

PRELIMINARY SUBMISSION

MATTERS PERTAINING TO THE ARMS DEAL OF RELEVANCE TO SCOPA

January 2009

Since Scopa last considered the arms deal a significant amount of relevant, new information has come to light. In addition, there are a number of crucial matters that remain unexamined by Parliament.

It is essential that Scopa examine these matters if it is to fulfil its constitutional responsibility to the people of South Africa.

New Information:

1. A significant amount of work has been undertaken by a variety of researchers that provide new figures on the actual costs to date and the likely costs of the deal over the contract period. These figures suggest that the total cost to the South African taxpayer, including financing and maintenance, may well exceed R120 billion.
2. The quantum of bribes allegedly paid to secure contracts in the deal has also risen sharply. The UK's Serious Fraud Office is investigating £116 million of commissions paid by BAE Systems on the deal. This is up from the initial amount of £75 million that was under investigation. If one takes the normal practice in arms deals around the world, it can be assumed that about half of this amount will have found its way to officials, advisers, politicians and political parties.
3. There is significantly more information now available about the people and mechanisms allegedly used to pay these bribes and how they were paid. This information is contained in affidavits recently submitted by investigators, both local and international, leading to searches on the premises of Mr Fana Hlongwane and Mr John Bredenkamp.
4. While German prosecutors in Düsseldorf, Germany, have closed their investigation into one of the company's involved in the contract to build corvettes, they do have significant amounts of information relating to alleged bribes paid on this contract.
5. The Germans identified as one of the reasons for their decision to close the investigation, a lack of cooperation from the South African authorities. Scopa should enquire from the Justice Department and Ministry why such cooperation was not forthcoming.
6. In the past few months Swedish prosecutors have opened an investigation into possible bribery by the Swedish company SAAB, which, together with BAE Systems, won the contract to provide trainer and fighter jets in highly controversial circumstances. I would imagine

- that all the relevant investigators around the world would consider making their information available to the committee if so requested.
7. The President of the ANC has stated on a number of occasions, as indicated by Judge Chris Nicholson amongst others in court documents, that he has significant information about wrongdoing in the arms deal that has not yet been divulged. I assume if a committee of the country's Parliament were to request such information, he would be honour-bound to provide it. Additionally, in terms of the Corruption Act, it is incumbent upon any person, especially one in public service, to divulge to the relevant authorities any information he or she might have of offences committed in terms of the Act.
 8. There have been claims in the South African media that former President Mbeki might have benefited from the deal, either personally or on behalf of his political party. These very serious allegations require further enquiry by Scopa.

Some outstanding, unexamined issues:

1. There is documentary evidence to suggest that the head of procurement in the SANDF at the time the contracts were negotiated and signed lied to Scopa about certain of his actions during this process. No action has ever been taken against the said official. To protect the integrity of Parliament it is vital that Scopa address this issue and make representation to the Speaker to take appropriate action.
2. The court papers from the conviction of Schabir Shaik on charges of fraud and corruption make reference to a company structure and share-holding that indicated a financial arrangement between at least one of his implicated companies and a political party. In addition, investigators indicated at the time of the JIT that they wished to further investigate the role of this political party in corruption related to the deal. This has not happened to date.

These, and many other related matters, are discussed in some detail in my book "After the Party: A Personal and Political Journey Inside the ANC" (Jonathan Ball Publishers, 2007) [Second edition with additional material forthcoming]. I would be happy to make a copy of the book available to the committee on request.

I apologise for the fact that I am unable to provide a detailed submission at this point. Unfortunately I was given extremely late notice of the request for submissions and have had a series of unavoidable deadlines that have prevented me preparing a fuller submission.

I am very willing to appear before the committee to provide detailed oral evidence, or to provide detailed written evidence at a later date.

Andrew Feinstein
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