

ARMS TRADE CORRUPTION AND POLITICAL FINANCE

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INTRODUCTION

Talk of corruption in the global arms business conjures up salacious images of personal enrichment. But arms deals produce profits for multiple purposes, not least of which is to keep a political machine running. Greed as a motive for graft captures headlines more readily than ambition – if for no other reason that it is more relatable. Nonetheless, a failure to appreciate the importance of corruption in creating and maintaining political power can in turn lead to underestimating the impact of corruption within political systems.

This occasional paper examines the link between political finance and corruption in the arms trade. It draws on the World Peace Foundation's Compendium of Arms Trade Corruption, a collection of 29 cases of corruption in the arms trade and the broader military sector from around the world, each containing a standard set of summary information along with a narrative description.¹ The arms trade has many features that make it highly susceptible to corruption.² This paper makes the case that it also has four key features that tie it particularly closely to political competition and political finance. First, the arms trade can involve extremely large contracts from which corrupt politicians, even with only light skimming, can obtain a large absolute sum of funding for political finance. Second, the secrecy and sensitivity of decision-making on arms trade

1 World Peace Foundation, "A Compendium of Arms Trade Corruption," website, last updated Apr. 10, 2018, <https://sites.tufts.edu/corruptarmsdeals>.

2 See for example Paul Holden, ed., *Indefensible: seven myths that sustain the global arms trade* (London: Zed Books, 2017).

policies and the complexity — real or artificial — of the technical arrangements of a deal provide opportunities to mask embezzlement, kickbacks, tender manipulation, or other forms of corruption. Third, in countries where access to arms is itself an integral component of political power, the success of an arms deal can itself be a political factor. Most importantly, international arms deals are intrinsically connected to political power in both exporter and importer countries, giving politicians a direct role in decision-making, which can be leveraged to obtain corrupt political benefits.

For the purposes of this paper, the term ‘political expenditure’ refers to all spending by political actors (individuals and organizations) made with a goal of achieving, maintaining, or increasing political power and influence. It includes formal expenditure: all spending for election campaigns (general, primary, and intra-party), and all other legitimate activity by political parties and organizations that pursue electoral goals (e.g. the payment of salaries). It also includes informal expenditure, which may include patronage payments, vote-buying, payments for favorable media coverage, spending on armed groups to target political opponents, and other illicit activities. In turn, ‘political finance’ (or political funding) refers to the sources of funding for political expenditure, and activities conducted in seeking such funding.

Although the framework presented in this study could be applied to any type of state, in practice the analysis and case studies draw primarily from democracies. This is due primarily to the availability of information. If a large bribe is paid to a leading politician in an authoritarian regime, it is entirely possible that a significant portion of this may be used for political purposes, such as patronage networks or recruitment of violent vote-brokers, but this will be difficult to trace. The boundary between a leader’s personal and political funds is in any case likely to be vague, if it exists at all. Such vagueness can certainly apply

in democracies as well, but payments to political parties or election campaign funds are more likely to be identifiable, and detailed investigations of corruption are more possible in the first place.

The cases—which include scandals from Austria, Belgium, France, Germany, India, and South Africa—nonetheless show a considerable degree of variety in terms of the recipients of the bribes, the purposes of the bribes, and the network of political relationships that determine the distribution of bribes. While this research draws on a limited number of case study examples, it will introduce patterns that are distinct to each variation, as well as some of the key common factors.

Section 1 discusses the nature of political finance corruption, the motivations for it, and its relationship to developments in political competition and governance in western democracies in particular. **Section 2** considers the links between the arms trade and political finance, and why the arms business is particularly suited to political finance corruption. **Section 3** discusses some of the dimensions by which the cases of political finance corruption covered by the Compendium can be classified, and gives a summary list of the Compendium cases, and their linkages (if any) to political finance. **Sections 4** and **5** discuss a number of these cases in detail: **Section 4** focuses on ‘traditional’ bribery of decision-makers in recipient countries in arms deals, while **Section 5** looks at the perhaps rather more surprising phenomenon of ‘retro-commissions’, where bribes are also paid to political actors in the supplier countries. **Section 6** concludes.

1. UNDERSTANDING CORRUPTION IN POLITICAL FINANCE

THE PROBLEM OF POLITICAL FINANCE

Politics is an expensive business. U.S. presidential election campaigns can cost hundreds of millions of dollars,³ and even local campaigns for minor elected offices or leadership positions within a political party can stretch individual budgets. During the electoral off-season, maintaining the running of an effective political machine can also be costly; youth programs, party newspapers, conferences, and foundations all require funding. Beyond clear-cut legitimate activities, we find the murkier world of political patronage, whereby political leaders maintain and strengthen a network of allies and supporters within their party, and in the political establishment more broadly. This can also be entirely legal, through efforts such as promoting local youth leadership, or it can involve illegal methods, such as illicit payments or preferential treatment in tenders. Local leaders and influencers, able to mobilize a community's votes, can demand substantial payments. Blackmailers such as a candidate's former business and sexual partners may require discreet payoffs. At the murkiest end of the spectrum are activities such as vote buying, prevalent in weaker democracies, but far from unknown in Western Europe. Where politics is routinely accompanied by violence

³ U.S. Federal Election Commission, "Campaign Finance Data, Spending Breakdown," website, n.d., <https://www.fec.gov/data/spending>.

or the threat thereof, the costs of paying for local enforcers and security may be significant.

In any type of polity, then, obtaining sufficient sources of political finance is a key challenge for any serious political actor. A decade ago, the British minister Jack Straw described the dynamic of the increasing cost of political campaigning as nothing less than an "arms race."⁴

In many democracies—and in some authoritarian systems with controlled competition as well—political finance is regulated and subject to transparency requirements. Table 1 below, summarizes data from the Political Finance Database, maintained by the Institute for Democracy and Electoral Assistance (IDEA), on the number of countries that have adopted particular categories of regulations.⁵

TABLE 1: SUMMARY OF WORLDWIDE CAMPAIGN FINANCE REGULATIONS

Regulation	Number of Countries	
Reveal donor identities	76 (yes), 48 (sometimes)	
Reports to be made public	110 (yes), 1 (sometimes)	
Limits on donations	63 (natural entities, legal, or both)	
Public Funding of Parties	119 (regular, campaign, or both)	
	Party	Candidate
Ban on corporate donations	46	39
Caps on spending	54	81
Reporting of Finances	128	110

The most common requirements are for the benefit of transparency: letting voters know who is contributing to a political party or candidate, and reporting how the funds are used. In a

⁴ Hélène Mulholland, "Pressure Groups could Exploit party funding limits, warns Straw," *The Guardian* (online), Sep. 5, 2006, <https://www.theguardian.com/politics/2006/sep/05/partyfunding.uk>.

⁵ International Institute for Democracy and Electoral Assistance, "Political Finance Database," website, n.d., <https://www.idea.int/data-tools/data/political-finance-database>.

smaller set of countries, there also exist various limitations on the scale of political finance, such as caps on donations or total spending by parties or candidates. Further, some political systems also bar donations by corporations and other interest groups. In a majority of the 178 countries in the IDEA database, the state provides at least some direct funding of political parties, whether during elections only or on an ongoing basis. Similarly, in 124 countries there exist provisions for subsidized media access.

Given the number of political systems that have requirements to account for both the origins of funds and their disposition, it is unsurprising that an entirely off-budget source of campaign financing such as kickbacks from the arms trade would be popular. Secret funds remain important to building political networks in part because intra-party competition is seldom supported by state contributions, and also because most legitimate donors would prefer funding general elections, not internal competition.

In discussing political corruption, we can consider two types of issues: first, corruption in the process of securing political finance, which is the primary link between arms trade corruption and political finance; and second, corruption in the conduct of political activity, such as vote buying, or providing bribes, political donations, or other benefits in return for political support. In many cases, corrupt sources of political finance may also be linked to efforts to circumvent electoral funding regulations. Ironically, therefore, countries with much looser campaign finance regulations, such as the United States, may experience less illegal political corruption, although many of the practices of U.S. political finance, such as large corporate campaign contributions to key legislators, might well be considered a form of legal corruption (or ‘influence markets’⁶).

6 Michael Johnston, *Syndromes of Corruption: Wealth, Power, and Democracy* (Cambridge: Cambridge University Press, 2005).

What are the negative consequences of political finance-related corruption? Mark Philp offers several alternative answers: political corruption tilts the playing field against particular interest groups; it loosens constraints on limited government; and it inhibits the body politic from creating a public consensus on challenges and threats.⁷ Expanding on the first perspective, Mark Warren suggests understanding political corruption as “duplicitous exclusion,” whereby citizens are unjustly excluded from a political process which they have a right to participate in.⁸ Exclusion, in turn, could breed distrust of democracy. Thus, politically-motivated corruption cannot be justified as unselfish acts which promote a subjectively perceived collective good.

The economic consequences of political corruption are similar to those imposed by corruption for any other motive. The primary difference, however, is that corruption in the political process can become as ingrained and constant a part of the national economic system as demanded by the election cycle, whereas corruption for private purposes may be more opportunistic. In summarizing their conclusions from the early-1990s Tangentopoli corruption scandal in Italy, Donatella Della Porta and Alberto Vannucci identified increasing public procurement costs and declining efficiency in government contractors as likely results of a bribery-reliant political system. As businesses increasingly specialized in bribery and lobbying, they squeezed out more efficient competitors

7 Mark Philp, “Defining Political Corruption,” *Political Studies*, Vol. 45, No. 3 (Aug. 1997), pp. 453-456.

8 Mark E. Warren, “What Does Corruption Mean in a Democracy?” *American Journal of Political Science*, Vol. 48, No. 2 (Apr. 2004), pp. 328-343; Mark E. Warren, “Political Corruption as Duplicitous Exclusion,” *PS: Political Science and Politics*, Vol. 39, No. 4 (Oct. 2006), pp. 803-807.

offering lower costs.⁹ Despite deep distrust in government, the Italian patronage system kept electoral participation rates at high levels.

CAUSES AND MODES OF CORRUPTION IN POLITICAL FINANCE

Political scientists' understanding of the drivers and modes of corruption in political finance has evolved with their understanding of political parties as institutions in national political systems. Many observers describe a trend in the second half of the 20th Century away from mass parties representing distinct ideological and economic cleavages, towards professionalized parties seeking to win the largest number of voters as possible, as part of a "catch-all" strategy. With this came a shift from "labor-intensive" mass campaigns to capital-intensive modes of campaigning.¹⁰ In the 1990s, the explosion of political financing scandals in France, Germany, and Italy, raised the question of whether certain innovations in party finance were more conducive to corruption in established democracies.¹¹ Meanwhile, with the

end of the Cold War and consequent disruptions in streams of political funding, younger developing democracies—and autocracies—also turned toward new and diverse forms of corruption to fund their political systems.¹² The end of the Cold War may also have contributed to a more relaxed ideological environment in which the dirty laundry of the centrist parties of Western Europe could finally be aired.¹³

9 Donatella Della Porta and Alberto Vannucci. "The Perverse Effects of Political Corruption," *Political Studies*, Vol. 45, No. 3 (Aug. 1997), pp. 522-529.

10 See e.g. Alessandro Pizzorno, "Interests and Parties in Pluralism," in Suzanne Berger, ed., *Organising Interests in Western Europe* (Cambridge: University Press, 1981), p. 272; Otto Kirchheimer, "The Transformation of Western European Party Systems," in J. LaPalombara and M. Weiner, eds., *Political Parties and Political Development* (Princeton: University Press, 1966), pp. 177-200; and Angelo Panebianco, *Political Parties: Organisation and Power* (Cambridge: University Press, 1988).

11 Richard S. Katz and Peter Mair, "Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party," *Party Politics*, Vol. 1, No. 1 (Jan. 1995), pp. 5-28; Richard S. Katz and

Peter Mair, "The Cartel Party Thesis: A Restatement," *Perspectives on Politics*, Vol. 7, No. 4 (Dec. 2009), pp. 753-766; Jonathan Hopkin, "Political Parties, Political Corruption, and the Economic Theory of Democracy," *Crime, Law & Social Change*, Vol. 27, No. 3 (May 1997), pp. 255-274; Jonathan Hopkin, "The Problem with Party Finance Theoretical Perspectives on the Funding of Party Politics," *Party Politics*, Vol. 10, No. 6 (Nov. 2004), pp. 627-651; Robert Williams, "Aspects of Party Finance and Political Corruption," in Robert Williams, ed., *Party Finance and Political Corruption* (Basingstoke: Palgrave Macmillan, 2000), pp. 1-13; Michael Pinto-Duschinsky, "Financing Politics: A Global View," *Journal of Democracy*, Vol. 13, No. 4 (Oct. 2002), pp. 69-86; Matthew C. Stephenson, "Corruption and Democratic Institutions: A Review and Synthesis," in Susan Rose-Ackerman and Paul Lagunes, eds., *Greed, Corruption, and the Modern State: Essays in Political Economy* (Cheltenham: Edward Elgar, 2015), pp. 92-133; Jana Kunicová and Susan Rose-Ackerman, "Electoral Rules and Constitutional Structures as Constraints on Corruption," *British Journal of Political Science*, Vol. 35, No. 4 (Oct. 2005), pp. 573-606.

