

Britain: BAe Systems faces prosecution for bribery

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The Serious Fraud Office (SFO) in Britain is set to ask the attorney general to prosecute arms manufacturer BAe Systems for bribing officials in South Africa, Tanzania, the Czech Republic and Romania.

It will then be up to Baroness Scotland, the highest legal officer, to decide whether there is enough evidence to launch a prosecution under the 2001 Prevention of Corruption Act and whether it is in the “public interest” to do so.

If it does go ahead, it will be the first prosecution in Britain of a major corporation for overseas bribery. BAe is Britain’s largest manufacturer, with 105,000 employees worldwide and 30,000 in Britain. It is Europe’s largest defence corporation in revenue terms and the leading overseas supplier to the US Defense Department.

In the weeks leading up to the formal presentation of the documents to the Attorney General, the SFO will continue to negotiate with BAe to secure a plea agreement and a hefty fine as an alternative to a full criminal trial with a jury. It is believed that the SFO, which has been in negotiations with BAe since April, has been demanding a fine of at least £500 million, while BAe is only willing to agree to tens of millions.

BAe has been mired in corruption scandals for years, most notably over its lucrative Al Yamani deal selling military equipment to Saudi Arabia in 1986. The largest export deal in British history, which by 2005 was worth £43 billion, was widely believed to be 30 percent more than the going rate. A 1991 report by the official watchdog, the National Audit Office, was suppressed.

It was only when the *Guardian* published details of documents inadvertently released to the Public Records Office and almost immediately withdrawn, that the SFO was forced to launch an inquiry in 2004. But Prime Minister Tony Blair intervened in December 2006 and got the attorney general to stop the SFO from pursuing its investigations in the “national interest”.

Blair’s aim was to protect the Saudi ruling clique and cover up his own government’s role.

The government defended its position against legal challenges from the campaigning groups, Campaign Against the Arms Trade and the Cornerhouse, right up to the House of Lords where the law lords dutifully backed the government.

Although investigations into the Saudi deals were quashed, the US authorities are determined to pursue the case in the US courts. Moreover, the SFO continued its investigations into other bribery allegations. The largest concerns the £1.6 billion sale of Hawk and Gripen warplanes, a deal promoted by Blair and given financial backing by the Labour government, to South Africa.

South African Defence Minister Joe Modise signed the deal with BAe, even though the Hawks cost twice as much as an Italian competitor. One of a number of leaked SFO documents alleges that BAe secretly paid more than £100 million and accused BAE of a corrupt relationship with an arms dealer, John Bredenkamp, who according to a former BAE executive, “Suggested identifying key decision-makers with a view to ‘financially incentivising them’ to make the right decision.”

Another BAe memo refers to “third world procedures,” which the SFO said was a euphemism for bribes. The document also listed the millions of pounds paid to Modise’s aide through secret off-shore channels.

South Africa’s upgrade of its military has already spawned prosecutions, jail sentences and corruption allegations that go right to the top of the South African elite, including President Jacob Zuma.

The second set of charges relate to a £116 million deal in 2003 with Romania to refurbish and maintain two British frigates the Royal Navy no longer wanted. The Ministry of Defence organised the deal and the government provided financial backing. A Romanian admiral later claimed that similar frigates were available from the Dutch at half the price. At issue are BAe’s payments of £7 million to a middle man, Barry George, married to a Romanian woman

with close connections to the Ceausescu regime and Communist Party. BAe, when applying for financial aid from the government, claimed that most of the £7 million had gone to another agent whom it refused to identify. The SFO has evidence that all the payments went to George.

Another investigation relates to the sale of a £28 million air traffic control system to Tanzania in 2001, involving £9 million bribes. The deal was the subject of widespread condemnation by NGOs at the time because it was unsuitable and four times more expensive than a far more suitable system. Tanzania, one of the poorest countries in the world, had recently been granted \$3 billion debt relief by the World Bank and IMF on the basis that it would impose austerity measures. As a system clearly designed for military purposes, it was a flagrant breach of the debt conditions.

The deal had the backing of Blair and then Foreign Secretary Jack Straw, probably because it was to be used for Western military operations against “the war on terror” in East Africa. The deal must also have had Washington’s backing, otherwise Tanzania would not have defied the World Bank. Clare Short, then minister for international development, tried to stop the deal.

The fourth set of SFO inquiries relate to a £400 million contract to lease fighter jets to the Czech government. Jan Kavan, a former Czech foreign secretary, told undercover reporters that “money changed hands” with politicians in the Czech republic and named two BAe employees that had given money to an agent to pass onto politicians.

Bribery and corruption to secure overseas contracts has always been part and parcel of the way big business secures overseas contracts. But the US is pushing for prosecutions as a means of eliminating the competition.

Siemens of Germany paid £2 billion in fines and legal costs for corruption on a global scale. A senior executive from Halliburton, the US engineering corporation, faces seven years in jail for corruption in Nigeria. In France, 30 of Total-Elf’s executives and agents were found guilty of the corrupt misuse of 350 million euros between 1989 and 1993 to buy political favours abroad.

BAe and other major corporations admit that graft and palm greasing on a mammoth scale was endemic. But Britain’s politicians and civil officials turned a blind eye as they helped the corporations secure lucrative contracts, while lecturing poor countries on the need for “good governance” and an end to corruption.

In 1997, Tony Blair promised an ethical foreign policy and the ratification of the OECD’s Anti-Bribery Convention. That has still to happen and the OECD has long complained about Britain’s failure to implement it. While Blair did under pressure in 2001 introduce the Prevention of Corruption Act, key elements of the Convention were

excluded.

Labour has operated a revolving door between powerful companies, financial consultants and Whitehall, under the guise of bringing entrepreneurial expertise into the civil service, giving the major companies enormous lobbying power. Following pressure from BAe, Rolls Royce and Airbus, the government put a stop to the Export Credit Guarantee Department’s attempts to introduce stronger anti-bribery measures. It took a judicial review to get them reinstated.

The late Robin Cook, a former foreign secretary, famously wrote in his memoirs, “I came to learn that the chairman of BAe appeared to have the key to the garden door to No 10. Certainly I never knew No 10 to come up with any decision that would be incommoding to BAE.”

The same can be said for the oil companies, the banks and a host of others.

As well as dropping the investigations into BAe’s dealings with Saudi Arabia, Britain has hindered the recovery of huge sums looted by Nigeria’s former president, Sani Abachi, and salted away in British banks. Earlier this year, the SFO called off belated investigations into a massive Kenyan corruption scandal involving British registered companies.

The first ever case involving overseas corruption was last year, when the managing director of a British company was given a suspended prison sentence for bribing a Ugandan official. Last week, a construction company, Mabey & Johnson, was convicted of making corrupt payments in six countries to secure contracts, including one in the US.

But the BAe case is far bigger than any of these other overseas cases. The corporation wants to avoid both admitting to the charges and paying a hefty fine. An admission of guilt could see it banned from competing for contracts in the European Union, the US and elsewhere, while a hefty fine would eat into profits. But the company may yet do a deal with the SFO. Alternatively, it may calculate that the SFO’s record in successfully prosecuting serious fraudsters and business crime has been so abysmal it may be able to evade conviction.



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