

ARMS PROCUREMENT COMMISSION

INQUIRY INTO ALLEGATIONS OF FRAUD, CORRUPTION, IMPROPRIETY OR
IRREGULARITY IN THE STRATEGIC DEFENCE PROCUREMENT PACKAGE

WITNESS STATEMENT – VANAN PILLAY

1.

I hold a bachelor of science degree in Chemistry from the University of Natal. Subsequent thereto I completed the requirements for a degree in Bachelor of Commerce at the University of South Africa in 1990. In 2001 I graduated at the University of Warwick with a Masters in Engineering Business management.

2.

I was employed by the Department of Trade and Industry in March 1997 as a Chief Techno Economist. In late 1998, I was appointed as a Deputy Director in the Industrial Participation Directorate, appointed in July 1999 as Director in the Industrial Participation Directorate. During 2000, I was transferred to the post of Director of Electronic and Allied Industries (Information and Communication Technologies Sector Directorate), with the DTI.

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3.

At the time that I joined the DTI, Zavareh Rustomjee was the Director General.

4.

At the time I was appointed as Deputy Director in the Industrial Participation Directorate, the SDPP processes was well underway.

5.

At the inception of my duties as the Deputy Director of Industrial Participation Directorate, I was made aware of a broad list of categories of projects that had been approved by the DTI, some of which were of a strategic nature. The DTI wished to stimulate the economy by getting these projects off the ground. The Sector Directorates and the Strategic Project Section, headed by Mr Paul Jorden, of the DTI defined the contents of the categories. I co-ordinated and facilitated this process.

6.

Prior to the Arms Deal contracts being signed a number of projects had been submitted by various bidders and evaluated by the DTI.

7.

These projects were initially screened by a Business Plan Approval Committee and eventually brought before a multi disciplinary external advisory committee which I chaired. These projects were subsequently scored at the Senior Management Committee, chaired by the Director General, at the time. I presented these projects to the Committee.

8.

The SDPP bidders were also entitled to submit projects provided that the key requirements of the Industrial Participation were met namely the introduction of investment into the country, the creation of jobs and the generation of revenue. In each case the economic significance of the replacement project was critical to its approval.

9.

It was contemplated in the Industrial Participation Agreement with the bidders, that in due course an agency would be formed which would be called the NIP Implementing Mechanism to oversee and manage the SDPP NIP projects.

10.

The International Offers Negotiating Team (IONT) was formed after the preferred bidders had been identified at a stage when there had already been extensive discussions between the DTI and the bidders about the offsets and the credit methodology applicable thereto. Expectations had been raised at provisional discussions which had taken place relating to the credits which would be awarded in future contracts with bidders.

11.

I should indicate at this stage that the ordinary non SDPP NIP guidelines which had been approved by cabinet had at that stage been in existence for some years. It contained various categories where limited multipliers could be awarded in respect of credits for the various categories.

12.

Prior to the International Offers Negotiating Team being formed bidders were involved in horse trading with the DTI and they would say " if we perform X then we would want Y in terms of credit". This was not satisfactory because it was not structured on any rational basis.

13.

When the IONT was formed the issue of affordability was mooted by the IONT as a key issue the suggestion being made that South Africa could not afford all the procurements contemplated.

14.

With the full knowledge of all the bidders the credit methodology was changed so that investment would be calculated on a non multiplier basis (in other words one credit would be awarded for each unit of currency invested) and the same for exports and local sales. The standard guideline for NIP would no longer apply in relation to the credits methodology contained in the guideline.

15.

It is very clear that there would be no multipliers whatsoever. In fact this was stated explicitly by IONT to the suppliers.

16.

The Affordability Report was compiled by Treasury. Top level management at DTI were also involved in discussions with Treasury on this issue. I recall that the DTI fed into this process by providing the relevant business plans submitted by obligors.

18.

The objective of the IONT was to get the maximum benefit for the country. That was the rationale for getting rid of multipliers. It was a strategy by the South African Government to increase the level of performance by the preferred bidders. Given this objective DTI expected performance in full by successful bidders of their obligations under the SDPP NIP contracts. The obligors were fully aware that multipliers would no longer be applicable. The ethos of DTI was to get the maximum benefit for the country and therefore it was agreed to get rid of multipliers.

20.

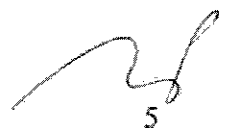
When the contracts were signed the IPS understood that there were no multipliers.

21.

The obligation of the obligors was to deliver the NIP obligations undertaken in terms of the SDPP contracts in full.

22.

I was under the impression at the time that the removal of multipliers was not cast in stone and that there remained a residual discretion to award multipliers.



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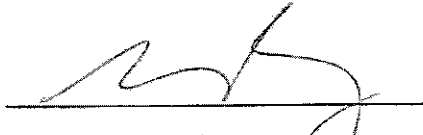
Webber and Wentzel who were the attorneys for Armscor and attorneys White & Case made inputs into the drafting of the contracts with the obligors. The agreements were modelled on the existing DIP agreements which Armscor had entered into with obligors.

25.

The extent of the NIP obligation was determined having regard to the contract price and in some instances the NIP obligations exceeded the contract price.

26.

I left the DTI in 2002.


VANAN PILLAY
18 January 2014
VPI