

# UK breaches international convention (again)

by Robert Williams

The seedy and corrupt nature of the military/industrial complex has once again been laid bare following the attorney general's announcement that the Serious Fraud Office is to cease investigating the Al Yamamah arms deal between BAe Systems and the Saudi Government.



Under a new deal, Saudi Arabia has ordered 72 Eurofighter jets from BAe

20 years ago the British government negotiated the Al Yamamah arms deal, said to be the biggest in British history. The defence secretary at the time, Michael Heseltine, was the signatory on the deal between BAe (formerly British Aerospace) and the Saudi government. BAe was to supply the Saudi government with tornado and hawk jets as well as building an airbase. The deal was estimated to be worth in excess of £50 billion.

## Dodgy dealings

So far so typical, you may think. That is until the Guardian newspaper printed allegations in 2004 that the deal was sealed with the help of a £60 million BAe slush fund. The paper claimed the fund was used to make purchases and payments to bribe Saudi officials. Skiing trips to Colorado, chartered 747 flights, a Rolls Royce, a three month, £2 million summer holiday, and the hiring of prostitutes were just some of the purchases allegedly made with money from the BAe slush fund. The payments were channelled through a small travel agency run by a Mr Peter Gardiner who blew the whistle in an interview with the BBC2 'Money Programme' under the title *Bribing for Britain*.

## UK breaks anti-bribery treaty

The recent decision to halt the investigation has caused an

international outcry and has led to accusations that the government is in breach of the International Convention on Combating Bribery of Foreign Public Officials. The Organisation for Economic Co-operation and Development (OECD) passed the convention in 1999 and the UK is one of the signatories. The aim of the treaty was to stop the bribery of foreign officials in business deals. The treaty states that:

*"Bribery is a widespread phenomenon in international business transactions, including trade and investment, which raises serious moral and political concerns, undermines good governance and economic development, and distorts international competitive conditions."*

The treaty recognises the role of governments *"in the prevention of solicitation of bribes from individuals and enterprises in international business transactions."*

In addition, article 5 states that national economic interests should not be taken into consideration when investigating accusations of bribery. It also makes clear that any potential negative effects on the relationship between nations involved in an investigation should not be a mitigating factor. The attorney general Lord Goldsmith was careful to point out that the SFO had not stopped the investigation because of economic

## KEY FACTS ABOUT BAe from its website...

- 4th largest defence company
- No. 1 European defence company
- Top Ten US defence company
- Annual sales exceed £12 bn

...for 'defence company',  
read 'arms dealer'

considerations. The OECD however, has stated it has *"serious concerns as to whether the decision (to drop the investigation) was consistent with the OECD anti-bribery convention."*

## Profit comes first

Tony Blair stated that the investigation was dropped because *"our relationship with Saudi Arabia is vitally important for our country in terms of counter-terrorism, in terms of the broader middle east, in terms of helping in respect of Israel and Palestine. That strategic interest comes first."*

In what appears to be a direct contradiction of the OECD agreement, Blair expressed his concern that the investigation risked creating *"ill feeling between us and a key partner and ally, and probably to no purpose."* He implied that the loss of British jobs on the Euro-Fighter agreement between BAe Systems and the Saudi Government was a significant factor, though claimed he had not taken this into account.

## Eurofighter jets used as a lever?

Critics have accused the Saudis of 'blackmailing' the UK government over a new £6 billion BAe Systems deal to supply 72 Eurofighters. The negotiations on the Eurofighter slowed down considerably during the SFO investigation, and a French firm confirmed they had been in talks with the Saudi government as a possible alternative supplier to BAe.

Depressingly and unsurprisingly, the standard government responses to being caught out were issued by Tony Blair when he claimed that the decision had been taken for counter-terrorism reasons. Some commentators have claimed the reason for the stop on the SFO

investigation was that the Saudis stated they would no longer share information on Al Qa'eda with the British government if it continued. MI6 have confirmed that, though they agreed with the government that a breach of the relationship with Saudi Arabia would be damaging to national security, they had no intelligence which suggested the Saudis were planning to withhold information. This contradicts the attorney general's statement to parliament, which claimed intelligence agencies agreed with the statement that national security was at risk because the Saudis were going to withdraw intelligence.

### Condemnation from OECD

The government faced embarrassing criticism when the OECD met in Paris in March to discuss whether the UK is in breach of the anti-bribery agreement. As it is a binding treaty, any breach would be illegal under British and international law. Not satisfied with the UK's explanation for its decision to halt the investigation, the OECD is sending its international inspectors to London to make 'further examination' of the UK's actions. However, the outcome of the investigation is likely to be merely embarrassing given that the organisation has no power to inflict punishment on the UK government.

### Legal challenge by CAAT & others

The OECD, however, is not the only organisation challenging the decision to stop the SFO investigation. Over 130 national and international NGOs including Amnesty International and Friends of the Earth wrote letters in January to the Prime Minister requesting that he reconsider the decision. The NGOs, Campaign against Arms Trade (CAAT) and The Cornerhouse, a social and environmental justice campaign group, began a joint legal challenge against the decision to stop the investigation in December of last year. The basis of the challenge is that: "The decision was based on consideration of potential damage to relations with Saudi Arabia. This is expressly forbidden under the OECD's Anti Bribery convention (Article 5)."

The legal challenge also cites the Prime Minister's advice to the SFO as a "direction to discontinue the investigation, which is unlawful interference with the independence of prosecutors under domestic and international law."

The legal challenge is currently ongoing, with BAe showing their true corporate colours by obtaining copies of legally privileged advice issued to CAAT. The high court has now

ordered BAe to produce an affidavit explaining how they came to be in possession of these confidential documents. This court victory has delighted CAAT: "When Tony Blair ended the Saudi corruption inquiry, he implied that BAe Systems were above the law. But today BAe have been prevented from behaving as they like. We are a step closer to the day when BAe can no longer get away with calling the shots."

Meanwhile, the SFO is asking questions about another dodgy BAe deal - the sale of an unnecessary and expensive military system to manage civilian air traffic in Tanzania, one of the poorest countries in Africa.

### Business as usual

As the legal battles continue and Tony Blair continues to claim there was no link between Eurofighters and the abandoned investigation, the Saudi government has renewed its commitment to BAe. Barely a month after the attorney general announced that the investigation into the Al Yamamah deal was being dropped, the Saudi defence minister said that his country was looking forward to taking delivery of the Eurofighters sometime soon. Typically, it's business as usual for our corrupt government and their sordid paymasters.

