

STATEMENT:

**Hennie van Vuuren
Arms Procurement Commission
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This Commission of Inquiry into the up to R70 billion Arms Deal – the Arms Procurement Commission - represents a historic opportunity to support the struggle for transparency and accountability in South Africa.

Your mandate, Commissioners, to establish the facts by holding the powerful to account for alleged misconduct means you carry a great burden. This mandate speaks directly to the spirit of our Constitution: Firstly, nobody, regardless of his or her status, should be above the law. Secondly, the purpose of the law is to aid in creating a fundamentally fairer, gentler and just society. The complete opposite of the apartheid vision of a country governed by and in the interests of a network of well connected elites.

I am committed to supporting the key tenets of our Bill of Rights and our Constitution. Therefore, I believe that it is a role of civil society to assist state agencies to govern effectively. The Arms Procurement Commission is no exception. We offer such assistance with humility. We have provided the Commission with a large volume of evidence and attempted to assist it by directing its attention to documentary material that establishes the undeniable fact: This Arms Deal was facilitated through bribery and corruption.

We have also defended the work of this Commission when others have accused it of fundamental failings. We have argued that we must give you Commissioners an opportunity to consider the evidence we and others submit to you before passing rash judgement.

However, Commissioners, I respectfully submit that we can no longer deny the following simple, well documented, facts:

1. We have been refused access to evidence

The Commission has refused to make huge amounts of evidence public. We have attempted to resolve this issue during the 18 months that we participated in the Commissions work and through in excess of 20 letters directed to the Commission. This includes millions of pages of documents from the official investigations of corruption by South African law enforcement agencies. This material was collected at great expense and cost to the State and the South African people. Our repeated request to access this information, which is relevant to our evidence and which we were promised in our initial subpoenas, has repeatedly been ignored

2. We have been refused the opportunity to provide you with crucial documentary evidence

The Commission has declared some of the most crucial documents pointing to corruption to be "inadmissible" including evidence of actionable allegations of potential corruption in the Arms Deal. The Commission ruled last week that a document commissioned by an arms company reporting on its own alleged malfeasance and bribery is a privileged document having "... the same footing as a stolen document", and is therefore inadmissible as evidence. This means the document cannot be relied on by any witness. This will block the public's right to know.

3. We cannot speak to documents that we have not written.

The Commission has made a ruling that witnesses may only speak of documents that they have written. The implication of this ruling is that only those who have been involved in the Arms Deal can introduce evidence. How the Commission intends to discover the truth by only hearing from participants in the Deal is a mystery.

The Chair has also ruled that witnesses should only speak to corruption allegations of which they have personal knowledge. This means that only those who have been corrupted, who have corrupted others, or who were intermediaries in such corruption, can give evidence of it. It is obvious that all of these parties have an interest in hiding the truth. Why would the Commission choose to rely solely on their opinions? I respectfully submit that this effectively means that all the research undertaken by me and my colleagues is seen as having no value to this Commission, even before we have given evidence.

4. The Commission has lost the public's trust

There is evidence to suggest that the Commission is following a second agenda, namely, to discredit critical witnesses and find in favour of the State and arms corporations' version of events. Since January 2013 at least four senior staff have resigned in protest at the Commission's conduct. In August 2014, two senior evidence leaders resigned from the Commission, saying its approach "nullifies the very purpose for which the commission was set up". The Commission has called only two people to testify, of the dozens who have been directly implicated in impropriety. Most recently almost 40 civil society organisations have called for the Commission to be disbanded.

It is an indisputable fact that the Commission has lost the trust of the public whom it is intended to serve.

Commissioners, I am now faced with a difficult choice. How should I respond to your subpoena?

I am mindful of the fact that the arms deal has wrought havoc on the lives of ordinary South Africans and corrupted our politics for the past 15 years. It has profited international arms corporations while weakening our democratic state institutions. It has profited the rich at the expense of the poor.

I am also mindful that the cover-up that followed the arms deal has put in place a system of patronage with the purpose of keeping alleged corrupt elites out of prison. It allows them to continue benefiting from the spoils of an unequal society. I have regretfully come to the conclusion that this Commission will provide no remedy to this situation.

For these reasons, I can no longer in good conscience participate in a hearing of the Arms Procurement Commission. To do so would be to aid a deeply unfair and flawed process. I am of the view that the Arms Procurement Commission has strayed from its mandate and has become a fundamental obstacle to the public's right to know and to justice.

Commissioners, I therefore respectfully decline to testify.

I align myself with the call from civil society for the Commission to be disbanded and replaced with a full and transparent criminal investigation. This should lead to the prosecution of all implicated in wrongdoing in the Arms Deal.
