

ARMS PROCUREMENT COMMISSION OF SOUTH AFRICA**WITNESS STATEMENT**

STATEMENT OF GAVIN GOWER WOODS

I, the undersigned,

GAVIN GOWER WOODS

state as follows:

INTRODUCTION

1. I am an adult male Professor and the immediate past director of the Anti-Corruption Centre for Education and Research at Stellenbosch University and currently residing at 38 Howards End, University Drive, Pinelands, Cape Town. I am also a commissioner at the Public Service Commission.
2. I was appointed as the Chairperson of the Standing Committee on Public Accounts ("SCOPA") during April 1999. I served as such until

I resigned on 1 March 2002. I attach my curriculum vitae as annexure "**GGW 1**".

3. I have been subpoenaed asked to provide evidence that may be relevant to the acquisition of armaments which formed part of the Special Defence Packages (SDPs).
4. The facts contained in this statement are, unless the context indicates otherwise, within my personal knowledge and are to the best of my knowledge and belief true and correct.
5. In this statement I set out the role played by SCOPA in the establishment of investigations in respect of the SDP's, the interaction with the relevant stakeholders including the Executive. My statement consists of a composite range of cornerstone arguments which together indicate a convincing burden of probability of corruption having taken place in the SDPs. The arguments will in the main rely on circumstantial evidence and deductive reasoning. The circumstantial evidence presented will accumulate into a collection of corroborating pieces which together will strongly support my contention that corruption is likely to have taken place in the South African "arms deal".
6. The statement is also made on the understanding that the

Commission's responsibilities, both in terms of the Commissions Act 8 of 1947 and its terms of reference, go beyond simply accepting or rejecting the evidence it receives by those who testify before it. Critically it would be necessary for the Commission to try and verify critical allegations which have obvious substance and which are relevant to the establishment of the truth concerning the SDPs.

7. The statement purports to be relevant to the Commission's Term of Reference 1.5 which reads:

"Whether any person/s, within and/or outside the Government of South Africa, improperly influenced the award or conclusion of any of the contracts awarded and concluded in the SDPP procurement process..."

EVIDENCE OF WIDE-RANGING CORRUPTION IN THE INTERNATIONAL ARMS INDUSTRY

8. What is relevant both as background and context is the particular industry within which the SDPs were transacted. To the extent that the Commission is enquiring into the possibilities of SDPs corruption the substantial body of evidence, both direct and indirect, that tells us that international arms trading is particularly

prone to corruption should be borne in mind.

9. Against this well-established understanding the poor oversight exercised by the Executive in South Africa over the SDP's evaluation and decision-making processes (as will be described in some detail) reveals a certain ignorance and naivety on their part which resulted in a misplaced trust in the arms traders in question as well as in the procurement processes the SDPs were subjected to. From their statements and arguments the Cabinet sub-committee under the then Deputy President appeared oblivious to the arms industry's record of criminality and this might explain their overly defensive damage limitation like responses (including the suppression of any investigation) they exercised when allegations of SDP corruption began surfacing.
10. The Executive's defence of and admiration for the international arms dealers is clear in the Cabinet sub committee's press release of 12 January 2001 (annexure "**GGW 2**"), the former Deputy President's (Jacob Zuma) letter to the Chairperson of SCOPA dated 19 January 2001 (annexure "**GGW 3**"), and the comments made by former Cabinet Ministers Mr Alec Erwin and Mr Terror Lekota at the SCOPA hearing of 26 February 2001 (annexure "**GGW 4**").

11. From the expansive and well-researched body of literature that has been produced over the past thirty odd years regarding the often corrupt nature of the international arms industry there is an overwhelming amount of evidence as to how extensive such corruption is and how in practice such corruption takes place. I attach hereto as an example, an article by Ikram Sehgal titled Corruption in Arms Trade as annexure "**GGW 5**". Included here are methods the industry has established through which to set up and bribe strategically placed individuals in order that they influence the awarding of arms deal business to particular suppliers. The 32 "connected" individuals who received discounted motor vehicles in South Africa from as an arms supplier would be typical of such influence seeking. I attach hereto a list of vehicles supplied by EADS and the recipients thereof as annexure "**GGW 6**".
12. Transparency International (TI), the World Bank, the US Department of Commerce, amongst others, have indicated the arms industry to be far and above the most corrupt industry in the world and that it is responsible for almost half of all international corruption – with TI research indicating the arms industries to be amongst those that "*suffer from absolutely massive corruption*". Notwithstanding the highly secretive nature of the arms trade and the sophisticated measures taken to hide its dark side, an ever increasing number of corruption cases have come to light. From this

it would now seem that a considerable number of international arms manufacturers/suppliers are on record as having been involved in dubious transactions - including BAE, Ferrostal, Thompsons CSF (Thales) and SAAB. Attached hereto a summary of allegations of corruption against the said entities attached as annexure "**GGW 7**".