12 Alex de Waal, *The Real Politics of the Horn of Africa: Money, War, and the Business of Power* (Cambridge: Polity Press, 2015), pp. 51-56; Robert H. Bates, *When Things Fell Apart: State Failure in Late-Century Africa* (Cambridge: Cambridge University Press, 2008).

13 James Newell, "Party Finance and Corruption: Italy," in Robert Williams, ed., *Party Finance and Political Corruption* (Basingstoke: Palgrave Macmillan, 2000), p. 62.

Political parties adopted several alternative strategies to adapt to the disappearance of membership fees and, on the left, trade union membership dues as primary sources of funding.¹⁴ First, the political system could be organized to reward both in-kind political work and financial contributions with control of ministries or lower positions. Second, parties could put their policies up for sale to the highest bidder – legally in the United States and illegally in Italy and Spain through public procurement corruption. Third, political parties could seek out or be created by a single wealthy individual, with party policy geared toward rewarding the benefactor’s material interests. The paradigmatic example is Silvio Berlusconi’s Forza Italia. Finally, parties could pass laws to fund themselves through state contributions. According to IDEA, presently 119 countries around the world provide at least some public funding to political parties, whether only during campaigns or permanently.¹⁵ Public funding of political parties has led some authors, such as Richard Katz and Peter Mair, to hypothesize that larger political parties were acting to create cartel-like conditions to edge out smaller competitors and preserve their political fortunes despite defeat at the ballot box.¹⁶

With the shift toward more professionalized and capital-intensive campaigning, observers began questioning whether the increased demand for cash had become an incentive for illegal contributions and political corruption. A subsidiary question also arose: whether state funding could attenuate the incentives

14 These four as classified in Hopkin, “The Problem with Party Finance Theoretical Perspectives on the Funding of Party Politics,” pp. 631-636.

15 International Institute for Democracy and Electoral Assistance, “22. Are There Provisions for Direct Public Funding to Political Parties,” website, n.d. (accessed May 8, 2018), <https://www.idea.int/data-tools/question-view/548>.

16 Katz and Mair, “Changing Models of Party Organization and Party Democracy,” pp. 15-17.

to seek illegal funds. Scholars remain divided on both these issues. While Michael Pinto-Duschinsky, in a broad review of the debate, argues that public subsidies have not decreased corruption, a narrower analysis of Eastern European states by Tatiana Kostadinova suggests that it has.¹⁷ Further, political parties have typically spent as much as they can bring in, and spending has little connection with how much is provided by the state.¹⁸

While a good part of the debate about the link between corruption and political finance has focused on inter-party competition, there is also a link to the management of politics within political parties. In a number of cases described in this paper, corruption is motivated by intra-party rivalry. Party leaders have strong incentives to supplement intra-party patronage—normally associated more with in-kind favors and the creation of rival networks—with more direct inducements, such as cash for primary campaigns. Off-budget political funds have a long history; in

17 Pinto-Duschinsky, “Financing Politics: A Global View,” pp. 78-79; Tatiana Kostadinova, *Political Corruption in Eastern Europe: Politics after Communism* (Boulder: Lynne Rienner, 2012), pp. 83-84. Pinto-Duschinsky argues that public perceptions of increasing campaign costs may be exaggerated as they overlook the historical expansion of the electorate, the growing importance of high-visibility national campaigns in parallel with the declining visibility of local campaigning, and the hidden costs of organizing traditional labor-intensive campaigns; he draws on Stephen Ansolabehere, Alan Gerber, and James M. Snyder, Jr., ‘Corruption and the Growth of Campaign Spending,’ in Gerald C. Lubenow, ed., *A User’s Guide to Campaign Finance Reform* (Lanham: Rowman & Littlefield, 2001), pp. 25-46.

18 Jonathan Mendilow, “Introduction: Political Finance, Corruption, and the Future of Democracy,” in Jonathan Mendilow, ed., *Money, Corruption, and Political Competition in Established and Emerging Democracies* (Lanham: Lexington Books, 2012), p. 31.

eighteenth century England, the secret service fund paid for pensions and bribes that helped the government maintain control of parliament, and may have been used to secure votes for the 1800 union with Ireland.¹⁹ Bismarck retained a slush fund to subsidize pro-government journalists and to handle other miscellaneous political and state expenses.²⁰ In Germany, as a case study below outlines, political leaders such as Helmut Kohl moved away from bribing the press and toward distributing unaccounted cash to favor internal allies within the Christian Democratic Union (CDU).²¹ German defense firms likewise believed their political allies were passing funds to Canadian politicians as part of a 1983 power struggle within the Canadian Conservative party.²²

In considering corruption within political parties, political scientists have focused their attention on investigating the relationship to particular electoral systems. With respect to Italy, Miriam Golden and Eric Chang argued that open-list

proportional representation created a locus for clientelistic competition between factions inside the Democrazia Cristiana (DC), Italy's traditional center-right party which fell apart as a result of the revelations of the 1990s.²³ Similarly, electoral reforms in Japan in 1994 were motivated by a widespread perception that the previous system, with multi-member districts, was also incentivizing illicit campaign finance.²⁴ Others have noted comparable patterns of corruption incentives in Brazil.²⁵ The thesis behind this relationship suggests that state funding for major parties leads to the party leadership hoarding legal revenues for competition with other parties, leaving individual backbench candidates seeking alternative sources of funding. However, broader empirical studies of the relationship between electoral system type and corruption give us only partial confidence in this thesis.²⁶

Thus, the incentives for corruption created by problems of political finance may include both

19 Eveline Cruikshanks, "The Political Management of Sir Robert Walpole, 1720–42," in Jeremy Black, ed., *Britain in the Age of Walpole* (Houndmills: Macmillan, 1984), p. 23; David Wilkinson, "How Did They Pass the Union?": Secret Service Expenditure in Ireland, 1799–1804," *History*, Vol. 82, No. 266 (April 1997), pp. 223–251.

20 Stewart Stehlin, *Bismarck and the Guelph Problem 1866–1890* (The Hague: Martinus Nijhoff, 1973), pp. 194–211.

21 Carolyn M. Warner, *The Best System Money Can Buy: Corruption in the European Union* (Ithaca: Cornell University Press, 2007), p. 139; Holger Moroff, "American and German Fund Raising Fiascos and their Aftermath," in Arnold J. Heidenheimer and Michael Johnson, eds., *Political Corruption: Concepts and Contexts* (New Brunswick: Transaction Publishers, 3rd Ed., 2002), pp. 690, 704–705.

22 Stevie Cameron and Harvey Cashore, *The Last Amigo: Karlheinz Schreiber and the Anatomy of a Scandal* (Toronto: Macfarlane Walter & Ross, 2001), pp. 66–67, 129–130.

23 Miriam Golden and Eric C. C. Chang, "Competitive Corruption: Factional Conflict and Political Malfeasance in Postwar Italian Christian Democracy," *World Politics*, Vol. 53, No. 4, (July 2001), pp. 595–596.

24 Takayuki Sakamoto, "Explaining Electoral Reform: Japan versus Italy and New Zealand," *Party Politics*, Vol. 5, No. 4 (Oct. 1999), pp. 419–438; Gary W. Cox and Michael F. Thies, "The Cost of Intraparty Competition: the Single, Nontransferable Vote and Money Politics in Japan," *Comparative Political Studies*, Vol. 31, No. 3 (June 1998), pp. 267–291.

25 Barbara Geddes and Artur Ribeiro Neto, "Institutional Sources of Corruption in Brazil," *Third World Quarterly*, Vol. 13, No. 4 (Jan. 1992), pp. 647–649.

26 Matthew C. Stephenson, "Corruption and Democratic Institutions: A Review and Synthesis," in Susan Rose-Ackerman and Paul Lagunes, eds., *Greed, Corruption, and the Modern State: Essays in Political Economy* (Cheltenham: Edward Elgar, 2015), p. 119.

general election campaigning and intra-party concerns. Further, the line between politically motivated corruption and personally motivated corruption is also thin, and the methods for one can easily be applied to the other. In Brazil after the restoration of democracy in 1985, a surge in greed-motivated corruption—a relative novelty that arose because of increasing political fragmentation—built on a foundation of older, “traditional” political corruption.²⁷ Further, there is a blurry distinction between a single act of bribery that is politically motivated for the bribe-giver but personally motivated on the side of the bribe-taker, and bribery that is politically motivated on both sides of the transaction. Indeed, the power to allocate ministerial and senior bureaucratic posts that come with standard claims to a cut in bribes can be a powerful tool for keeping together a political coalition. Thus, even cases where no money went toward electoral or publicity expenses and all of the associated bribes were attributable to personal accounts can still be counted as a case of political corruption.

In political systems where political parties are weaker and only fronts for elite, oligarchic, or warlord competition, the role of corruption in building political coalitions can be more naked. In young or partial democracies—including those of Western Europe—vote-buying is or has been a common practice. Even in systems dominated by a single political party, such as post-independence India, vote-buying can be an instrumental part of politics, spreading to newer political parties as they arise.²⁸ For senior party leadership, bribes function as a means to win over political operatives at the local level that can deliver votes; this was as true of Brazil, Thailand and Italy in the 1990s as England in the

eighteenth century.²⁹ In the Philippines, vote-buying through canvassers is supplemented by coercion and even assassination of vote-brokers.³⁰ In political systems where the executive holds an even more tenuous monopoly on violence, such as the states of the Horn of Africa over the last decades, vote-buying can blur into gun-buying—using bribes and other forms of state largesse to secure the loyalties of armed groups.³¹

2. THE INTERFACE BETWEEN POLITICAL FINANCE AND THE ARMS TRADE

The arms trade is well-suited toward corruption in general, and some of the factors which create that fit are also particularly well-suited toward advancing political finance.³² This section identifies three such factors: secrecy and special prerogatives, the involvement of top decision-makers, and the opportunities for offsets. In addition, access to the arms trade can be a direct source of political power, controlled by the head of state to build patronage.

29 William Callahan, “Political Corruption in Southeast Asia,” in Robert Williams, ed., *Party Finance and Political Corruption* (Basingstoke: Palgrave Macmillan, 2000), pp. 168-171; Geddes and Ribeiro Neto, “Institutional Sources of Corruption in Brazil,” p. 645; Pinto-Duschinsky, “Financing Politics: A Global View,” p. 72; Donatella Della Porta and Alberto Vannucci, *The Hidden Order of Corruption: An Institutional Approach* (Farnham: Ashgate, 2012), pp. 98-100.

30 Callahan, “Political Corruption in Southeast Asia,” pp. 172-175.

31 de Waal, *The Real Politics of the Horn of Africa*, pp. 39-40, 55-56.

32 For more discussion of the characteristics of the arms trade that make it particularly susceptible to corruption, see Holden, ed., *Indefensible: seven myths that sustain the global arms trade*.

27 Geddes and Ribeiro Neto, “Institutional Sources of Corruption in Brazil,” p. 642.

28 Gurharpal Singh, “Understanding Political Corruption in Contemporary Indian Politics,” *Political Studies*, Vol. 45, No. 3 (Aug. 1997), pp. 626-63.

SECRECY AND SPECIAL PREROGATIVES

The secrecy inherent in the arms trade stems from several well-established characteristics. First, because the arms trade implicates questions of national defense and foreign policy, details on procurement decision-making are automatically subject to classification or other secrecy provisions. This may limit participation of parliamentarians in verifying the integrity of a procurement deal, restricting oversight. Second, both because government ministers are afforded considerable discretion in foreign policy and because the number of relevant factors weighed in an arms procurement program against each other are high, the precise grounds for awarding any specific arms contract can be murky. In awarding a tender, a government might consider—for perfectly legitimate reasons—considerations of cost (immediate and lifetime), military effectiveness, interoperability, financing, technology transfer, supplier reliability, and diplomatic considerations. The upshot of this complexity is difficulty in assessing the integrity of a tender process from the outside, which affords a corrupt decision-maker considerable protection from scrutiny. Third, the dual complexity and secrecy surrounding the technical details of modern weapons systems renders external validation of prices difficult. This is particularly true of newer weapons systems, of systems reliant on highly secretive technologies, such as submarines, and of systems that are customizable and tailored to the needs of specific clients. As a result, questionable pricing can only be exposed with the help of military or technically proficient whistleblowers, or similarly qualified personnel employed by opposition parties or non-governmental entities.

