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

BY SAAB AB

Per: J MARAIS and A MOLVER

ADAMS & ADAMS

South African attorneys of record for Saab
AB

Physical address: Lynnwood Bridge Office
Park, 4 Daventry Road, Lynnwood Manor
Tel: (012) 432 6000

Ref: JSM/ANM/LT541

**TO: THE CHAIRPERSON: ARMS
PROCUREMENT COMMISSION**

21st Floor, Isivuno House,
cnr Lilian Ngoyi (Van der Walt) and
Madiba(Vermeulen) Streets, Pretoria

CLOSING SUBMISSIONS

INTRODUCTION

1. On 24 October 2011 the President of the Republic of South Africa appointed the Commission to investigate allegations of fraud, corruption, impropriety or irregularity in the Strategic Defence Procurement Package (“SDPP”).

2. As the then Minister of Justice and Constitutional Development, Mr Jeff Radebe MP, explained when he announced the details of the Commission on 27 October 2011:

“this Commission has been instituted as a consequence of allegations that have persistently been in the public domain for a long time. The allegations surfaced soon after the dawn of democracy, following the procurement of multi-billion rand armoury that was intended to address the needs identified by the South African National Defence Force during 1996 – 1998. This culminated in the Cabinet decision to purchase aircraft, corvettes and submarines at the cost of R29 billion over 12 years. The allegations were probed by the different State institutions and were also a matter public debate in Parliament. Every time an end appeared in sight, new allegations would emerge. It is our conviction that the Inquiry will enable us collectively as a nation to reach closure on this otherwise contentious matter. We are hopeful that we will emerge from the Commission as a stronger nation glued together by values of social cohesion and nation building in a common endeavour to build a united and prosperous South Africa.

We believe that the work of the Commission will ensure that we sustain the momentum on the integrity of our national democratic transformation. In contrast, the seriousness of these allegations threaten to undermine this hard earned integrity of our constitutional democracy which is perceived as exemplary to be emulated even on the international scene.”

3. Saab AB (“Saab”) wholeheartedly endorses the importance of the Commission’s inquiry, and has from the outset co-operated fully with the Commission in relation to its investigation. This cooperation included meetings with the Commission’s representatives in Sweden and the provision of various

documents and other information requested by the Commission as far back as 2012. In addition, Saab submitted a detailed written statement to the Commission on [INSERT DATE] in which it sought to address particular issues regarding Saab's involvement in the SDPP that had been identified in interactions with the Commission's representatives.

4. On the basis of the extensive information that has been provided to the Commission by Saab (and by numerous other parties) during the course of the Commission's lengthy and comprehensive inquiry, Saab respectfully submits that there is no evidence of any wrongdoing whatsoever on its part in relation to the SDPP. Saab's Gripen aircraft system that was provided to the South African Air Force ("SAAF") pursuant to the SDPP has exceeded the demanding requirements of the SAAF, and has also proven to be highly successful internationally. Furthermore, Saab has complied fully with its DIP and NIP commitments under the SDPP, as a result of which it has made a lasting and ongoing contribution to the development and success of South Africa's high technology defence industry. Saab is proud of its achievements and contribution in this regard, and respectfully trusts that the Commission's findings arising from this inquiry will finally dispel the allegations of wrongdoing that have surrounded the SDPP (including Saab's involvement therein) for so many years.
5. The purpose of this closing submission is not to repeat the contents of Saab's previous statements to the Commission in this regard, but merely to highlight the most salient aspects thereof for purposes of the Commission's consideration.

THE GRIPEN AIRCRAFT SYSTEM AND PARTICIPATION IN THE SDPP

6. In its written statement, Saab explained the design philosophy behind the Swedish Gripen aircraft system, which was developed as the world's first fourth generation fighter aircraft capable of carrying out interception, ground attack and reconnaissance roles during the same mission.