13. For the South African Government to claim, without any substantiation, that the South African arms deal was somehow different to so many other arms deals in terms of possibilities of corruption, without giving any reason as to why this could be the case, is not easy to accept. The denial of any possibilities of corruption in the SDPs by the former members of the executive who have appeared before this Commission is therefore incomprehensible.

14. The question is then why the Executive is on one hand so aggressively adamant that the SDPs were free from anything dishonest while on the other displaying an extraordinary anxiety about any investigation into the integrity of the SDPs (Press statement and SCOPA hearings referred to above). The naive approach of the Executive members involved at the time would seem to explain their failure to exercise meaningful oversight over the SDP evaluation and selection processes which resultantly allowed these processes to be more vulnerable to

irregularities then otherwise would have been the case.

WAS THERE CORRUPTION IN THE SDPS?

(i) Findings from a number of international investigations

15. The reported investigations conducted into the SDP related arms transactions of BAE, SAAB, and Ferrostal were by all accounts independent and free from outside influence. Each of these investigations, have amongst their wider findings, revealed dubious payments to have been made to South African politicians, public officials, arms deal related businessmen and other middlemen.

(ii) The German investigation of Ferrostaal GSC

16. An internal audit of Ferrostaal by US based law firm Debevoise and Plimpton alleges that Ferrostaal had close business links with Chippy Shaik which related to the building of the submarines and allegedly paid more than \$40m to agents in South Africa "whose

*chief attraction was their influence on politicians". I attach in support hereto an article from the Mail and Guardian dated 14 August 2011 as annexure "**GGW 8**".*

(iii) The German investigation of Thyssen GFC

17. The Office of the Public Prosecutor in Dusseldorf investigated the German Frigate Consortium. \$25million paid most of which flowed "directly to South African officials and members of the cabinet". Another \$3m was paid to the former chief of arm acquisition Shamin "Chippy" Shaik. Attached hereto in support hereof, annexure "**GGW 9**".

(iv) The SFO investigation into BAe

18. UK bank statements reveal that BAE paid over 15 million pounds to advisors in order to assist in the securing and maintaining of the South African Hawk and Gripen contracts. Between September 2003 and January 2007 Hlongwane Consulting was paid in excess of 10m pounds by BAe. The SFO investigation revealed that Hlongwane also received over ZAR51m through an agreement with a South African registered entity. See annexure "**GGW 10**" in this regard.

(v) The AADB investigation into BAe

19. "The Accountancy and Actuarial Discipline Board (AADB) currently investigating KPMG (UK) which advised BAe Systems on offshore companies that were used to pay "commissions" to influence the awarding of lucrative contracts in South Africa's defense procurement package." I refer in this regard to the Sunday Times article dated 7 November 2010 as annexure "**GGW 11**"

(vi) The SAAB investigation into the Gripens

20. Hlongwane received secret payments of up to R200m in commissions relating to the sale of the 26 Gripens. I refer in this regard to annexure "**GGW 12**" attached hereto.
21. The question here is why the South African Government so stoically resisted entertaining these findings and why they declined to cooperate with the various investigating bodies when approached to help establish the real nature of the large "commissions" and "success fees" paid.
22. It will be noted that these findings very strongly corroborate with other allegations in the public domain and further are typical of

corrupt acts which are known to take place when the evaluation and decision-making processes of the procurement transactions breakdown – as will be shown.

WHY COMMISSIONS ARE LIKELY TO BE BRIBES

23. There are of course those such as former President Mbeki who, when being asked about the findings of the foreign investigations, suggests there to be little wrong with arms suppliers paying large “commissions” to whoever they choose - as is common practice in many industries. This contention would be poorly informed on two accounts. Firstly is the frequency of proven cases where such “commissions” being paid in the international arms trade have been shown to be bribes which are paid to individuals who were identified as being in position of influence in the awarding of the arms deal business in question.