As discussed in section 1, the need for ‘off-budget’ sources of funds is frequently a critical consideration for political financiers. Considering the secrecy discussed above, the arms trade has a clear built-in advantage over other potential

sources of corrupt funds. The arms business’s inherent secrecy meshes well with the financial secrecy that is essential to corruption in general, including political corruption. The role of non-transparent banking jurisdictions, and non-transparent corporate registration, in facilitating the corrupt financial flows involved in both the payment of bribes, and the laundering of the proceeds, is widely discussed, and was brought into sharp focus by the release of the Panama Papers and Paradise Papers.³³ For political entrepreneurs, access to a secret, offshore contingency fund is an extremely valuable asset. The fact that the arms business naturally lends itself to non-transparent dealings and secretive operators and intermediaries facilitates this.

TOP DECISION-MAKERS

Of all the forms of government corruption, corruption in the arms trade is most likely to touch senior members of government. These political leaders have a strong interest in political finance because they are driven by the overarching drive to remain in office.³⁴ Unlike the bureaucrats and lower-level policy-makers who sign off on other types of procurement programs, arms transfers often require the buy-in of multiple ministerial principals: foreign, defense, and finance ministers typically, and in many cases also the head of government. In addition, certain top public servants or political

³³ International Consortium of Investigative Journalists, “The Panama Papers: Exposing the Rogue Offshore Finance Industry,” website, first created Apr. 3 2016, <https://www.icij.org/investigations/panama-papers>; International Consortium of Investigative Journalists, “The Paradise Papers: Secrets of the Global Elite,” website, first created Nov. 5, 2017, <https://www.icij.org/investigations/paradise-papers>.

³⁴ Bruce Bueno de Mesquita, James D. Morrow, Randolph M. Siverson, and Alastair Smith, *The Logic of Political Survival* (Cambridge: The MIT Press, 2003).

appointees, such as the chief of defense staff, the head of defense procurement, the national security advisor, and the head of the Central Bank may often play a key role. For two reasons, senior government ministers are likely to be interested in political finance. First, as the public face of the government they bear the primary responsibility for the electoral success of their political party (or parties, in a coalition). Second, as senior partners in a ruling group, they will likely have risen to their position on the back of intra-party networks and horse-trading, raising the likelihood that they are both interested in and have experience with finding patronage opportunities and funding for internal campaigns. If we view top political leaders as “political entrepreneurs” at the head of political business enterprises, they face a choice analogous to that of the CEO of a company: how much of the profits to reinvest in the political venture, and how much to distribute as dividends to “shareholders”. In Nigeria, for example, Daniel Jordan Smith notes, “to be a patron is to be under great pressure to accumulate and to share wealth... the pressure to use one’s position to benefit people in networks of personal association is intense.”³⁵

Moreover, senior government officials fall under the greatest public scrutiny and therefore have the most difficult time hiding corruption for personal gain—although they may also be the best equipped for this challenge. In addition, because of the long career commitments and expensive coalition-building efforts required to reach their positions, senior politicians may have a greater need over the course of their careers to put the profits of corruption toward amassing power rather than personal profit. Thus, if bribes are offered in an arms tender, they may be more likely to be put toward political purposes rather than

35 Daniel Jordan Smith, “Popular Participation in Corruption in Nigeria,” in Robert I. Rotberg, ed., *Corruption, Global Security, and World Order* (Washington D.C.: Brookings Institution Press, 2009), p. 289.

personal enrichment, at least when compared with bribes offered to lower government officials.

OFFSETS

The arms trade is also unique because of the prevalence of offsets: contract requirements that the winner of a tender return part of the project value into the economy of the tendering country, either through equity investments or subcontracts to local firms. In all other areas of international procurement and trade, offsets are barred by the 1996 GATT Agreement on Government Procurement.³⁶

Offset requirements can be “direct,” or dedicated to the buying country’s arms industry, or “indirect,” targeted toward unrelated sectors of the economy. The choice between the two has much to do with the maturity of existing military industry in the buying country and its ability to absorb new technology and investment. In a typical example of direct offsets as part of an industrial development policy, when Japan negotiated in 1978 the purchase of 213 F-15 combat aircraft from the United States, Japanese policymakers were willing to pay a price 2.5 times the off-the-shelf cost of the aircraft in order to secure local co-production commitments from the selling firms.³⁷ In 1993, the United Arab Emirates (UAE) adopted the opposite policy of favoring indirect offsets; French tank manufacturer GIAT

36 E. Anders Eriksson, “Study on the effects of offsets on the Development of a European Defence Industry and Market,” European Defence Agency, Final Report of 06-DIMO22, July 2007, p. 24. Also see Ben Magahy, Francisco Vilhena da Cunha, and Mark Pyman, “Defence Offsets: Assessing the Risks of Corruption & Raising Transparency,” Transparency International, (London: Transparency International—UK, 2010).

37 Travis K. Taylor, “Modeling offset policy in government procurement,” *Journal of Policy Modeling*, Vol. 25, No. 9 (Dec. 2003), p. 988.

industries was obliged to invest in a racecourse, desalination and thermal power plants, the production of air conditioning systems and medical equipment, and a steel cutting plant, as well as the country's maritime transport and merchant banking sectors.³⁸ The evolution of the UAE's offset policy since the 1990s has eliminated industrial concerns entirely and now requires contributions to offset investment funds managed by professional advisors, into which defense exporters make eligible contributions.³⁹

Both forms of offsets, however, are susceptible to political corruption. Because offsets imply a discretionary opportunity for the selling firm or the buying government to pick and choose partners in the buying state, they create lobbying incentives for potential partners. Allotting offset investments can serve as a mode of patronage, rewarding political supporters and their aligned business interests. Offset arrangements, even those for indirect offsets, are typically highly opaque, with details of individual contracts rarely made public, unless it is in the interests of one or other party to do so. Thus, it is much harder for the public and regulatory authorities to scrutinize just who is benefiting from offset investments and contracts. One example of how this can operate is in the South African Arms Deal (see section 4), where Defense Minister Joe Modise bought shares in a company, Conlog, which shortly afterwards received offset investments and contracts from BAE Systems as part of the deal.

38 Susan Willett and Ian Anthony, "Countertrade and Offsets Policies and Practices in the Arms Trade," Copenhagen Peace Research Institute, Working Paper No. 20, Copenhagen, 1998.

39 Willett and Anthony, "Countertrade and Offsets Policies and Practices in the Arms Trade"; Shana Marshall, "The New Politics of Patronage: The Arms Trade and Clientelism in the Arab World," Crown Center for Middle East Studies, Brandeis University, Working Paper 4, Oct. 2012, p. 25.

The introduction of sub-contractors by itself creates new opportunities for graft, which can be multiplied by the intermediation of brokers and agents. For example, after EADS (later, Airbus Defense) signed a deal with Austria in 2002 to sell 18 Eurofighter combat aircraft, it contracted an intermediary to encourage Italian firms to invest in Austria to satisfy EADS' offset obligations. This intermediary received EUR 84 million for his efforts; some of this was lost in a Ponzi fund he set up, but at least some was used as bribes, according to investigators.⁴⁰

Offsets may provide an attractive channel for corruption in arms deals in general (political or otherwise), as they add an extra layer of obscurity and deniability to the process. A large commission payment to an agent who provides no obvious service to justify the payment is inherently suspicious. But an offsets package, negotiated with no transparency, and where many of the specific offset investments are not made public, may not give rise to clear grounds for suspicion, such as large payments of a dubious nature. No shell companies and offshore accounts need be used. Even sole source contract awards of offset transactions may be justifiable on the surface, for example if the company in question is the only one in the recipient country able to manufacture a particular component that is the subject of a direct offset. Thus, decision-makers might steer offset negotiations towards subcontracting that they know they or their allies will benefit from, possibly without the exporting company being

40 Fredrica Angeli, "Parioli, la truffa ai vip Lande e gli affari con la Difesa" [Parioli, Lande's VIP scam, and business with the Defense Ministry], *La Repubblica* (online), June 3, 2011, http://roma.repubblica.it/cronaca/2011/06/03/news/parioli_la_truffa_ai_vip_land_e_gli_affari_con_la_difesa-17141437; Kid Möchel and Christian Böhmer, "Die dubiosen Geldflüsse im Eurofighter-Krimi" [The dubious cashflows in the Eurofighter thriller], *Kurier.at* (online), Nov. 20, 2012, <https://kurier.at/politik/inland/die-dubiosen-geldfluesse-im-eurofighter-krimi/1.328.330>.

aware of the corrupt nature of the transaction. If the seller company makes use of offset agents, these may be paid a legitimate fee for selecting and arranging offset transactions; if some of these happen to provide corrupt benefits for decision-makers or those linked to them, then even if this is discovered, it may be hard to demonstrate that the exporting company has been culpable, for example through lack of due diligence.⁴¹

There are at least nine cases covered by the Compendium, out of 23 involving international arms deals, where offsets have been clearly identified as a vehicle of corruption. This likely only scratches the surface, however, given difficulties in cataloging offset arrangements and identifying who may have benefited from them.

ACCESS TO ARMS AND ORGANIZED VIOLENCE

If in established democracies the currency of political power is literally currency, in states with a less-complete monopoly on violence, the currency of political power can be arms themselves, and the wielders thereof. Violence, or the command of the loyalties of armed groups, be they units of the armed forces, sub-state armed organizations, or security contractors, can substitute for money along a spectrum. In a corrupt but established electoral system such as Italy's, illicit violence plays a tacit role in enforcing the quid pro quo underlying a corrupt relationship and in ensuring the silence

41 For a discussion of some of these issues, see for example "Due diligence and corruption risk in defence industry offset programmes", Transparency International, 2012, http://ti-defence.org/wp-content/uploads/2016/03/2012-02_DueDiligenceAndCorruptionRiskInOffsets.pdf; and Weissman, H. "Offset deals can pose high FCPA risks for defense industry", Global Compliance News, 2 December 2014, <https://globalcompliancenews.com/offset-deals-can-pose-high-fcpa-risks-for-defense-industry/>.

of observers.⁴² In the Philippines, political assassinations and other forms of violence are targeted not at voters, but at the vote brokers who drum up electoral participation at the local level.⁴³ In Kenya, the 'youth wings' of political parties are de facto vote enforcers for those parties, and deterrents for supporters of rival parties.⁴⁴ And in systems with weak electoral mechanisms, the buying off and management of armed groups can be the central dynamic in national politics.

What is common across this spectrum is a vision of politics as a marketplace, where competing candidates for leadership manage a political budget to buy the loyalties of important constituent groups.⁴⁵ In a system with strong electoral institutions, it is simpler and cheaper to use that political budget to contract for votes in a general election or build a patronage network within a political party. In a polity with weak or non-existent institutions, building a coalition of armed groups out of organic and pre-existing political identities becomes the chief preoccupation of the political entrepreneur. In Alex de Waal's original conceptualization of the political marketplace, the broken states of East Africa, namely Sudan and Somalia, served as the primary examples of this form of entrepreneurship. In earlier days, when small arms were still scarce in the Horn, even access to firearms themselves, necessarily mediated through diplomatic connections to the imperial powers of the outside world, could be the basis of political power as well.⁴⁶

42 Newell, "Party Finance and Corruption: Italy," p. 68.

43 Callahan, "Political Corruption in Southeast Asia," pp. 172-175.

44 Peter Mwangi Kagwanja, "Power to Uhuru: Youth Identity and Generational Politics in Kenya's 2002 Elections," *African Affairs*, Vol. 105, No. 418 (Jan. 2006), pp. 55-56.

45 de Waal, *The Real Politics of the Horn of Africa*.

46 Jonathan A. Grant, *Rulers, Guns, and Money*:

The role of corruption in this model of politics is to provide a vital source of contributions to the political budget of prospective leaders. The specific importance of arms trade corruption, then, is that only leaders who already control the state can access this source, which creates an asymmetric advantage over non-state groups. While arms smuggling and illicit brokers can still operate in the shadows to provide war material to both the state's challengers and to informal pro-regime armed groups, the international trend has been toward reaffirmation of state-to-state transfers as the only legitimate channel for the arms trade. The Arms Trade Treaty, which obligates states parties to adopt trade controls over most weapons systems, merely confirms this norm. The more complex the weapons systems a state seeks to acquire, the more likely it will have to be procured through legitimate channels. But the more complex a system is, the more it will cost, and therefore the greater the rewards to negotiating a percentage commission for parties involved. Thus, control of the state—and the diplomatic options it comes with—can be an important way a successful political entrepreneur entrenches their initial success in seizing power.

