US and UK courts ensure BAe's Saudi deals remain secret

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13 February 2010

After years of political lobbying at the highest levels, BAe Systems (formerly British Aerospace) and the US and UK authorities have dropped their long-running investigations into bribery and corruption related to arms contracts.

The acceptance of BAe's admission of guilt on minor charges of false accounting ensures that the full story of BAe's corrupt practices, the support given to the corporation by the British government, its relations with Saudi Arabia's ruling clique and numerous other countries will never be heard in court.

The US Department of Justice has accepted a plea bargain in which the firm pleads guilty to one charge of conspiring to make false statements to the government, while denying that it had paid and was still paying secret commissions to secure its lucrative Al Yamamah arms deal with Saudi Arabia in the 1980s. The US Justice Department had accused the company of "wilfully misleading" it about its various arms contracts and using "intermediaries and shell entities to conceal payments to certain advisors who were assisting in the… [Saudi] fighter deals."

The US has also agreed to drop its investigations into the company's dealings in central Europe, which are also mired in corruption. In return, BAe will pay a $400 million fine.

BAe's plea is a de facto admission that its dealings with Saudi Arabia were corrupt. But by pleading guilty to the lesser charge of false accounting, BAe has achieved its aim: it will not be barred from defence contracts in the US and Europe without which the corporation would go bust. Even the fine, one of the largest ever exacted by US authorities over corruption, was less than expected and much less than $1 billion fine paid by Siemens to US and German authorities and the $559 million fine paid by Halliburton.

In the UK, the Serious Fraud Office (SFO) has capitulated to BAe on all counts. Only last September it had forwarded papers to the attorney general to prosecute the corporation over its sale in 2001 of a £28 million air traffic control system to Tanzania, one of the poorest countries in the world, allegedly involving £9 million in bribes.

The deal was four times more expensive than the cost of a far more suitable system. Then-Prime Minister Tony Blair and his foreign secretary, Jack Straw, backed it, probably because it was to be used for Western military operations in "the war on terror" in East Africa. That the deal had Washington's backing is indicated by Tanzania ability to defy the World Bank's conditions on loans limited to development purposes.

Now, the SFO has reversed its decision, accepted a guilty plea of false accounting and fined BAe a paltry £30 million, much less than it had originally demanded. It has also dropped its investigations into alleged BAe bribery on an even grander scale to secure contracts in South Africa, a £116 million deal with Romania, and a £400 million fighter jet deal with the Czech government.

At the end of January, court hearings began against Count Alfons Mensdorf-Pouilly in connection with corruption charges over BAe's deals with eastern and central European governments, including the Czech Republic, Hungary and Austria. This case has also been dropped.

In preliminary hearings, which can be revealed only now that the case has been dropped, the prosecution alleged that "very senior BAe executives" were implicated in bribery conspiracies. According to the *Observer*, the SFO's lawyers described BAe's systematic method for making corrupt payments to foreign politicians and officials as a "sophisticated and meticulously planned operation involving very senior BAe executives." It involved setting up offshore entities in Switzerland whose "purpose was to channel money to public officials."

After the plea bargain was announced, BAe's share price rose two percent, to 346.5 pence, recognition by institutional investors that BAe had gotten off lightly with fines considerably less than the £500 million the company had set aside to avoid a criminal conviction. The only blip on the horizon was that the market for defence contracts had slowed with the recession. The headline of the *Financial*

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Times editorial summed up the plea bargain as "The End of the Affair for BAe Systems."

BAe has been mired in corruption scandals for years over its sale of military equipment to Saudi Arabia between 1986 and 2005 at a cost of £43 billion, widely believed to be 30 percent more than the going rate. The then-Conservative government, in an unprecedented action, suppressed a 1991 report into the deal by the parliamentary watchdog, the National Audit Office.

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 Blair intervened in December 2006 and wrote a "secret and personal" letter to Lord Goldsmith, the attorney general, to stop the SFO from pursuing its investigations in the "national interest." Blair claimed that there was a "real and immediate risk of a collapse in UK/Saudi security, intelligence and diplomatic cooperation."

One motivation behind this claim was Blair's desire to protect the Saudi ruling clique. Evidence later showed that BAe had paid £30 million per quarter and more than £1 billion over the years to Prince Bandar ibn Sultan, son of the heir to the Saudi throne and for 20 years the Saudi ambassador to Washington.

A no less important consideration was that the British government had been up to its neck in the affair from the outset. Blair was determined to cover up the role of successive governments in helping BAe obtain arms contracts, including a new one just about to be signed by Riyadh. Britain served as a money launderer and conduit for channelling cash to Bandar and blocking anti-corruption investigations and legislation.

The government defended its position against legal challenges by two organizations—Campaign Against the Arms Trade and Corner House—with powerful friends in high places who could argue that criminal charges would threaten national security would henceforth be above the law.

Although Blair's intervention meant that Britain's investigations into the Saudi deals were dropped, the US authorities pursued the case in the courts, as the payments were routed through a US bank. Its motivation, at least in part, was to eliminate overseas competition on defence deals.

But the British government refused requests from the US government to hand over key documents about the Bandar payments, which were allegedly made with the knowledge and authorisation of Ministry of Defence officials. For 20 years, Whitehall and BAe had both claimed that there were no secret commissions to Bandar.

Bribery and corruption have always been part and parcel of the way big business secures overseas contracts. The British government has always turned a blind eye, if not actively assisted, the corporations, as its relations with BAe demonstrate. Defence contracts, in particular, which have to be approved by the Ministry of Defence, have been actively marketed and supported by the government.

The Labour government has maintained a revolving door between Britain's most powerful companies, financial consultants and Whitehall, under the guise of bringing entrepreneurial expertise into the civil service. This has given the major companies enormous lobbying power.

Under 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.

Britain has long dragged its feet on introducing and implementing anti-corruption legislation. It has yet to pass the bribery bill that is currently before parliament.

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. The role of government is to fight for big business, by fair means or foul. In a battle between the commercial interests of the corporate and political elite and the authority of the law, the law comes in a poor second.

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