24. Secondly, the way South Africa’s SDPs were ostensibly constructed, left no scope for middlemen and no need for consultants – especially those who might otherwise be deserving of such large “commissions” and “success fees”. The official position of Government is that the transactions were negotiated directly by the South African government and the suppliers. There was no role for any other party to play.

25. We should therefore question why such monies might have been paid, bearing in mind that big business is strongly averse to paying monies where there is no possibility of their receiving something in return. It is therefore incomprehensible as to why the South African Government declined to contemplate the foreign investigation findings referred to – especially insofar as establishing the veracity of bribes having been paid.

OTHER SUBSTANTIVE ALLEGATIONS

26. Many allegations made as to dishonesty and corruption in the Arms Deal have been made, a good number of which appeared to be without real foundation. Below however are listed a few of these which could be regarded as substantive allegations i.e. where there some corroborative evidence is offered.
27. These allegations are given credence when contemplated against the findings of the international investigations referred to above. What will also be observed here is how the nature of these alleged acts of corruption coincides with the nature of the irregularities found in the SDP's evaluation and selection processes – evidence of which will be detailed later in this statement. The allegations

include:

(a) The Submarine deal

28. A leaked government report. German submarine consortium claimed billions for offset programs which had failed.(see in this regard the Mail and Guardian articles dated 28 October 2011 and 12 August 2011 respectively attached as annexures "**GGW 13**" and "**GGW 14**") as well as an article in Sunday Argus dated 17 July 2011, annexure "**GGW 15**" with the latter two articles providing further evidence.
29. Chippy Shaik's business dealings with Ferrostal are referred to in an article by the Mail and Guardian dated 12 August 2011 attached as annexure "**GGW 16**".
30. Greg de Muijnk's (as a member of the evaluation team) email in which he advises of the outcome of the process having been predetermined. I refer in this regard to the relevant email attached as annexure "**GGW 17**".

(b) The Frigate deal

31. Chippy Shaik negotiated a R3m "success fee" with GFC - paid to an

offshore account. I refer in this regard to the Mail and Guardian article dated 15 October 2010 and a further article in the Sunday Times dated 29 March 2010 respectively attached hereto as annexures "**GGW 18**" and "**GGW 19**".

32. "How Bazan lost the deal through a manipulation of the evaluation process". I refer in this regard to an article in the Politicsweb dated 28 March 2010 attached as annexure "**GGW 20**".
33. The Thompsons, Shabir Shaik, FBS ADS connections. I refer in this regard to an article in the Business Day dated 11 October 2004 annexed hereto as annexure "**GGW 21**".
34. Ex Managing Director of BAE "Modise told us to withdraw our bid". I refer to annexure "**GGW 22**" attached hereto in this regard.
35. Adm. Woodburne and Adm. Honiball. "Thabo Mbeki visited Germany and organised the deal for GFC – instead of Bazan". I refer to annexure "**GGW 23**" attached hereto in this regard.
36. Mbeki gave the French his word. I refer in this regard to an article in the Business Day dated 27 October 2001 attached as annexure "**GGW 24**".

37. Thompson CFS met Chippy Shaik before short list was drawn up. See an article reported in the Business Day dated 27 October 2004 in this regard, attached as annexure "**GGW 25**".
38. The awarding of many subcontracts to ADS and FBS – as politically connected companies including those some in the Arms Deal process. See in this regard an article in the Business Day dated 10 January 2001, attached as annexure "**GGW 26**".

(c) The BAE deal

39. "Paid more than R1B in "commissions" including R250m to Hlongwana". See in this regard an article in the Mail and Guardian dated 15 October 2010 annexed as annexure "**GGW 27**".
40. "The motivation behind the manipulation of the Hawks evaluation in order to award it the deal". See in this regard an article in the IOL news dated 26 June 2011, attached as annexure "**GGW 28**".
41. "Hlongwana's large BAE and SAAB share portfolio" as reported in an article in the Sunday Argus dated 26 June 2011, attached as annexure "**GGW 29**".
42. "Hlongwana's purchase of a house for Sipiwe Nyanda". See an

article in the Mail and Guardian dated 3 December 2010 in this regard, attached hereto as annexure "**GGW 30**".

43. Unexplained deposits in Modise's bank account. I refer to an article in the Mail and Guardian dated 26 March 2010 in this regard as annexure "**GGW 31**".

44. Non-costed option was irregular. I refer in this regard to an undated article in the Business Day by Tim Cohen, attached hereto as annexure "**GGW 32**".