3.FIVE DIMENSIONS OF CORRUPT ARMS TRADE DEALS

In the 29 cases of arms trade and military corruption collected in the Compendium of Arms Trade Corruption, a large proportion can be connected to political finance considerations. This connection can be justified by a number of distinct political rationales and take any number of forms. In comparing the cases, however, we are able to draw out several dimensions of particular interest in the cases.

The Global Arms Trade in the Age of Imperialism (Cambridge: Harvard University Press, 2007), pp. 47-77.

Each of the studies in the subsequent section of this paper will address these in turn.

The first is whether the bribes are necessary because they have a **specific purpose**, or whether graft is built into a deal as a matter of **normalized profiteering**. Another way to think of this distinction is whether the deal would have been concluded, along its final terms, but for the bribes. This distinction is not identical to the question of whether the bribes serve a “political” purpose, however, because normalized profiteering can be a perk of sinecures—whether cabinet posts or senior administrative or military postings—handed out as a reward for loyal support within a political patronage network.⁴⁷ As such, both bribes associated with a specific purpose and as a reward for normalized profiteering could be “political.”

A second dimension is whether the bribes are paid out to recipients in the **arms-exporting country** or in the **arms-importing country**, or both. Bribes are almost always paid through an intermediary who controls or can create a network of shell companies and bank accounts for transmitting the funds.⁴⁸ As a result, with a mechanism for obscuring the transfer, origin, and destination of funds already in place, it is of marginal difficulty for bribes

47 The term “sinecure” is used throughout this paper as an adaptation of the traditional usage, emphasizing that these roles are assigned as rewards for loyalty. While the traditional usage also implies that these roles have no real responsibilities, this aspect of the term is not central to our concepts.

48 For a discussion of lawyers as intermediaries, see Zachary D. Cregar, “Foreign Corruption by Payment of Legal Bills: Guidance on Proactive Detection of FCPA Violations Via Payments to Outside Legal Counsel,” *Duquesne Business Law Journal*, Vol. 14, No. 1 (2011), pp. 1-18; more generally, Susan Rose-Ackerman, “The Law and Economics of Bribery and Extortion,” *Annual Review of Law and Social Science*, Vol. 6, (2010), pp. 233-234.

to be paid to both sides in the transaction. In the French context, kick-backs to officials in the arms exporting country are known as “retro-commissions,” which were resorted to in the 1990s as a method for circumventing strict campaign finance regulations.⁴⁹

A third dimension is whether the political purpose behind the graft serves primarily the **bribe-giver** or the **bribe-taker**. Examples of cases where the purpose of the corruption primarily serves the bribe-giver include tender-manipulation or defeat of an embargo. In such situations, the bribe-giver first decides that corruption can help them to secure the deal, after which they seek out a pliant politician or administrator to corrupt. In the alternative, the bribe might be requested on the bribe-taker’s side first, driven by political finance concerns. In reality, there may be purposes on both sides of the corrupt transaction that are served simultaneously, and it is typically impossible to determine which side suggested a bribe first. In the Belgian Socialist Parties’ case, a trial court weighed the contradicting statements of representatives of the bribe-taker and bribe-giver, who each alleged that the other broached the topic of a bribe first.

49 In this paper, the term “commissions” is used to describe payments, legal or illegal, to agents for services related to a major arms transaction. Legitimate commissions might be paid for brokering a sale, for marketing, or for any other number of related services; legitimate commissions should not be confused for bribery. However, in discussing corruption in the arms trade, writers often do confuse the two because commissions are closely tied to bribes in at least two ways. First, commissions can be inflated or paid out for non-existent services, thus constituting a fraudulent side-payment. Second, the recipient of commissions might be a middleman who passes on the monies to an ultimate bribe-taker. In most jurisdictions, legitimate commissions are not illegal; one notable exception is India, where defense procurement laws have outlawed commissions entirely in an attempt to limit corruption.

A fourth dimension is whether the bribe-taker intends for the corrupt monies to serve a **normal competitive political function**—such as running a political party, funding a party newspaper, or competing in an election—or allocates the funds to **patronage activities**, such as building a network of clients, rewarding loyal supporters, or cutting informal power-sharing deals. While it might, at first glance, seem possible to simplify and re-formulate this distinction as one between inter-party and intra-party competition, this is not possible because patronage networks can operate across party lines as well, typically in political systems with numerous parties and cross-party government coalitions.⁵⁰ Examples where funds went toward normal competitive political functions would include the French retro-commission cases, the Austrian Eurofighter deal, in which a large contract for political advertising was assigned to a friend of a politician, and the submarine-related prong of Brazil’s ongoing Lava Jato investigations. An example where funds likely went toward patronage activities include the CDU party funding scandal, in which investigators and commentators strongly suspected that bribes returned to Helmut Kohl’s allies were intended for supporting favored candidates within the party, since general elections in the German system are already supported by state funding.

The fifth and final dimension of interest is whether bribes are **centralized** under the control of a political leader or **decentralized** and distributed across a number of individuals. If the bribes are centralized, the illicit funds flow directly into a political entrepreneur’s private political budget, from which the entrepreneur can subsequently draw on to make decisions about building out a patronage network or funding legitimate party functions. If the bribes are decentralized, then the funds are distributed across a patronage network, where each

50 As described below, this was likely the pattern in the Indian Barak missiles scandal.

recipient occupies a sinecure at the pleasure of a political entrepreneur who has assigned them the role—ministerial, administrative, judicial, or military—as part of a patron-client relationship. This decentralized form of corrupt rewards across a patronage network could also be conceptualized as bribery “ex officio.”

In a number of cases, there is ambiguity as to whether bribes should be considered to be related to political finance at all, notably when bribes are given to politicians but it is unclear whether the money is used for personal enrichment or for political purposes—such money is, after all, fungible.⁵¹ The recipients may be government ministers (such as the former Greek Minister of Defense, Akis Tsochatzopoulos, implicated in numerous bribery cases)⁵²; legislators, in cases where parliament has a role in arms import decisions (for example, in the Czech Republic)⁵³; or influential ex-leaders, such as Brian Mulroney in the German Christian Democratic Union political funding case discussed below, or former Brazilian president Luiz Inacio Lula da Silva, recently accused of taking bribes to influence Brazil’s fighter aircraft tender in favor of the Saab Gripen after leaving office.⁵⁴ The unanswerable

question in these cases is whether the services they provided in return for the money they received was simply a matter of lobbying and advising, with no further money changing hands, or if they were effectively acting as highly-placed agents to channel bribes to current decision-makers.

Table 2 (pages 17-18) lists the cases in the Compendium and their relationship to political finance, if any, based on the “who, where, why, and what for” of the corrupt activities; the “why” and “what for” potentially applying to actors in both the buyer and seller countries. This does not directly address all the dimensions discussed above, but relates them and illustrates the diversity of ways in which political finance corruption can manifest itself in the arms trade. This should be taken as an indicative selection rather than a representative sample. Several of these cases are discussed in more detail in the subsequent sections. They were chosen because they demonstrate the full range of possibilities across the five dimensions discussed above.

4. CASE STUDIES: PARTY FUNDING, POLITICAL BUDGETS, SINECURES, AND COALITION BUILDING

The cases covered by the Compendium span many of the dimensions discussed in section 3 (above), in terms of the types of recipient, the purposes served by the corruption, and the use to which the corrupt finance was put. These include direct funding of political parties and their regular activities, bribes to top politicians, payments to legislators to buy their support, cases where funds went toward refilling a central political budget, and where they were distributed across a number of recipients and served as

51 Further, the unpredictability of political life means that politicians may hold funds which can be used either for future political spending, or for a comfortable retirement should their political fortunes move in the wrong direction.

52 Niki Kitsantonis, “Ex-Minister in Greece Is Found Guilty in Bribery Case,” *The New York Times* (online), Oct. 7, 2013, <https://www.nytimes.com/2013/10/08/world/europe/greek-ex-minister-is-convicted-in-bribery-case.html>.

53 Dita Asiedu, “Czech Politicians under Suspicion of Corruption Involving Gripen Deal,” Radio Praha, Feb. 21, 2007, <http://www.radio.cz/en/section/corruption/Czech-politicians-under-suspicion-of-corruption-involving-gripen-deal>.

54 Eduardo Simões and Marcelo Teixeira, “Brazil prosecutors say Lula acted for Saab to win jets order,”

Reuters, Dec. 9, 2016, <https://www.reuters.com/article/us-brazil-politics-lula/brazil-prosecutors-say-lula-acted-for-saab-to-win-jets-order-idUSKB-N13Y2PE>.

payouts to sinecures held by key leaders in a political alliance. In one case, South Africa, the corruption included several of these different features, and can be seen as part of building a broad political coalition to support the deal.

This section draws on a number of cases from the Compendium to illustrate these different aspects, focusing on bribes paid in the recipient country, while the next section focuses on ‘retro-commissions,’ where corrupt payments were (also) made in the seller country.

In some cases there have not been sufficient investigation in the recipient country to classify the type of political finance corruption associated with an arms deal; for example, in the Malaysian submarine scandal, former Defense and Prime Minister Najib Razak is suspected of receiving large bribes, but it is likely that much of these funds were directed to the coffers of the ruling party, UNMO.⁵⁵ In Malaysia, a flawed democracy, efforts to investigate the potential corruption have been stymied, so that a clearer understanding of the political purposes behind the deal is not currently possible. Razak was voted out of office in May 2018, and is now facing possible prosecution in an even larger corruption scandal, so it is possible that the submarine case may also finally be investigated.⁵⁶

DIRECT PARTY FUNDING

The set of cases in which corrupt funds went toward campaign and other regular party

55 According to the “Paris papers”, which are linked to from the case write-up in the Compendium. See <https://sites.tufts.edu/corruptarms-deals/2017/05/05/the-Malaysia-scorpene-submarine-affair/>.

56 Shamim Adam and Laurence Arnlod, “A guide to the worldwide probes of Malaysia’s 1MDB fund,” *Bloomberg* (online), Mar. 7, 2018, <https://www.bloomberg.com/news/articles/2018-03-07/Malaysia-s-1mdb-fund-spawns-worldwide-probes-quicktake>.

expenses has a broad geographic spread. In South Africa, French firm Thales has been accused of bankrolling the African National Congress in the 2006 elections, as part of an ongoing relationship arising from the infamous arms deal of the late 1990s.⁵⁷ In Portugal, wiretaps suggested that a German submarine consortium contributed EUR 1 million to a center-right political party as well.⁵⁸ In the Czech Republic, the ODA party received an anonymous offer by telephone of SEK 10 million in exchange for votes supporting the Saab Gripen combat aircraft. Overall, commissions of at least GBP 40 million were paid to middlemen in connection with the deal in the late 1990s and early 2000s, likely channeled in bribes to Czech politicians, including MPs of all parties, to gain their support for the deal.⁵⁹

Funding the Belgian Socialist Parties

A particularly well-documented case that resulted in a full prosecution and trial is that of the late 1980s arms deals in Belgium. The two allied Belgian socialist parties—one operating in French-speaking Wallonia and the other in Dutch-speaking Flanders—were beneficiaries of bribes from two arms firms in this scandal, Italy’s Agusta helicopters and France’s Electronique Serge Dassault (ESD), part of the family of arms and other companies owned by the powerful Dassault family, as part

57 Stephan Hofstatter, Mzilikazi wa Afrika, Piet Rampedi and André Jurgens, “EXPOSED: How arms dealer bankrolled Zuma,” *Sunday Times* (online), Sep. 28, 2014, <https://www.timeslive.co.za/sunday-times/investigations/2014-09-28-exposed-how-arms-dealer-bankrolled-zuma>.

58 Ana Gomes, “Complaint to the EC Commission Regarding Infringement of the Community Laws,” Feb. 3, 2012, <https://www.anagomes.eu/PublicDocs/66e9cd99-93f0-481a-8306-1e78d84cb8dc.pdf>.