7. Saab also explained that, in order to exploit the Gripen's export potential, it collaborated in a joint venture with British Aerospace (which later became BAE Systems plc) to market the aircraft to the global market. Saab primarily contributed its knowledge of the Swedish aircraft system to the collaboration, whereas British Aerospace contributed its knowledge and experience in adapting the aircraft for export purposes, and in marketing and sales of complex defence products to export customers.
8. The opportunity to participate in the SDPP was introduced to the Joint Venture by British Aerospace, but it was clear to Saab at an early stage that the Gripen system, appropriately adapted, could be a competitive candidate for the Advanced Light Fighter Aircraft requirement in the SDPP.
9. It was decided within the Joint Venture that British Aerospace would take the lead in the management of the bid and the contract negotiation phase, whereas Saab's primary role was to ascertain whether the technical requirements as set out in the documentation were understood; to support the negotiation team with input regarding the time and cost implications of the South African specific product adaptations; and to address any perceived program risk that had to be considered together with the customer. British Aerospace also signed the supply agreement (including DIP and NIP) with the South African customer, which covered both the Hawk aircraft, in which Saab had no role, and the Gripen aircraft, contracted by British Aerospace under the framework of the Joint Venture agreement.
10. The basis for the technical discussions was the Gripen Export Baseline Standard product specification, but the negotiations also covered several significant South Africa specific requirements that were driven by operational requirements specific to the SAAF.
11. After initial flight testing and basic clearance in Sweden, the aircraft was transferred to South Africa in August 2006 for further flight testing and verification of the South Africa requirements. The flight test program was finalized in early 2008 and the first aircraft was delivered shortly afterwards

according to contract. The aircraft deliveries continued according to contract and the final aircraft was contractually delivered in late 2011.

12. Progressively between 2008 and 2012, other components of the Gripen system such as support systems, training systems, maintenance system (i.e. spares and ground support equipment), role equipment and aircrew equipment were delivered.
13. The Commission has heard and considered a substantial amount of evidence from high-ranking representatives of the South African National Defence Force (“SANDF”) and SAAF regarding the rationale for, and utilisation and success of, the armoury procured pursuant to the SDPP, including the Gripen aircraft system. Saab refers in particular in this regard to the witness statement of Brigadier General John William Bayne of the SANDF (and formerly the Director Combat Systems of the SAAF), which records that the Gripen system constitutes an integral part of the capability of the SAAF (and South African National Defence Force) to meet its air defence and other mandates (para 42), and *“has exceeded the SAAF’s and SANDF’s expectations especially in the domain of modern 4th generation integrated systems, deployability, logistics support and reach”* (para 58).
14. The Gripen aircraft system has continued to attract interest on the export market and is now operated by three foreign air forces (in addition to the Swedish Air Force and SAAF), and has been selected by one more for acquisition, and is currently under consideration by a number of others.

DEFENCE INDUSTRIAL PARTICIPATION AND NATIONAL INDUSTRIAL PARTICIPATION

15. In parallel with the discussions on the product specifications, a Defence Industrial Participation (“DIP”) and National Industrial Participation (“NIP”) programme was negotiated as part of the aircraft acquisition contract.

16. Saab took management responsibility under the framework of the Joint Venture Agreement for the fulfillment of the Gripen elements of the contract (including Gripen-related DIP), while British Aerospace retained management responsibility for the NIP fulfillment in respect of both the Hawk and the Gripen elements of the contract.
17. As set out in Saab's written submission, the DIP programme relating to the Gripen element of the contract included significant technology transfer, development of Gripen functionality, flight testing, and production of Gripen equipment and airframe parts. In February 2012, Saab was informed by BAE Systems that Armscor had approved the contractual discharge of the entire DIP obligation relating to the Gripen element of the contract.
18. The Commission is well informed of the contractual NIP requirements arising from the Hawk/Gripen contract. Saab contributed to the best of its ability to the NIP efforts by developing, engaging in and supporting a variety of business ventures, which are listed in Attachment 1 to its written statement. In October 2011, Saab was informed by BAE Systems that the Department of Trade and Industry had approved the contractual discharge of the entire NIP obligation.

SAAB'S BUSINESS DEVELOPMENT IN SOUTH AFRICA AS A RESULT OF DIP AND NIP

19. Saab has detailed in its written statement how its industrial presence in South Africa commenced in 1999 with the acquisition of an interest in the South African company Avitronics (Pty) Ltd, and thereafter in Grintek Limited. By 2007, Saab had acquired all the shares in both these companies (which it renamed Saab Grintek Defence and Saab Grintek Technologies, respectively), which are managed through Saab South Africa (Pty) Ltd together with its BEE partners. Today, these businesses operate mainly in Pretoria, Centurion and Cape Town with approximately 850 employees and an annual turnover of well over R1 billion.