(d) The Augusta deal

45. "Figures were manipulated (the evaluation) to ensure Augusta won over the less expensive Bell". Bell refused to pay Chippy bribe. I refer in this regard to an article in the Argus dated 12 November 2011 annexed hereto as annexure "**GGW 33**".

46. Shaik altered tender criteria. I refer in this regard to an article in the Mail and Guardian dated 15 August 2003, annexed hereto as annexure "**GGW 34**".

47. The high degree of corroboration between these allegations and findings of the UK, German, Swedish investigations are apparent especially with regards the substantial sums of monies which are said to have been paid to individuals.

A criminological explanation of why corruption in the SDPs

was likely

48. The irrefutable logic established through criminological studies over many decades advises that for criminal action to have taken place, the perpetrator would have needed motive, opportunity and the ability to rationalise his or her actions. Further, that if any of these three facets is missing from a would-be perpetrators repertoire, then the crime will not take place.
49. The conditions pertaining to motive and ability to rationalise are assumed to be part of any would-be corrupt individual involved in the SDPs. This assertion is well substantiated by way of the many recent cases of exposed public sector corruption in South Africa where the motivation to dishonestly seek enrichment abounds and where those who act corruptly display little remorse at having done so. This leaves us with the issue of opportunity and specifically if there were opportunities for corruption in the South African arms

deal. i.e. for sufficiently low risk opportunities for dishonest self-enrichment/gain.

Evidence of why and how the SDPs were open to corruption

50. As will be demonstrated, the processes and structures through which the SDP's were processed offered many opportunities for corruption due to the procedural weaknesses, administration failings and poor oversight over their application. The invitation such opportunities offered is likely to have been irresistible for some well-placed public officials and politicians as well as arms suppliers.
51. Over many years good procurement practice, known as International Best Practice, has evolved and is regularly strengthened through the on-going collective international experience. This in order to discourage transaction related errors and to mitigate against possibilities of procurement related corruption.
52. Corruption in procurement transactions is said by Transparency International to be the most common type of corruption experienced worldwide. By understanding the best practice systems and processes, our attention is at the same time focused

on problems that can occur should particular aspects of best practice not be properly applied or well adhered to – and by deduction we get to understand the possible exploitable opportunities that any practice weaknesses can offer. I annex a copy of the “red flags” for corruption document as annexure “**GGW 35**”.

53. It should therefore be asked if there were any significant weaknesses and resultant possibilities in the SDP evaluation and decision-making processes. Here, very sound evidence will be provided showing that there was an abundance of such weaknesses, and further that there were many irregular and questionable actions which point to these weaknesses having been taken advantage of.
54. Enquiry around possible weaknesses highlights a great number of procedural and control failings which, as are found in almost every case of procurement or tender fraud, are found to be very evident in the SDPs.
55. The evidence of these weaknesses, and the opportunities these can provide for poor or dishonest decisions, can be ascribed to the following three sources:

(i) The Auditor General's (AG) initial Review of the SDPs in November 2000.

56. This original brief report from the Auditor General (see the Special Review of the Auditor General dated 15 September 2000, annexure "GGW 36") stated "Material deviations from generally accepted procurement practice were discovered. See also in this regard an article in Business Day dated 10 January 2011 attached hereto as annexure "GGW 37". This finding was in contrast to the JIT's final report findings which indicated little material deviation to have taken place. The compliance failure issues identified by the Review and which were included in the Review's report and in the related Management Letters are listed in annexure "GGW 38".

(ii) The Joint Investigation Team's (JIT) Report in November 2001.

57. It is well known that the findings of the JIT report were the subject of much criticism as was the overall investigation. This was due to a perceived pandering to the Executive's anxieties regarding the possibility of any damaging findings.

Understanding the contradictory nature of the Joint Investigation

Team's (JIT) report

58. It can be observed that the JIT report is a report of two contracting parts. The first concerns the substantial amount of sound forensic work done by PriceWaterhouseCoopers (PWC) which identifies many system and process irregularities but which stops short, because of its brief, of investigating whether these irregularities led to corruption.
59. The second dimension of the report is the "findings" and "recommendations" produced by the then Auditor General (AG). The consistent disregard by these findings and recommendations to the serious diversions from best and necessary practice identified by the JIT represents a substantial gap and a profound disconnect between the actual investigations and the findings. The inexplicable findings somehow contrive to indicate there to have been no corruption in the Arms Deal.
60. A sample of the astounding number of shortcomings discovered by the PWC forensic work component of the JIT's report is produced by way of annexure "**GGW 39**". It should be borne in mind that the highly inappropriate Executive-led "editing" of the initial draft of the

JIT report might well have removed reference to any number of other such findings.