59 Andrew Feinstein, *The Shadow World: Inside the Global Arms Trade* (London: Hamish Hamilton, 2011), pp. 197-224.

TABLE 2: POLITICAL FINANCE CASES

CASE NAME	SELLER, BUYER	WHERE?	WHO?	WHY WAS THE BRIBE PAID?	WHAT WAS THE MONEY USED FOR?
Austria Eurofighters	Germany -> Austria	Recipient only	Allies of key decision-makers	To win the contract	Political patronage
Al Yamamah	UK -> Saudi Arabia	Recipient only	Lead political decision-maker	'Normal' aspect of arms contracts with buyer	Unknown
Angolagate	France -> Angola	Seller and recipient	1) Leading politicians in Angola	1) "Normal" profiteering from contracts	1) Unknown
			2) Politicians in France	2) Political cover for illicit deals	2) Election campaign funding
Armsgate	Nigeria internal	Nigeria	Politicians, businessmen, military officers, officials	Embezzlement opportunities created by control of spending with no accountability	Personal enrichment, political patronage networks
Barak missiles	Israel -> India	Recipient only	Senior politicians, party officials	To win the contract	Political patronage
Boeing tanker case	US internal	USA	Defense department official	To win the contract and gain favorable treatment in contract negotiations	Personal - no political finance connection
Brazil submarine case	France -> Brazil	Recipient only	Political party	To be selected as main local partner. Possible additional bribes to win contract	Party funding
CDU party funding scandal	Germany -> Saudi Arabia, Canada	Seller and recipients	1) Political party (Germany); allies of leading politicians (Germany)	1) To overcome arms embargo and gain political support for deals	1) Party funding; political patronage
			2) Unknown (Saudi)	2) Normal profiteering from contracts	2) Unknown
			3) Influential ex-leader (Canada)	3) To help secure deal	3) Unknown
Embraer's global bribery scheme	Brazil -> Dominican Republic	Recipient only	Legislators	To win the contract	Unknown
Ericsson radars to Greece	Sweden -> Greece	Recipient only	Senior politicians	To win the contract	Unknown
Worldwide fake bomb detector scam	UK -> various	Recipients	Various	Main corruption was that equipment was fake; bribes to secure sales of fake equipment	No known political finance connection
Fat Leonard	Singapore -> USA	Recipient	Military officers	To gain access to information, and steer business to company	No known political finance connection
GPT communications contract with Saudi national guard	UK -> Saudi Arabia	Recipient	Military officers	Normal profiteering from contracts	No known political finance connection
Gripen deals with Czech republic and Hungary	Sweden/UK -> Czech republic, Hungary	Recipients	Political parties, legislators	To win the contracts	Party funding
Greek submarine scandal	Germany -> Greece	Recipient	Senior politician	To win the contract	Unknown

CASE NAME	SELLER, BUYER	WHERE?	WHO?	WHY WAS THE BRIBE PAID?	WHAT WAS THE MONEY USED FOR?
German submarine sale to Israel	Germany -> Israel	Recipient	Close ally of senior politician	To win the contract	Unknown
India VVIP helicopters	Italy/UK -> India	Recipient	Politicians, party apparatchiks, politically well-connected individuals	To win the contract	Political patronage
L'affaire Karachi	France -> Pakistan	Seller and recipient	1) French politicians	1) Opportunity from proximity to export decision and negotiation	1) Election campaign funding
			2) Pakistani military officers, politicians	2) Normal profiteering from contracts	2) Unknown
South Korea AW-159 helicopters	UK/Italy -> South Korea	Recipient	Military officers	Manipulation of selection criteria	No political finance connection
Malaysia submarines	France -> Malaysia	Recipient	Senior politician	To win the contract	Party funding (potentially) [1]
Milicogate	Chile internal	Chile	Ministry of defense officials	Embezzlement via fake contracts	No political finance connection
Portuguese submarines	Germany -> Portugal	Recipient	Political party	To win the contract	Party funding
Rolls Royce engines to India	UK -> India	Recipient	Unknown	To win the contract	Unknown
South Africa arms deal	UK, France, Germany, Italy -> South Africa	Recipient	Senior politicians, political party, allies of senior politicians	To win the contracts	Party funding, political patronage
South Korea submarines	Germany -> South Korea	Recipient	Unknown	To win the contract	No known political finance connection
Taiwan Lafayette frigates	France -> Taiwan	Seller, recipient, 3 rd party (China)	1) Senior politicians	1) To overcome arms embargo, opportunity from proximity to decision	1) Election campaign funding
			2) Unknown	2) To win the contract	2) Unknown
			3) Unknown	2) To overcome political opposition to deal	3) Unknown
Tanzania air traffic control	UK -> Tanzania	Recipient	Senior politician	To win the contract and secure finance arrangements	Unknown

NB: One case from the Compendium, “China’s crackdown on military corruption” is not included, as it is a discussion of the problems of corruption in the Chinese military in general, rather than of a specific corruption case.

[1] Comments by Dr. Kua Kia Soong at workshop on Global Arms and Corruption, June 4-5, 2018, London School of Economics.

of two separate but contemporaneous deals.

The first deal involved the replacement of Belgium's aging Alouette II reconnaissance helicopters. The long-running tender process concluded in December 1988, when, Agusta's A-109 helicopter won the BFR 12 billion (EUR 297 million) contract for 28 armed and 18 unarmed variants, defeating a rival bid from France's *Aérospatiale*.⁶⁰ The second deal was for upgrades to the electronic counter-measure (ECM) systems of the Belgian Air Force's F-16 combat aircraft. The two primary competitors were ESD and Litton Industries. In May 1989, the Belgians selected ESD to provide 135 units (later reduced to 100 units) of its Carapace ECM system to upgrade the country's entire fleet of F-16s, at a price of BFR 8.6 billion (later reduced to BFR 7.5 billion, or EUR 186 million).⁶¹

A lawyer working on behalf of Agusta, Alfons Puelinckx, reached out to a former Flemish socialist party official, Luc Wallyn while the helicopter tender was ongoing, to offer a political donation from the Italian company. Wallyn consulted with Etienne Mangé, the party's treasurer, and Johan Delanghe, the highly influential secretary of Economy Minister Willi Claes. Mangé had previously been tasked with cleaning up the perennially bankrupt accounts of the party's newspaper, *De Morgen*.⁶² At the

Flemish socialist party's request, Puelinckx transferred BFR 51 million (EUR1.26 million) through an account in Zürich, opened in the name of a Panamanian shell company. The "gift" was transferred in two parts, one before and one after the final decision on the deal.

Wallyn admitted that Agusta reached out because it knew key members of the Flemish socialist party would be involved in the tender decision, which is why Delanghe was brought into the conspiracy. Both Delanghe and his boss, Minister of the Economy Willi Claes, as well as Minister of Defense Guy Coëme, also knew that some of the offset offers that were part of Agusta's offer were impractical.

The ESD scandal was also the product of the Wallyn-Puelinckx connection, and involved two bribes, one of FFR 10 million (EUR1.52 million) to the Flemish socialist party, and one of CHF 1.8 million (around EOR780,000) to the Wallonian party.⁶³ In February 1989, shortly after the Agusta contract was concluded, air force evaluators involved in the F-16 upgrade tender submitted a report indicating that they preferred Litton Industries' TWS-95 radar warning receiver over ESD's Carapace.

The Dassault family of companies had a long history of lobbying political parties that wielded authority in procurement decisions. Accordingly, Puelinckx put ESD in business with Wallyn, and through him with key Socialist politicians involved in the deal—chiefly Guy Coëme, the defense minister, and Johan Delanghe, aide to Economy Minister Willy Claes. These put pressure on the Air Force to change their report favoring Litton under threat of a total cancellation of the tender. The pressure worked: in April 1989, Air Force Lt. Gen. Alexander Moriau filed an addendum to

60 "L'achat de 46 hélicoptères par la Défense nationale" [The purchase of 46 helicopters by the Ministry of National Defense], *L'Echo* (online), Nov. 26, 1988, <https://www.lecho.be/actualite/archive/L-achat-de-46-helicopteres-par-la-Defense-nationale/8319737>.

61 "Belgium buys French ECM," *Flight International*, May 13, 1989, <https://www.flightglobal.com/FlightPDFArchive/1989/1989%20-%201341.PDF>.

62 Rik Van Cauwelaert, "Etienne Mangé en 'Het waanzinnige avontuur van De Morgen'" [Etienne Mangé and 'The Crazy Adventure of De Morgen'], *Knack* (online), Aug. 22, 2012, <http://www.knack.be/nieuws/etienne-mange-en-het-waanzinnige-avontuur-van-de-morgen/article-opinion-44872.html>.

63 Mary Dejevsky, "Dassault arrest warrant to rock France and Belgium," *The Independent* (online), May 9, 1996, <https://www.independent.co.uk/news/world/dassault-arrest-warrant-to-rock-france-and-belgium-1346497.html>.

the report that eliminated the preference for the Litton offer, claiming that further negotiations with ESD had made the two offers equivalent.⁶⁴ In fact, as Moriau later admitted, there had been no further negotiations with ESD and the claim made in the addendum was therefore fraudulent. A trial in 1998 convicted three ministers, including Guy Coëme and Willi Claes, as well as aides Mangé, Delanghe, Wallyn, and others, for their involvement in the Agusta and ESD bribes.

The Belgian Agusta/ESD scandals had a clear nexus with political finance even though a few cash deposits into Claes' personal accounts were brought up as evidence of personal corruption at trial as well.⁶⁵ The Flemish socialist party knew by the early 1990s, that it had a checkered past to hide. Frank Vandenbroucke, a Belgian foreign minister and a member of the Flemish socialist party, ordered Mangé, the treasurer, to burn a pile of the party's cash that he discovered in 1991.⁶⁶ Mangé never followed through on the order, and when the facts of the incident came out in March 1995 during the course of the broader corruption investigation, Vandenbroucke was forced to resign.⁶⁷

64 "Belgium buys French ECM," *Flight International*, May 13, 1989.

65 Patrick Smyth, "Belgian court finds Claes, 10 officials and French businessman guilty of corruption," *The Irish Times* (online), Dec. 24, 1998, <https://www.irishtimes.com/news/belgian-court-finds-claes-10-officials-and-french-businessman-guilty-of-corruption-1.228702>.

66 Jos Klaasen, "Minister van BZ in Belgie treedt af wegens Agusta-affaire" [Belgian foreign minister resigns over Agusta affair], *De Volkskrant* (online), Mar. 23, 1995, <https://www.volkskrant.nl/archief/minister-van-bz-in-belgie-treedt-af-wegens-agusta-affaire~a395144>.

67 Sarah Helm, "Belgian MPs Vote to Send Claes for Trial," *The Independent* (online), Oct. 19, 1995, <https://www.independent.co.uk/news/world/belgian-mps-vote-to-send-claes-for-trial-1578457.html>.

While the court concluded that Puelinckx, acting on behalf of Agusta and ESD, likely reached out to Wallyn first, the large number of party officials involved in the conspiracy suggest that they understood the offer as an opportunity to fill party—rather than personal—coffers. Thus, the corruption had a clear political purpose for both ends of the transaction. Besides the specific allegations against Claes mentioned above, there is little indication in the court judgment or press reports that the funds went toward patronage activities or personal enrichment. Accordingly, the corruption was highly centralized through the involvement of the party treasurer, despite the large number of officials implicated in the case.

PATRONAGE – POLITICAL BUDGETS AND SINECURES

Corruption in political finance can be motivated by intra-party competition as much as electoral campaigns between parties, as discussed above. In the Compendium on Arms Trade Corruption, we can divide the intra-party bribes into centralized patronage-building funds, and decentralized payments to members of an existing patronage network holding positions of power ("sinecures"). The individuals in these networks expect such payments as part of the rewards of power. The CDU party funding scandal, discussed in the following section on retro-commissions, is the most clear-cut example of the first type, in which a senior party leader, namely Helmut Kohl, admitted accumulating off-budget funds and distributing them to local parties at his discretion.⁶⁸ This admission is a

68 Moroff, "American and German Fund Raising Fiascoes and their Aftermath," pp. 690, 704-705; Warner, *The Best System Money Can Buy*, p. 139; Imre Karacs, "KOHL SCANDAL: Europe's old master admits he ran secret slush funds," *The Independent* (online), Dec. 1, 1999, <https://www.independent.co.uk/news/world/kohl-scandal-europes-old-master-admits-he-ran-secret-slush-funds-1124613.html>.

rarity. In the majority of similar cases, we can describe patronage interests—or the refilling of a “political budget”—as a motivator only by relying on inference. The second category, where funds are distributed broadly across a number of government positions in the hands of key players in a ruling patronage network, is much easier to identify and describe.

The Austrian Eurofighter deal

One case in which the first type of patronage could have come into play is the Austrian Eurofighter acquisition scandal. In this case, one of the purported beneficiaries of offset deals associated with the contract was also a benefactor to the politicians who approved the acquisition. In October 2001, the Austrian government approached aircraft manufacturers for bids to replace its fleet of Saab Draken fighter aircraft.⁶⁹ Three companies reached the final stage of the tender competition: Saab, Lockheed Martin, and the Eurofighter consortium.⁷⁰ In July 2002, the government, a coalition between the center- and far-right parties, decided to buy the Eurofighter Typhoon aircraft. Initially, 24 aircraft were ordered, but this was reduced to 18 planes after floods in August 2003 forced a reallocation in government spending.⁷¹ After further criticism and investigation of the deal, a successor center-left government reduced

the order again to 15 planes in June 2007.⁷²

Several separate corruption mechanisms have been alleged in relation to the Austrian Eurofighter deal, including direct bribery. Of greatest relevance to the patronage thesis, however, is the broad suspicion that the former finance minister, Karl-Heinz Grasser of the Austrian Freedom Party, as well as other decision-makers, had benefited their political allies by extracting offset commitments from the competition’s winner.