20. Saab Grintek Defence has become a leading defence technology company in South Africa. It supplies state-of-the-art products for local and export customers which have been designed and developed by South African engineers, and are manufactured in state-of-the-art production facilities located in Pretoria and Cape Town.
21. Before Saab's investment in these companies, their export share amounted to some 35 per cent of total revenue, while today the exports of Saab Grintek Defence account for almost 85 per cent of total revenue, thus generating substantial export income to South Africa.
22. The success of Saab Grintek Defence has been acknowledged in South Africa with the bestowal of the Department of Trade and Industry's "Best South African Export Company" award for two consecutive years.
23. The success of Saab South Africa, which is a product of the offset requirements of the SDPP, is the result of a combination of investments, long term management commitment and a technology driven environment in the Saab group.

ALLEGATIONS OF UNLAWFUL CONDUCT

24. As outlined above, the SDPP has been beset by rumours and allegations of unlawful conduct for many years, and the inquiry into this question is central to the Commission's mandate.
25. The Commission has now had the benefit of an extensive and comprehensive investigation of the relevant facts over a number of years. It has also received a very considerable body of evidence regarding the procurement process that was followed in awarding the contracts, and in the subsequent negotiation of those contracts following the conclusion of the procurement process.
26. Saab respectfully submits that, in the light of the extensive documentation and information that it has presented to the Commission, and of all the other

evidence that the Commission has obtained, there is no basis whatsoever for any finding of unlawful, or improper, conduct on the part of Saab. It is submitted that the only conclusion that can be drawn on the basis of the evidence before the Commission is that Saab acted lawfully at all times in the procurement process, and in the negotiation and execution of the Hawk/Gripen acquisition contract.

27. The role of advisors to the arms suppliers was also dealt with by the Commission. In this regard, Saab was requested to address a media question regarding a consultancy agreement concluded between Sanip (Pty) Ltd and Hlongwane Consulting (Pty) Ltd in 2003. As explained in Saab's written statement, that agreement was not known to Saab. The circumstances supporting this statement were summarized in a report following an investigation of the matter in June 2011, which report has been made available to the Commission. The investigation further resulted in the conclusion that Sanip was not the intended counter-party to the consultancy agreement with Hlongwane Consulting (Pty) Ltd and that the true counter-party was BAE Systems.
28. Saab also notes that in 2007 the Swedish Prosecutor's Office initiated an investigation in Sweden into alleged improper business practices in connection with Gripen export activities. Saab co-operated fully with that investigation and submitted substantial documentation and numerous responses to questions from the Prosecutor's Office. In June 2009 that investigation was closed, without any charges being raised against Saab or any of its employees or directors. Saab believes this information was independently obtained by the Commission during its visit to Sweden.
29. In paragraph 77 of the written submissions of the evidence leaders dated 17 June 2014, reference is made to a proposed charging letter from United States Department of State Bureau of Political Military Affairs to BAE Systems plc ("BAE") which, *inter alia*, referred to co-operation between BAE and Saab regarding the marketing and sale of Gripen aircraft. For the sake of clarity, Saab wishes to record that no charges by United States authorities were

raised against Saab or any Gripen-company formed as a result of the cooperative efforts between Saab AB and BAE System, whether pursuant to the proposed charging letter or otherwise. Indeed, footnote 4 of the proposed charging letter expressly notes that “*Saab AB and its subsidiaries are not the subject of any investigation related to the transactions described herein.*”

CONCLUSION

30. Saab respectfully submits, in conclusion, that it has co-operated fully with the Commission in its investigation process, and that, in the light of the information and evidence that the Commission has obtained from Saab (and numerous other parties) during that process, there is no basis whatsoever for any finding of unlawful, or improper, conduct by Saab in relation to its involvement in the SDPP.
31. Saab is proud of the Gripen aircraft system that it supplied to the South African customer, including Gripen-related DIP, and also of the support that it provided in respect of the NIP obligation in the aircraft acquisition contract. In all of these respects, Saab submits that it performed its tasks professionally, with a high degree of integrity and to the satisfaction of the customer, and has also made a lasting (and ongoing) contribution to the development of the high technology defence industry in South Africa.
32. Saab respectfully trusts that Saab’s role within the SDPP has been clarified to the satisfaction of the Commission, and submits that the Commission’s findings should conclude that there is no evidence whatsoever of any unlawful, or improper, conduct on the part of Saab in relation to the SDPP.