Lieutenant-General Pierre Steyn's (the former Defence Secretary)

61. The above evidence of the SDP procurement exercise having been open to manipulation is indisputable. This is however further reinforced by the testimony by the former Defence Secretary to the Commission. Here he is quoted as saying:

"the South African government interfered in and flouted tender procedures in the 1998 arms deal"

"I will present evidence to show how the executive acted in improper haste to enter into acquisition contracts and in the process, flouted existing legal and departmental prescripts in this regard, as well as ignoring sound and rational advice"

"That former Defence Minister Joe Modise introduced new tender processes and neglected previous ones, creating a concerning mix of policies. Modise changed the processes so that he had final say in all military purchases."

"What concerned me is that in 1998 there was no money on

the 1998 or 1999 budget on this [Strategic Defence Procurement Package]. I was not told about where the money would come from, he said. Part of the Exchequer Act, which was in place, was that you were not allowed to embark on an expenditure if you haven't reflected the need anywhere. This caused great concerns as far as I was concerned."

"I was told off by then-deputy defence minister Ronnie Kasrils about meddling in the arms deal. Modise and Kasrils were determined to get the deals signed as soon as possible without properly evaluating the weapons packages."

"that the procurement was heavily influenced by political, economic and other considerations that were not related to the military's operational needs."

"An unjustifiable decision was made to purchase British aircraft at considerable extra cost, which was unnecessary. The question is why this was done. One of the ways of finding the answer is to ask who benefited from these irregular and unjustified decisions. That is the key question I hope the commission will investigate and answer."

"The government allocated money for new equipment but no provision was made for operational costs."

Analysis of the procedural breakdowns

62. From the three above sources of information concerning the irregularities of the tendering and procurement processes a number of observations can be made which quite emphatically suggest there to at very least have been opportunities for corruption – and at most for these opportunities for corruption to have been exploited. These observations include:

62.1 the poor application of the laid down procurement practices;

62.2 the lack of checks and balances by way of the roles and weakness of the hierarchy of committees which are meant to ultimately ensure that the best decisions regarding the prime contracts and the offsets are arrived at;

62.3 the inadequate attention paid by the procurement team to potential conflicts of interest. See also "Individuals were only required to declare conflicts of interest voluntarily" and "Government conflict of interest codes were not adhered to". I refer in this regard to an article in the

Business Day dated 10 January 2001, annexed hereto as annexure "GGW 40". The PSC says (see report of the PSC , July 2009, annexure "GGW 41") hundreds of senior managers are open to conflicts of interest (434 out of a sample of 20238);

62.4 officials who readily deviated from laid down processes and rules;

62.5 non-compliance with international best selection practices. Especially at the evaluation and selection stages. These stages were interfered with and manipulated;

62.6 no independent monitoring of the processes and structures – notwithstanding the large sums of state finances that were implicated;

62.7 the ineffectiveness of the tiered structure of committees which should otherwise have rigorously interrogated the work and recommendations coming from the committee immediately below in the overall structure;

62.8 not working within the strictures of a predetermined budget;

62.9 not adhering to the necessary checks and balances within the process – especially the separation of duties;

62.10 not subjecting communication between officials and suppliers to clear rules;

62.11 the lack of proper assessment of the IP's viability.

63. As indicated by the PWC forensic work into the SDPs the identified procedural and control weaknesses allowed for many irregular or incorrect decisions. This was notwithstanding the impressive organogram of decision-making structures, the involvement of high ranking officials and the documented procurement processes.
64. Amongst the more critical evidence which becomes evident through the presentation of these irregularities is that which indicates **at least 3 of the 5 prime deals to have been inappropriately influenced and thereby wrongly awarded.** The likelihood being that such outcomes were contrived in order to accord with predetermined decisions as to which bidders would be awarded the supply contracts. This would of course render the entire process to have been a farce and an appalling exercise in deceit.
65. The fact that the evaluation and selection processes were so open to irregularities once again calls into question the oversight competence of the former members of the Cabinet sub-committee. Not only were they not aware of the generally corrupt

nature of the arms industry their belief that the SDP evaluation and selection processes were beyond reproach was patiently misinformed when considering the burden of circumstantial evidence supporting the probability of corruption having taken place.