Before entering government in 2000, Grasser was an employee of the Magna Group, a parts supplier to EADS-investor DaimlerChrysler. Magna was tipped to benefit from the offsets associated with the tender, which required the aircraft supplier to make investment or supply contracts worth EUR 4 billion with local firms.⁷³ At least one Magna official, former manager Hubert Hödl, has as recently as March 2017 been investigated for potential money-laundering charges associated with the offset schemes.⁷⁴ Other suspicious offset deals include an EADS investment into a Carinthian technology park and a canceled plan for the aircraft firm to invest in the redevelopment of the retired Spielberg racing track.⁷⁵

69 “Pentagon Proposes \$1.7 Billion F-16 Sale For Austrian Fighter Competition,” *Defense Daily International* (online), Nov. 30, 2001, <https://www.highbeam.com/doc/1G1-80447770.html>.

70 The Eurofighter Consortium, which produces the Typhoon multi-role combat aircraft, is a joint venture of EADS (now Airbus), BAE Systems, and Alenia Aermacchi (part of Leonardo).

71 David Gow, “Floods Bring Down Eurofighter,” *The Guardian* (online), Aug. 16, 2002, <https://www.theguardian.com/business/2002/aug/16/themilitary.uk.news>.

72 Bundesministerium für Landesverteidigung, “Eurofighter-Einigung: Die Eckpunkte” [The Eurofighter Deal: The Key Points], Press Release, June 28, 2007, <http://www.bundesheer.at/cms/artikel.php?ID=3475>.

73 Dominik Baur, “Herr Stronach kauft sich Österreich” [Mr. Stronach buys Austria], *Spiegel Online* (online), July 4, 2003, <http://www.spiegel.de/wirtschaft/polit-filz-herr-stronach-kauft-sich-oesterreich-a-255619.html>.

74 “Eurofighter: Ermittlung gegen Ex-Magna-Vorstand” [Eurofighter: Investigation of Ex-Magna Board], *Steiermark ORF* (online), Mar. 8, 2017, <http://steiermark.orf.at/news/stories/2829800>.

75 Martine Orange, Yann Philippin, and Lea Fauth, “Corruption: les documents qui accusent le patron d’Airbus” [Corruption: the documents which accuse the head of Airbus], *Mediapart* (online), Oct. 6,

India: networks of cronyism and sinecures

Two Indian cases are helpful in demonstrating how corruption across a network of sinecures, the second category described above, can be carried out through an arms deal. The Barak missile scandal, dating to 2000, illustrated a limited case of this phenomenon, targeted at a single political party, while the VVIP helicopter case, from a decade later, produced allegations stretching across the entire government. Other examples include Nigeria's Armsgate scandal, which involved all branches and levels of government, and the South African Strategic Arms Procurement Package.

The Barak missile acquisition program originated in 1995 amidst growing Indian concern about its surface fleet's vulnerability to Pakistani anti-ship missiles.⁷⁶ The Barak 1 missile defense system, manufactured by Israel Aerospace Industries, was evaluated by the Indian navy in December of that year.⁷⁷ The scientific advisor to the defense

2017, <https://www.mediapart.fr/journal/economie/061017/corruption-les-documents-qui-ac-cusent-le-patron-dairbus>; Renate Graber, "Eurofighter flogen über Steueroase nach Kärnten" [The Eurofighter flew over a tax haven to Carinthia], *Der Standard* (online), Mar. 12, 2017, <http://derstandard.at/2000054036208/Eurofighter-flogen-ueber-Steueroase-nach-Kaernten>.

76 Nicolas Blarel, "Planes, Drones, Missiles: How Kargil changed Indo-Israeli Relations," *The Caravan* (online), Jan. 18, 2015, <http://www.caravanmagazine.in/vantage/planes-drones-missiles-kargil-indo-Israeli-relations>.

77 Israel Aerospace Industries, "Barak-1 Ship Point Defense System," website, n.d. (accessed May 8, 2018), http://www.iai.co.il/2013/14463-16100-en/BusinessAreas_NavalSystems_Barak1.aspx.

minister, A.P.J. Abdul Kalam, and other allies at the Defence Research and Development Organisation (DRDO), opposed the choice of the Barak, advocating for the indigenously developed Trishul missile. The chief of naval staff, Admiral Sushil Kumar, finally secured backing from Defence Minister George Fernandes, over the protest of Kalam, to purchase six Barak systems in June 1999. These were to be outfitted on the navy's destroyers and frigates, as well as the INS Viraat, an aging aircraft carrier.

A media sting operation in 2001 (the 'Tehelka tapes') recorded R. K. Jain, treasurer of the Samata Party, part of the ruling coalition at the time, claiming that he had acted as an agent in the deal, passing on 3% of the value each to George Fernandes and party President Jaya Jaitly, leading members of the party, while Jain himself received 0.5%. Jaitly and Fernandes were both forced to step down from their positions as a result of the revelations. India's Central Bureau of Investigation (CBI) filed in 2006 a First Information Report, indicating suspicions that Kumar had misrepresented DRDO opposition to the deal to Fernandes, and that DRDO had been improperly overridden.

Suresh Nanda, an Indian businessman with investments in the defense industry, was identified in the Tehelka tapes as the agent who passed bribes to Jaitly directly. The CBI found documents in Nanda's possession, relating to other arms companies and deals, which suggested that Nanda acted illegally as an arms broker.⁷⁸ They also found a number of payments to the accounts of various companies owned by Nanda, including one from MTU Aero Engines, a German sub-contractor for IAI, and others from untraceable sources. Following seven years of investigation, however,

78 "CBI vs. S. Suresh Nanda," Decision of High Court of Delhi, Feb. 5, 2007, New Delhi, <http://www.delhidistrictcourts.nic.in/Febo7/CBI%20vS.%20SURESH%20NANDA.pdf>.

the CBI was forced to drop the investigation in 2013 for lack of conclusive proof.⁷⁹

If the Tehelka tapes are credible, the pattern of bribes in this case go beyond tightly targeted offerings to Fernandes, the key decision-maker in the deal. Notably, the Samata Party was not even in control of the government at the time, serving only as a junior member of a broad coalition. Nanda was obliged to include officials—Jain and Jaitly—beyond Fernandes in the scheme due to their positions of importance in the party structure. An even more explicit demonstration of this principle is visible in the VVIP (very, very important persons) helicopter scam, in which the middlemen allocated funds explicitly to the military, bureaucrats, and key politicians.

In 1999, India identified a need for new VVIP helicopters to replace its existing Soviet Mi-8 helicopters, which were coming to the end of their service life and lacked high altitude and night flying capabilities necessary for transporting national leaders to locations in the Himalayas. The new tender, issued in 2002, specified a 6,000-meter altitude requirement for the helicopters. The original tender was cancelled, however, on the grounds that it had only attracted a single bid, leading to a single-source competition.⁸⁰ A revised tender issued in 2006 reduced the altitude requirement to 4,500 meters, insufficient for many of the Himalayan tasks envisioned.

This change enabled the AW-101 Merlin

79 Neeraj Chauhan, “CBI closes Barak scandal case for lack of evidence,” *The Times of India* (online), Dec. 11, 2013, <http://timesofindia.indiatimes.com/India/CBI-closes-Barak-scandal-case-for-lack-of-evidence/articleshow/27199226.cms>.

80 Comptroller and Auditor General of India, “Report of the Comptroller and Auditor General of India on Acquisition of helicopters for VVIPs,” Report No. 10 of 2013, Aug. 13, 2013, http://www.cag.gov.in/sites/default/files/audit_report_files/Union_Defence_Compliance_Report_10_2013.pdf.

helicopter offered by AgustaWestland⁸¹ to compete, while other changes to the specifications ultimately allowed the AW-101 to defeat its only competitor, the Sikorsky S-92. The subsequent corruption investigation suggested that bribes were paid to Indian officials to manipulate the tender requirements to this end. An audit of the procurement process found numerous flaws in the procedure, including a failure to check the reasonableness of the price, and a requirement for twelve helicopters to replace eight, with no justification for why four extra were needed.⁸²

India finally signed a contract with AgustaWestland in 2010, to buy twelve AW-101s for EUR 556 million.⁸³ The Italian Attorney General’s office started investigating the deal in 2011.⁸⁴ News of the investigation was made public in February 2012, and the Indian Defence Minister A.K. Anthony ordered a CBI probe the next day. Evidence eventually submitted in Italian courts suggest that AgustaWestland paid EUR 51 million to Indian air force officers, bureaucrats, and politicians, and possibly to Italian politicians. The bribes were paid through three middlemen, Christian Michel, Guido

81 AgustaWestland was formed in 2000 from a merger between the Italian and British helicopter makers, Agusta and Westland Helicopters. Initially a joint venture between their Italian and British parent companies, AgustaWestland became a wholly-owned subsidiary of Finmeccanica (now Leonardo) in 2004. It continues to produce helicopters in both the UK and Italy.

82 Comptroller and Auditor General of India, “Report of the Comptroller and Auditor General of India on Acquisition of helicopters for VVIPs.”

83 Sushant Singh, “Explaining the VVIP chopper row that has rocked Parliament,” *The Indian Express* (online), Dec. 9, 2016, <http://indianexpress.com/article/explained/agusta-westland-vvip-helicopter-deal-behind-the-moving-parts-2773448>.

84 Singh, “Explaining the VVIP chopper row that has rocked Parliament.”

Haschke, and Carlo Gerosa, using a complex network of accounts and shell companies.

Former Indian Air Force head Air Chief Marshall S. P. Tyagi was specifically identified by the Italian Appeals Court as the likely recipient of USD 11 million in commissions, some of which was paid through three of his cousins. As a result of the corruption allegations, the Indian government cancelled the contract in 2013, and was later able to successfully recover EUR 228 million already transferred for the three helicopters so far delivered.⁸⁵ Giuseppe Orsi, the head of Finmeccanica, and Bruno Spagnolini, CEO at AgustaWestland, were convicted by Italian courts on corruption and money laundering counts in 2016, but these convictions were overturned on appeal.⁸⁶ Finmeccanica, as the parent company of AgustaWestland, agreed to a EUR 7.5 million fine in 2014 as well.⁸⁷

In India, criminal charges against Orsi and Spagnolini have been filed as well, alongside charges against suspected bribe-takers Tyagi and Air Marshall (ret'd.) J.S. Gujral.⁸⁸ Two Indian middlemen, Tyagi's cousin Sanjeev Tyagi, and lawyer Gautam Khaitan, were also indicted,

85 Tom Kington, "India Helo Bid Costs Finmeccanica \$309M," *Defense News*, June 16, 2014, accessed through LexisNexis.

86 "Finmeccanica's ex-CEO sentenced to 4-1/2 years in jail in bribery case," Reuters, Apr. 7, 2016, <http://www.reuters.com/article/us-finmeccanica-India-court-idUSKCN0X428L>.

87 Manu Pubby, "VVIP Chopper scam: Finmeccanica to pay Rs 60 crore fine to Italian government," *India Today* (online), Aug. 27, 2014, <http://india-today.intoday.in/story/vvip-chopper-scam-finmeccanica-to-pay-rs-60-crore-fine-to-italian-government/1/379402.html>.

88 Ananya Bhardwaj, "CBI files 30,000 page chargesheet in AgustaWestland chopper scandal," *The Print* (online), Sep. 1, 2017, <https://theprint.in/governance/cbi-files-30000-page-chargesheet-agustawestland-chopper-scandal/8996>.

along with Michel, Haschke, and Gerosa.

The Indian investigation, however, has to address the politically charged question of whether other bribe beneficiaries remain unidentified. According to a note produced as evidence in the Italian trials from Michel to Peter Hullett, head of AgustaWestland India, the latter was advised to target persons close to Sonia Gandhi, leader of the Congress Party, including Manmohan Singh, the prime minister at the time.⁸⁹ The note describes a break-down of a possible distribution of bribes: EUR 6 million for "AF" (air force), EUR 8.4 million for "BUR" (bureaucrats), EUR 6 million for "POL" (politicians), and EUR 3 million for "AP," which may refer to Ahmed Patel, Sonia Gandhi's political secretary. It remains unclear whether this distribution of bribes was ever effected, and whether the abbreviations have been properly interpreted. If the Michel-Hullett note does bear prosecutorial fruit, however, it may be one of the most clear-cut cases of bribes to sinecured officials in the compendium. The distribution of monies to positions that had no direct influence on the tender process suggest that corruption functioned as a matter of due-regard for high officials, rather than purely instrumentally.

