procurement and whether the author had conducted independent research. Mr Stetler stated that he did not think an independent investigation had been done, it appears to be information gathered from Feinstein and others, basically the same book under a different title. He commented on the fact that Feinstein, Holden and Crawford-Browne had attempted to get information from him.

Mr Stetler stated that in his opinion the bribes can't be proved as there is not enough evidence to prove guilt beyond reasonable doubt. Judge Seriti stated that this is a reason for concern. Mr Stetler reiterated that the investigation needs to be done in South Africa and he doesn't feel the information he has will take the matter any further.

Judge Seriti stated that money was disbursed outside of South Africa and there were a few payments that we were interested in for example a document was found in South Africa which detailed the payment of R3 million made outside South Africa.

*Handwritten signature/initials*



Mr Stetler stated that he would answer some of our written questions before the MIA process, he would just have to check the information.

Advocate Mdumbe asked who in the joint venture determined the price of the Gripen and whether they had focused on the price during their investigation. Mr Stetler presumed it was a matter of negotiation but we could include that question in our written questions.

Miss Painting wanted clarification on an aspect: was Saab merely irresponsible but did nothing illegal. Mr Stetler described that he considered the Saab matter when drafting new corruption legislation and now negligence is a factor if consultants are used and they commit bribery and there is now no need for *mens rea* according to Swedish legislation. But the situation could change once everything was examined. He also referred to the statute of limitations and indicated that a 10 year period was applicable.

Judge Seriti thanked Mr Stetler for meeting with us.

**Adjournment:**

Meeting was adjourned at 10:09

Minutes submitted by:

Ms Painting

Approved by:

Judge W L Seriti

*WLS*  
11/11



AUDITOR-GENERAL  
SOUTH AFRICA

Seriti JA  
Chairperson of the Arms Procurement Commission  
Private Bag X02  
The Tramshed  
Pretoria  
0126

16 May 2013

Reference: AGSA/APC03

Dear Mr Justice Seriti

**Disclosure of classified information to witnesses**

The above matter and your request of 10 April 2013 concerning the disclosure of classified information to witnesses have reference.

Towards the end of 2012, the Auditor-General of South Africa (AGSA) provided the Arms Procurement Commission (the Commission) with electronic copies of the preliminary reports compiled by the AGSA, the Public Protector and the National Prosecuting Authority.

We recognise that witnesses who will soon testify in the Commission hearings may need access to these reports. I hereby authorise the Commission to provide copies of the preliminary report compiled by the AGSA to witnesses, provided that each witness take the oath attached hereto as Annexure A and that such disclosure is duly recorded in the official records of the Commission.

Once written consent is obtained from the Public Protector and the National Director of Public Prosecutions, the Commission may provide copies to witnesses of the preliminary reports compiled by these two bodies. Note should be taken that the disclosure of these preliminary reports must similarly be recorded in the records of the Commission and each witness must take the oath envisaged in Annexure A.

Yours sincerely

Terence Nombembe  
Auditor-General of South Africa

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AUDITOR-GENERAL  
SOUTH AFRICA

## Oath of secrecy

I, .....  
(Full name)

Solemnly declare that

1. I have taken note of the provisions of the Protection of Information Act, 1982 (Act No. 84 of 1982) and in particular section 4 of the Act;
2. I understand that I shall be guilty of an offence if I reveal any information which I have at my disposal by virtue of my capacity as a witness in the proceedings of the Arms Procurement Commission and concerning which I know or should reasonably know that the security or other interests of the Republic of South Africa require that it be kept secret from any person or other than a person
  - 2.1 to whom I may lawfully reveal the information; or
  - 2.2 to whom it is my duty to reveal it in the interests of the Republic of South Africa; or
  - 2.3 to whom I am authorized by the Auditor-General of South Africa or by any his employees authorized by him to reveal it;
3. I understand that the said provisions and instructions shall apply not only during the period of my involvement as a witness in the Arms Procurement Commission's proceedings, but also thereafter thereof; and
4. I am fully aware of the serious consequences that may follow any breach or contravention of the said provisions and instructions.

(Signature).....

(Place).....

(Date).....

WITNESS 1. ....

2. ....

*Cal m.*

Office Translation

Foreign Office

Re: 506-10-531.00/46503 ZAF

Note Verbale

The Foreign Office is honoured to inform the Embassy of the Republic of South Africa under reference to the request for legal assistance of the Arms Procurement Commission forwarded by means of Note Verbale no. 43/2014 of 8 May 2014 as follows:

The release of items is inter alia only permissible if a seizure order from the authority in charge of the requesting state is submitted or if a declaration of this authority states that the conditions of the seizure are adhered to if the items are located in the requesting state. This is stipulated in § 66 of the German law on international legal assistance in criminal matters.

The Foreign Office requests that such a seizure order or a relevant declaration be added to the request for legal assistance if it aims at the surrender of items.

The Foreign Office avails itself of this opportunity to renew to the Embassy of the Republic of South Africa the assurance of its highest consideration.

Berlin, 2 September 2014

To the  
Embassy of the Republic of South Africa

Berlin