66. As with a significant number of public sector procurement deals in South Africa (as well as in other countries) it would appear that the illusion of compliance with the laid down practices is often dishonestly created while in fact powerful individual/s cleverly influence the process in order to arrive at predetermined decisions. As such there are frequently tendering outcomes, where the AG or National Treasury tick all the compliance boxes giving a particular procurement transaction a clean bill of health only for some investigative journalist to later uncover corruption in that exact deal. In the case of the SDP exercise the PWC and Lieutenant General Steyn have clearly destroyed the illusion of compliance which Government presented.

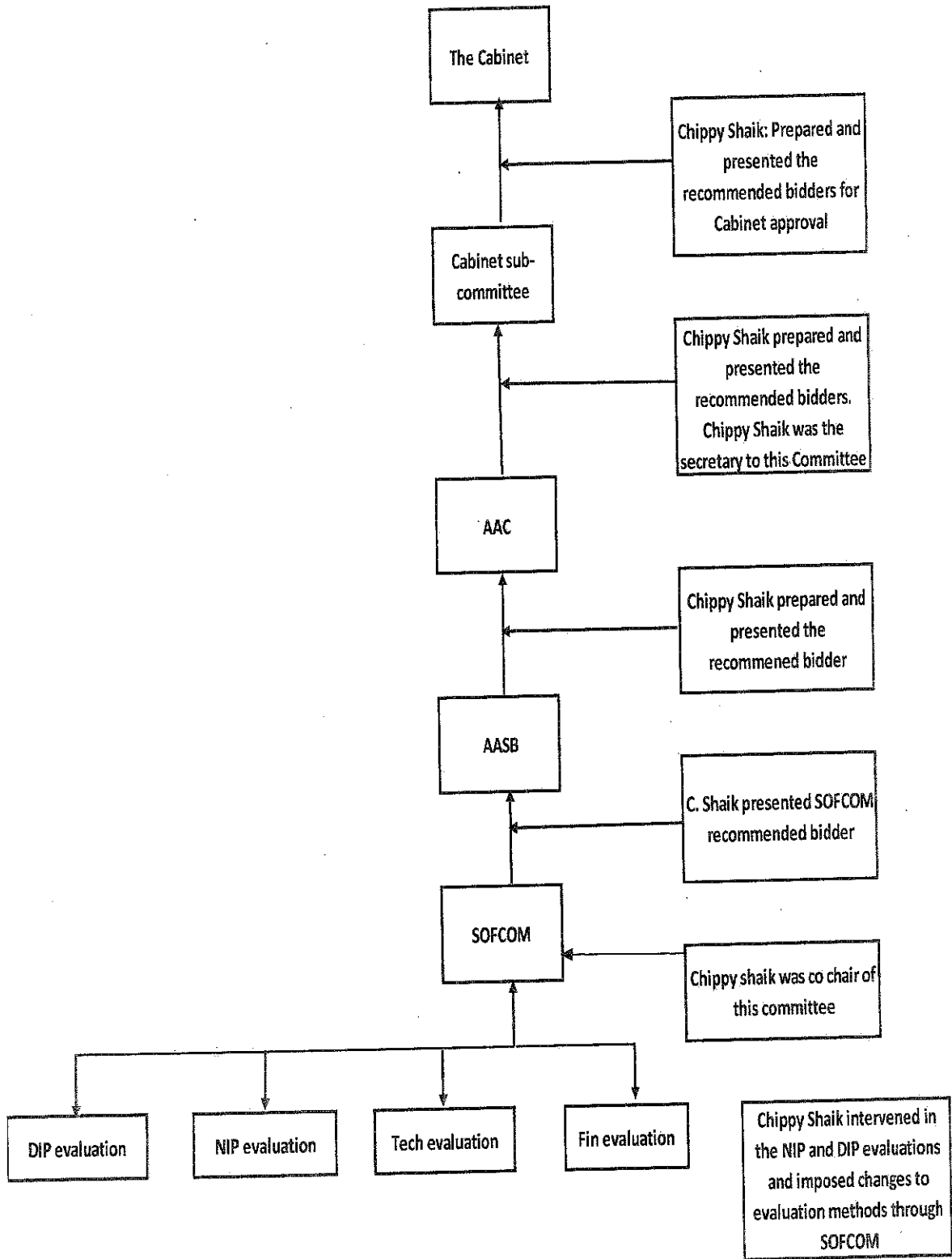
67. An illustration of how weak the processes, the controls and the oversight thereof was could be shown by the cross-cutting involvement of the DoD's Acquisition's manager (Chippy Shaik) who was in a position to influence the processes at almost every

level - especially through the opportunities which the deviations from best practice allowed.