THE SOUTH AFRICAN ARMS DEAL: BUILDING A POLITICAL COALITION

The South African Arms Deal,⁹⁰ a USD 5 billion package signed in 1999 during the midst of an electoral campaign, was a singular event in the

89 "Sonia Gandhi, PM tainted by chopper scam as note reveals Agusta was advised to target top leaders to win contract," *India Today* (online), Feb. 2, 2014, <http://indiatoday.intoday.in/story/agustawestland-vvip-chopper-scam-note-sonia-gandhi-manmohan-singh/1/341261.html>.

90 "The South African Arms Deal," Compendium of Arms Trade Corruption, World Peace Foundation, sites.tufts.edu/corruptarmsdeals.

politics of the post-Apartheid nation. Not only does it dwarf all previous and subsequent South African arms purchases—in a country where annual total military spending is only around USD 3-3.5 billion—but the corruption associated with the deal, and the efforts to cover it up were profoundly damaging to the young democracy.

The corruption in the South African arms deal includes many elements, including direct party funding and bribes to top politicians, but the wide dispersal of bribes indicates a further motivation, of creating a political coalition to support what would otherwise have been a highly unpopular deal—and which was still highly controversial.

The Arms Deal was in fact a package of several deals: advanced Gripen combat aircraft and Hawk trainer/light attack aircraft from a consortium of BAE Systems and Saab; submarines and frigates from a consortium led by ThyssenKrupp of Germany; and helicopters from Agusta of Italy. The corruption associated with the deals served several purposes: motivating such a huge expenditure on grossly excessive equipment in the first place; manipulating selection processes in favor of the preferred bidders by those receiving bribes; and building a political coalition of support for the deal to overcome the likely objections to the cost of the deal.

The controversies surrounding the deal, and the corruption associated with it, are covered in depth by Andrew Feinstein, the former ANC MP whose political career was ended by his party bosses over his attempts to investigate the deal, in two books, *After the Party*, and *Shadow World*.⁹¹ The case is also summarized in the *Compendium of Arms Trade corruption*.⁹²

91 Feinstein, *The Shadow World*, Ch. 9, and Andrew Feinstein, *After the Party: Corruption the ANC and South Africa's uncertain future* (London: Verso, 2010).

92 “The South African Arms Deal,” World Peace Foundation website, May 5, 2017, <https://sites.tufts.edu/corruptarmsdeals/2017/05/05/the-south-Afri->

In total, it is estimated that USD 300 million were paid in bribes to a variety of individuals in South Africa, including GBP 115 million (about USD 185 million) by BAE Systems. Bribes were also paid by French company Thomson-CSF (now Thales), which made the combat systems for the frigates, Thyssen Krupp, Ferrostaal (part of the consortium for the submarines and frigates), and Saab. Recently, corruption charges against former South African President Jacob Zuma—who was Vice President at the time of the deal, which were dropped shortly before he became President, have been reinstated. He faces 16 charges of fraud, racketeering, corruption, and money laundering, in relation to 783 corrupt acts related to the deal.⁹³

Recipients, or alleged recipients, of the bribes included: President Thabo Mbeki; Vice President Jacob Zuma; Defense Minister Joe Modise; ANC Chief Whip Tony Yengeni, and other parliamentarians; Jacob Zuma’s advisor Shabir Shaik (the last two being the only people so far convicted in relation to the deal); his brother Chippy Shaik, head of procurement in the Department of Defense; Moses Masikayo, former head of the South African Metal Workers’ Union, Numsa, as well as other Numsa officials; Siphwe Nyanda, head of the South Africa National Defence Forces (SANDF) at the time; and the ANC itself. It is likely that the full list is considerably longer.

The payments to the ANC political party allegedly helped fund their 1999 election campaign, and additional payments to ANC officers such as ANC Chief Whip Tony Yengeni bought their support, or at least acquiescence, for the deal, in parliament. Feinstein recalls how, as he was

can-arms-deal.

93 Alexander Winning, “South Africa hits fallen Zuma with arms deal corruption charges,” Reuters, Mar. 16, 2018, <https://www.reuters.com/article/us-sAfrica-politics/south-Africa-hits-fallen-zuma-with-arms-deal-corruption-charges-idUSKCN1GS11X>.

trying to pursue his investigations in the face of strenuous opposition from the leadership, being told by a colleague “this was a battle [he] could not win, that the party would close ranks around the deal because [it] had received money from the successful bidders which was used to fund our election campaign”.⁹⁴ Andrew Feinstein believes that payments to the ANC may have ran to tens of millions of dollars.⁹⁵

However, the wide distribution of the arms companies’ largesse, including to people like trade union officials who had no formal role in the decision process, demonstrates another purpose behind the corruption, namely to build a political coalition in favor of an unpopular deal. With many questions asked about the cost, in the face of the urgent needs of the majority black population for housing, health care (in particular the AIDS crisis), education, and other social spending, securing support from the trade union movement and other key civil society bodies, was also crucial. A large part of this was through the massive offsets package associated with the deal, which promised to bring tens of thousands of jobs to South Africa. The offsets, supposedly worth several times the deal’s value, were massively inflated by offset accounting tricks that bordered on the fraudulent; many of the proposed offset investments never came to pass; and the number of jobs created was far fewer than promised, and largely directed toward highly skilled, disproportionately white workers in the defense sector. The offsets also served as a key means of corruption in the deal, by directing offset investments to friends and allies of the decision-makers.

The offsets gave politically powerful trade unions such as the National Union of Metalworkers of South Africa (NUMSA) the cover they needed

to back the deal, while their leaders were given sweeteners in return for their support—and their silence when promised offsets did not pan out. One such project was the creation of a new industrial school promised by Saab, which was supposedly intended to raise competence levels and employability for black workers. This project was one of those that was key to winning NUMSA’s support. However, this proved to be a ‘bait and switch’; the new industrial school was never built, and instead, Saab invested in an existing college with close links to the defense industry and the military. As recently as April 2018, a long-standing Saab consultant in South Africa, Erik Larsson, revealed that he personally ensured that bribes were subsequently paid to a variety of NUMSA officials to sooth their objections to the failure of the industrial school project.⁹⁶

In the South African case, the need for a broad political coalition to support the arms deal meant that corruption not only directly funded regular campaign activities, but also the coalition-building necessary to create political elite consensus, and wider societal support for or at least toleration of the deal. We can identify ‘primary’ and ‘secondary’ circles of corruption. The ANC needed funding for its own routine finances (for example, retirement benefits for aging cadres) and for the election campaign, providing a ‘primary’ motivation for the deal. Top politicians were also able to cash in as part of this primary circles of bribes. But securing support for the deal required a larger, ‘secondary’ circle of bribes to trade unions, parliamentarians, aides and officials, creating a snowballing logic to the corruption behind the deal.

94 Feinstein, *The Shadow World*, p. 181.

95 Comments at World Peace Foundation workshop on Global Arms and Corruption, London School of Economics, 4-5 June 2018.

96 Jonas Gummesson, “Konsult: Saab mutade facket för att dölja brutet löfte” [Consultant: Saab bribed trade union to cover up broken promise], *Svenska Dagbladet* (online), Apr. 24, 2018, <https://www.svd.se/saab-mutade-facket--och-svek-lofte-till-mandela>.

5. THE SPECIAL CASE OF RETRO-COMMISSIONS

Normally, in the arms trade as well as other industries, sellers bribe buyers to win a contract. In several cases collected in the Arms Trade Compendium, however, companies paid bribes to politicians in the exporting country (often in addition to the regular bribes to decision-makers in the buyer countries) – so-called “retro-commissions.” Retro-commissions may be earmarked within the overall commission package paid to the agents for distribution to the ultimate bribe recipients, or they may be tacked on to the deal as a separate flow of funds. Retro-commissions appear to have a particularly strong connection to political finance.

Why would companies pay bribes to decision-makers in the seller countries? Unlike bribes to the buyer countries, these cannot generally be recouped via a mark-up in the price to the customer, nor do they obviously help win the deal. Several reasons emerge in the cases considered:

- To overcome political objections to an export, including relaxing or creating an exception to export control policies and practice;
- To gain political cover for a deal of dubious legality, where the sale may be prohibited by a UN embargo or national legislation, ensuring that regulatory authorities turn a blind eye;
- In the cases involving French naval producer DCN (recently renamed Naval Group), because the company is state-owned and thus subject to political direction, this provides an easy opportunity for political actors to arrange bribes. The company is thus not an independent actor seeking its own best financial interests.

For the politicians concerned, retro-commissions on arms deals provide an ideal means for establishing an off-the-books, and possibly offshore, political fund, under the cover of the

non-transparent financial flows established to implement the primary commissions, and/or through arrangements with the corrupted recipients in the buyer country, especially where the latter offers high levels of opacity in its political and financial dealings.

Retro-commissions may also be paid to top executives of the exporting company, and French investigative journalist Jean Guisnel reports that this was a common practice.⁹⁷ However, retro-commissions are generally an area where the close political connections to the arms trade are critical – it is the fact that politicians have influence in deciding whether controversial exports should go ahead, and over the conduct of state-controlled arms companies, that makes many such retro-commissions possible. Therefore, it is unsurprising that this phenomenon tends to be so closely linked to political finance.

It is worth noting that all the retro-commission cases discussed here come from the 1980s and 1990s, before the countries concerned (France and Germany) signed the OECD Convention on Bribery.⁹⁸ Before this, bribery of foreign officials was not only legal in these countries (as in the UK), but treated as a tax-deductible business expense. In France, these bribes were referred to by the coy phrase *fraîs commercieaux exceptionnels* (“exceptional commercial

⁹⁷ This would most likely be a matter of personal enrichment, rather than political finance, and thus is not the immediate concern of this paper. See Jean Guisnel, *Armes de Corruption Massive: Secrets et Combines des Marchands de Canons* (Paris: Le Découverte, 2011).

⁹⁸ The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was signed in 1997 and entered into force in 1999, required all signatories to criminalize the bribery of foreign public officials, and was subsequently implemented in the national legislation of all OECD member states. <http://www.oecd.org/corruption/oecdantibriberyconvention.htm>.

expenses”), and in Germany as “nützliche Ausgaben” (“useful expenditures”). Thus, the regular commissions to decision-makers in the customer country could be made, if not exactly public, at least an open and regular part of the deal, not raising suspicions in the seller country. Retro-commissions—which remained illegal as they involved bribery of domestic politicians, or abuse of state or commercial assets for private gain—could then be disguised as part of the permitted commissions. Because bribes are almost always illegal in the buying country, commissions are typically paid via agents and using a difficult-to-trace network of financial intermediaries. As this system has already been created to mask the funds, it is possible – although risky – to hide a portion of the funds destined to return back to the seller country within the overall labyrinth of financial flows.

Retro-commissions associated with arms deals can be seen as part of a broader phenomenon—albeit one that is extremely opaque and where only a handful of cases come to light—of the recycling of portions of corrupt financial flows between developing and developed world countries to the benefit of developed world politicians. In this context, arms deals may form just one part of a wider relationship between politicians in the countries concerned. The most recent high profile example of this is the current criminal investigation into former French President Nicolas Sarkozy, accused of accepting EUR 50 million in illegal campaign funding from former Libyan dictator Muammar Gaddafi.⁹⁹ Similarly, Gabonais dictator Omar Bongo allegedly provided funds for French presidential campaigns.¹⁰⁰

99 Fabrice Arfi and Karl Laske, “Argent libyen: Sarkozy est mis en examen pour corruption” [Libyan money: Sarkozy is placed under investigation for corruption], *Mediapart* (online), Mar. 23, 2018, <https://www.mediapart.fr/journal/international/210318/argent-libyen-sarkozy-mis-en-examen>.

100 ‘Late Gabon President Omar Bongo ‘funded’ Jacques Chirac presidential campaign,’ *The Tele-*

The rest of this section describes a number of key cases of French retro-commissions, in particular L’affaire Karachi and Angolagate. It also lays out the CDU party funding scandal in Germany, which resembled the retro-commission cases in some respects.

THE FRENCH RETRO-COMMISSION CASES

France has seen numerous political finance scandals, including several linked to arms sales, over the years. Two important factors contribute to the prevalence of such cases.

