

November 14, 1994
South African Department of Foreign Affairs,
'Cameron Commission - Armscor Case'

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Summary:

Discusses the Cameron Commission and the debate about whether South African arms deals should be transparent to the public.

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Classification: Confidential
TO : Director General (c/o Lusaka)
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DATE ; 19941114
STATUS : For urgent consideration
SUBJECT : CAMERON COMMISSION - ARMSCOR CASE

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1. Discussions this evening with Defence, Armscor and legal counsel under chairmanship of Gen. G Meiring focussed on how to deal with the matter of country classifications on 19941115, when the Cameron Commission expects to hear arguments on in camera proceedings. Note: the Commission will hold an open session but the specific evidence about why the Commission should hold its hearings on country classifications in camera, will be held in camera when the formal application is brought by respective applicants (Defence, Armscor and possibly DFA). The consensus of those who had attended the hearings so far was that unless a very strong case for in camera hearings was made by all interested parties, the Commission was likely to rule in favour of open hearings.

2. It was strongly argued by other participants this evening that DFA should play a role in leading evidence about how the disclosure of country classifications would negatively affect our international relations. While acknowledging our substantive interest in this aspect, we pointed out that Trade and Industry had an equally substantive interest in this regard, and expressed the wish that they should be consulted on this issue. This was accepted by the meeting.

3. Counsel for Armscor proposed that a small working group should be constituted, which should draw on records of defence-related transactions to substantiate the contention of the interested government representatives that disclosure would hold serious economic and political implications for the RSA. The purpose would be to present a few examples in camera to the Commission that would make these implications clear, and that these implications would impact on the present GNU and not only on the previous administration. Such examples could be related to defence-related purchases as well as exports.

4. We pointed out that DFA had not been involved with purchases, and that our involvement was, as stated in our initial submission to the Commission, limited to political advice to the Arms Marketing Permit Committee, and to fulfilling the same role in regard to the DFPC. Therefore we were concerned that, if DFA was expected to participate in this exercise, a perception could be created of greater and more substantive involvement by DFA that had been or was the case. The other parties conceded this, and agreed to undertake the assessment, with our potential role being confined to providing a political assessment of the potential damage to bilateral and international relations stemming from the potential disclosure of these examples in open hearings. While stating our willingness to help find a way to bring home to the Commission the tremendous negative potential of open disclosure of country classifications and of details of transactions, we made it clear that participation in such an exercise would require departmental authorisation. We pointed out again the real interest of the Department of Trade and Industry in regard to the damage that could be done to our international trade relations and suggested that they should be drawn into such a working group. This was also accepted. It was decided that Mr Peet Smith should convene the working as soon as possible (on 19941115), and the chairman expressed the hope that DFA would join it. Within the parameters outlined above, we would recommend favourable consideration. This would require input from the Overseas and Africa Branches for the political assessment. **This procedure requires your authorisation please, or other instructions.**

5. As per your instruction, we advised the meeting that in our view an attempt should be made to stall the decision on in camera proceedings until the Cabinet had considered the memo before it on country classifications. We also pointed out that we had no authorisation yet from the Minister for officials to testify, and so would not be in a position to support our submission with oral evidence. Counsel for Defence doubted the potential success of this approach, but Counsel for Armscor supported the concept. It was eventually agreed that Defence/ Armscor would make the main argument for further postponement on various grounds, and that we would also enter our submission if necessary.

6. This submission, as instructed by you at the airport today, will focus on the Cabinet consideration of the country classifications. Should the Commission however, decide that such a submission is insufficient a further step could be taken, to bring a formal application, supported by an affidavit. The application would take the form of a covering note from Adv Kruger, acting as our legal counsel, and the supporting affidavit as set out below. (Paragraphs 2 to 4 reflect the content of the submission we would make first

and if this is accepted there will be no need for the second step of the affidavit itself).

Your authorisation is sufficient for us to proceed as agreed with the initial submission, but should a formal application and affidavit be submitted, the Minister's authorisation is required. Your urgent consideration of this and your/the Minister's instructions need to be received urgently during the morning of 19941115 please; otherwise we will rely on the submission alone.

The following is the format of the affidavit:

IN THE PROCEEDINGS BEFORE THE COMMISSION OF ENQUIRY INTO THE ALLEGED ARMS TRANSACTIONS BETWEEN ARMSCOR AND ONE ELI WAZAN AND OTHER RELATED MATTERS

HELD AT SANDTON

Ex parte application of

THE DEPARTMENT OF FOREIGN AFFAIRS

AFFIDAVIT IN SUPPORT OF APPLICATION RE IN CAMERA PROCEEDINGS

I, the undersigned,

FRANK HENRY LAND

1. I am an Acting Chief Director in the Multilateral Branch of the Department of Foreign Affairs, responsible for multilateral politics and disarmament. I am duly authorized to make this affidavit and the facts set out herein fall within my personal knowledge.
2. The system of country classifications is subject to regular review, both by the Defence Foreign Policy Committee, and by the Cabinet. The former performs an advisory function, and the Cabinet takes the final decision.
3. The Defence Foreign Policy Committee has just completed a review of country classifications and its recommendations are currently before the Cabinet.

4. The system itself is currently under review as well as the country classifications, and certain recommendations in this regard have been submitted to Cabinet. Inter alia, Cabinet is being asked to decide on the security grading that should be accorded to country classifications. The Department of Foreign Affairs therefore submits that pending the Cabinet's determination of this matter, any public disclosure of this and related information would pre-empt the Cabinet's decision. Therefore the Department of Foreign Affairs submits that the Commission should in the interim conduct any proceedings relating to this matter in camera.

FRANK HENRY LAND

SIGNED AND SWORN TO BEFORE ME AT PRETORIA ON THIS 15TH DAY OF NOVEMBER 1994, THE DEPONENT HAVING ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH AND CONSIDERS THE OATH BINDING UPON HIS CONSCIENCE.

COMMISSIONER OF OATHS

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