68. The organogram/flowchart below makes clear the impropriety of the Acquisition Manager's scope of activity across the selection and negotiating stages and how this negated the essential check-and-balance and the separation of responsibility requirements of good tender practice. In particular the role that SOFOM (of which the Acquisitions Manager was co-chair) played in establishing front-running bidders. As discovered by PWC in some cases this was through SOFCOM instructing the evaluation committees to change evaluation criteria - which caused a material change to the prioritisation of certain bids. e.g. changing the risk scoring in a way which changed the points awarded in the evaluation phase.
69. The formal process was for the assessments of the bids which came from the four evaluation committees to then be scrutinised and in cases amended by SOFCOM after which recommendations were then promoted through both the AASB and AAC committees (i.e. the recommending and approval stages) for agreement by the Cabinet sub-committee. The Acquisitions Manager, as will be noted was in a position to influence the process at each of its stages - especially in the earlier stages where he was able to employ his often referred to aggressive and intimidating approach wherein he

would remind anyone who wished to oppose him of his powerful political connections.

A DIAGRAMMATIC ILLUSTRATION



A FEW POINTS MADE REGARDING THE OFFSETS

70. It is argued that the importance given to the IP component of the SDPs was excessive given the international experience. The IPs proved to detract from the actual procurement transactions which were essentially about buying the right products at the best price. The elevation of the IP projects by the Department of Trade and Industry as a possible means through which to make up for its failed industrial policy was ill-considered given the international experience of IPs. Amongst other observations, the proportions of DIPS to NIPS was directly contrary to what made sense from a risk point of view.
71. The AG's 2000 Review stated "the issue of industrial participation played a material role in evaluating the tenders. It constituted one third of the total score of the total evaluation. The other two thirds being Finance and Technology. The guarantees as stipulated per the contracts were on average approximately 10% of the contract price. This appears to be very low measured against the important role industrial participation played in deciding the preferred bidders."

72. The DTI offset audit conducted in early 2014 gives examples of "two suppliers that would not have won deals were it not for their massive offset offerings". Note the original evaluation criteria did not allow for bidders to win contracts simply by offering offsets beyond that of the specified tender requirements. But here again the criteria was inexplicable changed – ostensibly to elevate certain bids above others.

73. The proposition that, in addition to receiving products for money, one could also receive economic benefits worth three times the value of the products bought was always nonsensical and unprecedented in the realm of business.

74. The fact that the DTI has to date not or not been able to produce business plans for any of the NIP related business ventures leads one to suspect that the NIPs were based on little or no viability studies meaning that their value and ultimate delivery possibilities were altogether speculative.

75. In reality the situation meant that suppliers, in order not to be incurring substantial losses on the arms supply contracts, would either need to renege on the NIPs (the DIPs having greater certainty) and suffer a modest 10% penalty or would need to load their arms selling prices to compensate for money to be lost

through the NIPS. This was anticipated by the Department of Finance's Affordability Study (paragraph 15 of Appendix C of the Affordability report. Extract thereof is attached hereto as annexure "GGW 41") where it states:

"Nonetheless the risk remains that suppliers have already priced the present value of the NIP performance guarantee-at least at its original level-into their tender amounts ."

76. The costing detail of the Hawks and Gripen appears to indicating such a loading of prices.
77. For other comments see document "The arms deal Investigation - Accountability Failure". A critique of the JIT Report by Gavin Woods February 2002, attached hereto as annexure "GGW 42".

THE SUPPRESSION AND DISREGARD OF RELEVANT INFORMATION

/EVIDENCE

78. A contention that needs to be challenged concerns that which claims that little evidence of corruption has been forthcoming regarding corruption in the SDPs over the past 15 off years.

