

Tanzania:

In the course of investigating BAE's offshore arrangements relating to payments involving Saudi Arabian figures, the SFO came across other payments including in relation to Tanzania.¹ The SFO established that BAE Systems had secretly paid \$12 million commission to Sailesh Vithlani, its agent in Tanzania, via a Swiss bank account, representing 30% of a deal sealed in 1999 to sell a military radar system to Tanzania. The actual price of the military radar according to the investigation was \$12 million but Tanzania paid \$40 million, with the extra \$28 million allegedly paid to government officials and individuals.

The radar was controversial because the World Bank and the IMF as well as the UK's Department for International Development and Foreign Office believed that Tanzania did not need a military radar which was to be used primarily for civilian purposes given Tanzania's very limited airforce capacity. A civilian system could have cost as little as £3-5 million. The SFO in the course of its investigations found "*reasonable grounds*" to believe that the financing package for the deal "*was structured to circumvent, and in reality may have breached*" requirements agreed with the World Bank and IMF.

The agent

In January 2006 Vithlani, who has a British passport, admitted that he had acted as BAE's agent on the deal. Vithlani's business partner, Tanil Somaiya, stated that BAE had maintained two parallel agency agreements, an official one which paid 1% commission which went via a Tanzanian registered firm, Merlin International Ltd, and an unofficial one administered via BAE's offshore entity, Red Diamond, which put \$12 million in a Swiss bank account in the name of Envers Trading Corporation, registered in Panama, and which was under the personal control of Sailesh Vithlani.²

According to a leaked SFO supplemental request for mutual legal assistance from the Tanzanian attorney general from March 2008, BAE through Red Diamond, which is registered in the British Virgin Island, entered into an agreement with Envers Trading Corporation. Envers acted as BAE's consultant in Tanzania. The power of attorney over Envers was held by Tanil Somaiya and Shailesh Vithlani, and the Corporation operated from the address associated with Merlin International Ltd. Payments were made between January 2000 and April 2005 of over \$8 million. The agreement between Red Diamond and Envers was terminated in December 2005 with a settlement payment of \$3.3 million. According to the SFO document "*Vithlani was neither a technical nor commercial specialist*", his role was "*apparently nominal*" and the SFO's investigation "*has good grounds now to believe it was generally known that Vithlani's role involved making payments to Tanzanian public officials in positions of influence in the Radar contract negotiations*". Vithlani was referred to in BAE internal correspondence variously as "*our friend*" and "*the fat man*".

Recipients

Key figures in Tanzania who were alleged to have received bribes from BAE via Envers include Andrew Chenge, Attorney General of Tanzania between 1995 and 2006. Chenge was required to approve the financing package backed by Barclays Bank for the radar deal before

¹ The Guardian Tanzania, "Moment of Shame", 7/2/10

² <http://www.guardian.co.uk/world/2007/jan/15/bae.armstrade>

it could go ahead. The SFO investigation uncovered that Chenge controlled a company in Jersey called Franton Investments Limited, through which he received \$1.5 million. This money appears to have come via Barclays bank in Frankfurt, and ultimately may have come from a bank in Liechtenstein. Chenge's agreement was also needed to ensure that English Law and arbitration would apply in the event of civil dispute. In September 1999 Vithlani wrote to Barclays bank enclosing the final draft of the financing package and a legal opinion from Chenge that the new arrangements would not be subject to suit in Tanzania, that English law would prevail and that the arrangements would not cause Tanzania to become ineligible for funds from the IMF or other multinational agencies. The SFO letter states that it concludes "*that there are reasonable grounds to believe that in taking this stance, Chenge was putting the economic interests of Tanzania at risk*".

Chenge's financial advisors were aware that "*if Mr C's government were to be made aware of these assets in London, they may confiscate them*". Chenge is alleged to have breached Tanzanian law, in particular the Public Leadership Code of Ethics Act 1995 in not disclosing his assets in Jersey.

Another person alleged to have received funds from BAE is Dr Idris Rashidi who was governor of the bank of Tanzania between 1993 and 1998, and was according to the SFO document "*a key figure in the negotiation of the financing of the radar without which there would have been no contract*". Rashidi was paid \$600,000 from Chenge's Franton account. Both are thought to have had acted with the full backing of top government officials at the time.

Chenge resigned as Ministry for Infrastructure Development in April 2008 shortly after the Mutual Legal Assistance request laying out the SFO's discovery about his bank accounts was sent.

The SFO request also stated that it was investigating the affairs of BAE Systems, Michael Peter Rouse (Director of Marketing at BAE from 2002), Sir Richard Harry Evans (former BAE chairman), Michael John Turner (former chief executive of BAE), and Julia Adgridge (Deputy Head of Marketing at BAE).