

ECAAR-South Africa Continues Legal Action to Block Arms Imports

by Terry Crawford-Browne

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The Deputy Judge President of the Cape High Court has ordered that dates be scheduled on November 17 and February 17 for ECAAR-SA's litigation to cancel the US\$4.8 billion arms deal.

In March this year the court ordered the government to provide ECAAR-SA with the documents that in 1999 alerted the cabinet to the financial and economic risks of the arms deal. These documents were eventually handed over in November.

The court in March rejected government arguments that the documents were irrelevant to the arms deal or that they were so highly confidential that disclosure to ECAAR-SA would contravene the national interest.

Thus the hearing of November 17 succeeded in obtaining documents, which comprise more than 643 pages warning the cabinet that spending on the arms deal could crowd out social and economic priorities such as education, health and welfare.

ECAAR-SA last year obtained copies of the BAe Systems-Barclays Bank-British government-South African government loan agreements that give effect to the purchase of BAe Hawk and BAe/Saab Gripen fighter aircraft. The government's counsel conceded in March that these documents are authentic.

In signing the loan agreements, the Minister of Finance has for 20 years ceded control of South Africa's economic and financial policies to European banks and to the International Monetary Fund. ECAAR-SA argues that his behavior was reckless, and unconstitutional.

Judgment that the loan agreements are unconstitutional will, we believe, collapse the arms deals - it being unlikely that deliveries of warships and warplanes would continue without payment. In addition, such a judgment would mean that European rather than South African taxpayers would bear the costs of cancellation. European NGOs are already questioning the roles of export credit agencies and governments in the proliferation of armaments in Africa and Asia.

The government's strategy of stalling in an effort to exhaust ECAAR-SA mentally and financially has backfired. The arms deal has become South Africa's "watergate" just six months before next year's presidential and parliamentary elections. A 2002 opinion survey found that 62% of ANC voters wanted the arms deal cancelled, 19% wanted it cut, and only 12% supported it.

The plethora of corruption allegations around the Deputy President and his "financial adviser" has taken its toll on the government's integrity, and a judicial commission of inquiry is now sifting through counter-allegations that senior ministers and officials were spies for the apartheid government.

In addition, the Institute for Democracy in South Africa (Idasa) is launching litigation to force the five largest political parties to disclose their sources of funding. This follows suggestions in England that BAe Systems may have paid up to £150 million as commissions to the African National Congress (ANC).

Meanwhile, just as the first corvette is scheduled to arrive from Germany, the tendering irregularities and malpractices of the arms deal are again coming under media scrutiny. President Mbeki's intervention in 1995 in support of the Germans and the BAe Systems contracts are once more being questioned.

The Joint Investigation Team report in 2001 revealed that a legal opinion had recommended that the German bid should be disqualified. It also confirmed that cabinet ministers had overruled Air Force chiefs and the Secretary

for Defence who considered the BAe aircraft to be unsuited to South African requirements.

NOSEWEEK magazine has disclosed that Israeli Kfir fighters - supplied in contravention of the UN arms embargo, many still in mint condition - are being sold off at half price to make way for BAe replacements. Brazil is said to want to buy them instead of American F-16s, to apply the savings to poverty alleviation.

As South Africa moves to the tenth anniversary of its transition to democracy, there is growing anger that the ANC government has failed to deliver any improvement to the lives of most of its constituents. The wealth gulf between rich and poor is even wider than it was during the apartheid era. Unemployment is 42%, and the number of people living in shacks continues to increase.

High crime rates affect all communities, and HIV/AIDs will have devastating social and economic impacts with some six million South African deaths expected by 2010.

Opposition parties are fragmented economically and racially so there is no prospect that the ANC will lose the 2004 election. Proportional representation has turned parliamentarians into lapdogs dependant on party patronage with ANC-aligned trade unions and Communist Party opposition to the arms deal having no impact while they remain within the government fold.

To the electorate however, the arms deal has become symbolic of an appalling waste of energy and resources that could go to social improvement. The credibility of our constitutional democracy is at risk.

Terry Crawford-Browne is the Chair of ECAAR - South Africa, which is challenging the South African Government's commitment to purchase 4 corvettes, 3 submarines, 28 Gripen fighter jets, 24 Hawk trainer aircraft and 30 light utility helicopters at the price of many billion rand, which are sorely needed for health and economic development.

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