79. First it must be mentioned that wide ranging actions were taken to strategically prevent the establishment of primary evidence of corruption in the arms deal. Between 2001 and 2009 there were a number of interventions, mostly by the Executive, which served to prevent or discourage the discovery of information which might otherwise have amounted to evidence of corruption in the 2000 South African Strategic Defence Packages (SDPs). These included:

79.1 The manipulation of SCOPA to prevent or discourage it from:

79.1.1 fulfilling its obligations as per the Constitution, the Rules of the National Assembly and its specific undertaking contained in the National Assembly's 14th report to use its powers to investigate aspects of the arms deal. I refer in this regard to a report I wrote titled " SCOPA'S INTENDED ARMS DEAL INVESTIGATION-THE INTERVENTIONIST CAUSES OF ITS FAILURE, date January 2002 attached as annexure "**GGW 43**";

79.1.2 being given the opportunity to have the investigation agencies account to it either during or after the investigation had been completed to ensure effective oversight;

79.1.3 having its requests for SDP related information, as were made by its Chairman and members of opposition parties, positively responded to. I refer in this regard to articles by SAPA dated 13 June 2001, Cape Times dated 11 June 2001 and News 24 dates 12 June 2001 respectively attached as annexures "**GGW 44**", "**GGW 45**" and "**GGW 46**" ;

79.1.4 pursuing its interest in the SDPs through the attempted intimidation of SCOPA and its Chairman by the then Deputy President (Annexure "**GGW 3**"). It apposite in this regard to also refer to my response to the letter of then Deputy President which amounts to a critique of the then Deputy President's letter, attached hereto as annexure "**GGW 47**".

79.2 The inhibiting of the work of the Joint Investigation Team (JIT)
by:

79.2.1 refusing the Heath Special Investigation Unit permission to participate in the joint investigation. I attach in this regard an article

in Business Day dated 26 January 2001
attached as annexure "**GGW 48**".;

79.2.2 holding inappropriate and secret meetings with the heads of the three participating agencies as was exposed by the Mail and Guardian newspaper and the eventual editing and sanitising of the final JIT report which amongst other things declined to follow through on any of the irregular findings made by its forensic component.

80 The failure to co-operate with, or follow up on, the findings of the UK, German or Swedish investigation's findings that substantial sums of unexplained monies were paid to senior political/government figures in South Africa by winning bidders.

81 By design these interventions made it very difficult to discover if anyone had improperly benefitted from the SDPs at any of the prime contract, sub contract and industrial participation levels. It is therefore somewhat disingenuous of former members of the

executive to say no evidence of wrong doing in the arms deal has been produced over the past fourteen years.

82 This evidence of the above interventions, by the very individuals who were responsible for there being proper and honest SDP transactions, begs the question of why they made such extraordinary efforts to keep important SDP related facts out of the public domain while at the same time claiming that there was nothing to hide.

CONCLUDING COMMENT

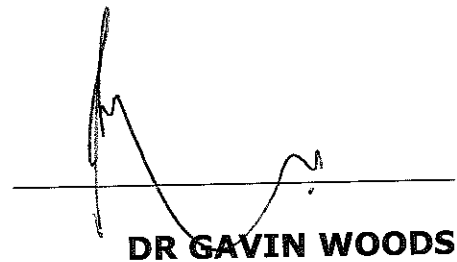
83 This statement presents a range of circumstantial and other indirect evidence which together indicates that corruption in the South African arms deal was not only plausible but was very likely. The management control and executive oversight of the procurement process were such that they appear to have invited opportunistic activity of a corrupt nature. The evidence presented to substantiate this situation is almost irrefutable.

84 However, it is when on one hand contemplating where the most likely opportunities for corruption existed and on the other looking at the most credible allegations of actual corruption that correlations are noted which are virtually undeniable. In other words it so happens

that the most obvious opportunities for corruption are those which the strongest allegations indicate to have been taken advantage of.

- 85 With the many weaknesses in oversight, control and the actual evaluation and selection processes in mind it is believed that the evidence presented shows a serious incidence of manipulation of the selections of particular bids. This most probably in accordance with decisions which were predetermined as a result of bribery or kick-back deals which were struck between agents of suppliers and politicians/public officials. As in most cases of bribery such deals could have been initiated by either side.
- 86 What has long been needed is an extended forensic investigation in order to try and trace the paper trails/join the dots, if possible, between what the JIT forensic work revealed and what the main allegations indicate. There is a further need for forensic investigation into who benefitted from the allocation of sub-contracts and who the beneficiaries were who received NIP related business. This in order to detect whether there was any inappropriate distribution of business opportunities.
- 87 A judicial commission does not readily undertake forensic type investigation. It gathers existing evidence and related information from those who testify before it and other secondary sources. It does

this in order to try and establish a strong enough picture which, at least on a balance of probability, indicates what took place. It is hoped that the evidence offered through this statement will contribute meaningfully to the efforts of the Commission to achieve an understanding against which it can produce substantive findings.



DR GAVIN WOODS

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