First and foremost, France has very restrictive political party and election finance laws. Donations to election campaigns and political parties by foreign individuals and entities, and by (domestic or foreign) corporations and trade unions, are banned. Individual donations to political parties are capped, currently at EUR 7,500 a year, while donations to individual candidates (for example in presidential election campaigns) are capped at EUR 4,600 per election. Spending on parliamentary elections is capped per parliamentary constituency, while total spending per candidate in presidential elections is capped at EUR 16.8 million in the first round, and EUR 21.8 million in the second-round runoff.¹⁰¹ By contrast, Hillary Clinton spent USD 1.2 billion (EUR 1.09 billion) during the 2016 US Presidential election, and Donald Trump

graph, June 11, 2009.

<https://www.telegraph.co.uk/news/worldnews/europe/France/5498392/Late-Gabon-President-Omar-Bongo-funded-Jacques-Chirac-presidential-campaign.html>

101 International Institute for Democracy and Electoral Assistance, “Political Finance Database,” and Andreas Becker, “French elections: Who finances the candidates?” *Deutsche Welle* (online), May 5, 2017, <http://www.dw.com/en/french-elections-who-finances-the-candidates/a-38704682>.

spent USD 647 million (EUR 588 million).¹⁰²

State funding is provided to political parties based on their share of the vote and number of elected representatives from previous elections, while half of the campaign expenses of presidential candidates who secure at least 5% of the vote is reimbursed by the state. Candidates frequently take out bank loans to finance their campaigns in advance.¹⁰³

The strict spending and finance limits, while reducing the influence of corporate interests and rich individuals, creates a strong incentive for candidates to hide or mask additional sources of funding to get around these restrictions. This may be particularly true for presidential elections, where, in the first round, multiple candidates may stand from the same political party, thereby nullifying those political parties as a source of funding. Alternatively, rival candidates from the same party may compete in primary elections, again relying only on their own individual campaign finance.

Second, there exists a very close relationship between the French state, the arms industry, and trade policy. While this may be true to a considerable degree in many major producers, a number of factors are particular to France. First, some major arms companies are state owned; of note is shipbuilder Naval Group (formerly DCN, later DCNS), at the center of a number of retro-commissions cases. Electronics company Thomson-CSF was also state-owned until its privatization in 1999 under its new name of Thales, as was Aérospatiale until its merger into EADS (now Airbus) in 2001, in which the French state still holds a stake. In addition, the competing

102 Bill Allison, Mira Rojanasakul, Brittany Harris, and Cedric Sam, “Tracking the 2016 Presidential money race,” *Bloomberg*, Dec. 9, 2016, <https://www.bloomberg.com/politics/graphics/2016-presidential-campaign-fundraising/>

103 Becker, “French elections: Who finances the candidates?”

French arms export agencies, SOFRESA (now ODAS), SOFMA, OGA, OFEMA, and SOFREMI held mandates to actively promote French arms exports in the 1990s, and were responsible in many cases for the payment of commissions—legal at the time—in connection with deals.¹⁰⁴

Thus, French politicians responsible for arms exports, in particular the minister of defense, had very close connections to all the key French actors in arms deals, creating clear opportunities to exploit the deals for political gain.

These factors combined to create a perfect storm during the 1995 Presidential election campaign, in which the leading center-right party, the Rassemblement pour la République (RPR), was divided between its president, Jacques Chirac (the ultimate election winner), and Prime Minister Edouard Balladur. The latter’s campaign came under strong suspicions of receiving large retro-commissions connected to major arms deals. Balladur was placed under formal investigation over his campaign finances in May 2017 by the Cour de Justice de la République, which prosecutes alleged crimes committed by government ministers in the course of their duties.¹⁰⁵ The long delay is an indication of the slowness with which the wheels of justice often grind in such highly political and complex financial corruption cases.

104 “Les cinq sociétés françaises de commercialisation” [The Five French Business Promotion Companies], *Les Echos* (online), June 5, 1992, https://www.lesechos.fr/05/06/1992/LesEchos/16153-051-ECH_les-cinq-societes-francaises-de-commercialisation.htm.

105 “Edouard Balladur mis en examen dans l’affaire Karachi” [Edouard Balladur placed under investigation in the Karachi affair], *Le Parisien* (online), May 30, 2017, <http://www.leparisien.fr/faits-divers/edouard-balladur-mis-en-examen-dans-l-affaire-karachi-30-05-2017-6998652.php>.

L'affaire Karachi and the Sawari II contract

The two biggest deals associated with allegations of retro-commissions benefitting the Ballardur campaign are the sale of Agosta submarines to Pakistan, and of Lafayette frigates to Saudi Arabia, both by DCN in 1994 (the Agosta and Sawari II contracts).¹⁰⁶

The retro-commission allegations came to light in 2002 due to an apparent terrorist attack in Karachi, Pakistan, in which a car bomb killed 14 people, including 11 French employees of DCN working on the construction of one of the submarines in Pakistan. While initial investigations focused on Al Qaeda as a likely suspect, attention subsequently fell on the large commissions associated with the submarine deal. A French judicial inquiry, entitled *Nautilus*, produced a report in 2002 suggesting that the car bombing in Karachi was the work of senior Pakistani officials aggrieved at the cancellation of the commission payments by the new French President Jacques Chirac after he took office in 1995.¹⁰⁷ This theory has never been substantiated, but it was the *Nautilus* inquiry that led to the discovery of the retro-commissions, for which the evidence is much clearer.¹⁰⁸

The main commissions, worth 6.25% of the EUR 825 million contract, were to be paid to political and military recipients in Pakistan, via various agents, by the French arms export agency SOFMA (*société française de matériels d'armement*). Former Naval Chief of Staff Admiral Mansur al Haq was sacked

as a result of the investigation in Pakistan, and eventually pleaded guilty to receiving kickbacks in relation to this and other deals. It is likely, however, that politicians close to then-Prime Minister Benazir Bhutto—in particular her husband, Asif Ali Zardari, nicknamed “mister 10%”—were among the recipients.¹⁰⁹

This was standard practice—legal in France, though not in Pakistan. The twist in the tale came when, not long before the signing of the Agosta contract—as well as the Sawari II contract with Saudi Arabia—Renaud Donnedieu de Vabres, special advisor to French Minister of Defense Francois Léotard, a close ally of Ballardur, insisted on the hiring of two additional agents by DCN, Franco-Lebanese businessman Ziad Takieddine and Abdul Rahman el-Assir. An additional 4% in commissions, worth around EUR 33 million, was to be paid on the Agosta deal via these two agents, as well as at least EUR 30.5 million on the Sawari II contract.

This was highly unusual, as the additional commissions served no obvious purpose in winning a contract that was already close to being in the bag. Emmanuelle Aris, then DCN's head of international affairs, told French investigative journalist Jean Guisnel, that he was used to hearing from numerous such “emergency victory consultants” offering their services in similar circumstances, and would usually dismiss them out of hand.¹¹⁰ These two, however, were sent directly at the behest of the Ministry of Defence. It is these additional, apparently superfluous commissions, which were allegedly used to funnel retro-commissions to Ballardur's election campaign.

A further plot twist came when, contrary to expectations, Ballardur was knocked out in the first round of the 1995 election, and his RPR rival Chirac went on to win the second round against Socialist Lionel Jospin, becoming

106 These cases are covered together in the Compendium as *L'affaire Karachi*. “*L'affaire Karachi*,” World Peace Foundation, website, May 5, 2017, <https://sites.tufts.edu/corruptarms-deals/2017/05/05/laffaire-karachi>.

107 The full *Nautilus* report is available at <https://www.frenchleaks.fr/Le-rapport-Nautilus,10.html>.

108 Guisnel, *Armes de Corruption Massive*, Ch. 4.

109 Guisnel, *Armes de Corruption Massive*.

110 Guisnel, *Armes de Corruption Massive*, Ch. 4.

president. When Chirac looked into the Agosta and Sawari II contracts, suspecting the involvement of retro-commissions to illicitly fund his rival's campaign, he ordered a halt to the commission payments. But for the Karachi attack, this might have been the end of the story.

Apart from the Nautilus inquiry, the allegations of retro-commissions were supported by an internal Ministry of Defense investigation by the Comptroller General of the Armed Forces Jean-Louis Porchier in 1997; kept secret at the time, the report was leaked to journalists in 2007. Another remarkable document discovered in 2008 was a memo by former DCN Finance Director Gérard-Philippe Menayas, which stated that, between 1991 and 2002, DCN sold “around 60 billion Francs [EUR 9.15 billion] worth of equipment. Of this sum, 8-10%, that is 5-6 billion Francs [EUR 732-915 million], was dispersed in frais commerciaux exceptionnels to agents or lobbyists charged with their redistribution to the ultimate beneficiaries.”

Moreover, the memo discusses the establishment of shell companies in Luxembourg that were used as conduits for the commissions, including one, Heine, that was used by Takieddine and el-Assir for the 11th hour extra commissions. A 2007 note from the French Interior Ministry's Division Nationale des Investigations Financières (National Financial Investigations Division) comments on the information in Menayas' memo: “It thus becomes apparent that the creation of the Heine company in the second half of 1994 occurred after the approval of Nicolas Bazire, Director of the Cabinet of Prime Minister Édouard Balladur, and of Budget Minister Nicolas Sarkozy, and is linked to the financing of the electoral campaign of Mr. Balladur for the 1995 Presidential election”.¹¹¹

If these allegations are correct, the EUR 33 million in commissions paid through Takieddine and el-Assir may have had little to do with

securing the sale of the submarines and frigates, but rather were a means of embezzling funds from DCN—and therefore ultimately the French taxpayer—for French political purposes. One act of “legitimate” corruption, ironically, was used as cover for a second “illegitimate” act of corruption.

Other cases

Several other French arms deals have involved allegations of retro-commissions. Between 1982 and 1986, French company Luchaire sold 450,000 artillery shells to Iran—then under embargo by France during the Iran-Iraq war, with France extensively arming Iraq—using fake end-user certificates. Defense Minister Charles Hernu was warned by the director of the Direction générale de la sécurité extérieure (DGSE, General Directorate of External Security) that the deliveries were taking place, but turned a blind eye. A report by the Comptroller General of the armed forces, declassified in 1987, alleged moreover that members of Hernu's ministerial cabinet actively covered for Luchaire's illicit exports, in return for donations of around EUR 457,000 to the ruling Socialist Party.¹¹² An investigative magistrate, however, did not find sufficient evidence to bring charges, and the case was dismissed in 1989.

The sale of Lafayette frigates to Taiwan in 1991, which involved around USD 500 million in total bribes to Chinese and Taiwanese officials, for which France eventually was ordered to pay EUR 630 million in compensation to Taiwan in 2011, was also associated with allegations of retro-commissions.¹¹³ Selling major arms to Taiwan was politically sensitive and contrary to French policy due to the damage it would cause to relations with China—a factor the USD 100

¹¹² Guisnel, *Armes de Corruption Massive*, Ch. 7.

¹¹³ “Taiwan – The Lafayette Affair,” World Peace Foundation, website, May 5, 2017, <https://sites.tufts.edu/corruptarmsdeals/2017/05/05/Taiwan-the-lafayette-affair>.

¹¹¹ Guisnel, *Armes de Corruption Massive*, Ch. 4.

million in bribes to Chinese officials was meant to overcome. The bribes were paid via state-owned oil company Elf Aquitaine, later revealed in a major scandal to have been used for years as a slush fund for bribes to both French and foreign politicians and officials. Foreign Minister Roland Dumas was accused of receiving bribes in return for softening political opposition to the deal. Dumas was initially convicted, but later acquitted on appeal. Strong suspicions of retro-commissions associated with the deal remained, but the investigation into this case was closed down in 2008 due to a lack of evidence.

Guisnel suggests that lack of evidence is a common challenge in investigating retro-commission cases because, even more so than in regular foreign bribery cases, very little paper trail is left. Agreements are made with a handshake, and money is frequently paid in cash. Politicians' proximity to the export decision-making process gives them much more assurance that bargains will be kept, at least compared with cases where an agent is employed to channel bribes overseas. In those more typical cases, bank transactions must be made, and subsequently hidden within webs of shell companies and accounts in non-transparent jurisdictions.

Angolagate

Probably the biggest French arms sales scandal in the 1990s, however, was Angolagate, a case involving many dubious or illegal features, of which alleged retro-commissions were only one.¹¹⁴ The scandal involved the sale of USD 790 million worth of arms to Angola between 1993 and 1998, during the civil war, and in contravention of French arms export laws. The arms were sourced from Eastern Europe, but brokered from France by arms dealers Jean-

Pierre Falcone and Arkady Gaydamak, through their front company Brenco. A connection between the arms dealers and the Angolan government was established by highly placed members of the French political establishment, including Jean-Christophe Mitterand, son of the French president, and Interior Minister Charles Pasqua. The deals involved huge commissions—as much as 50% of the value of the deal—to the two brokers, who used the money to bribe politicians, officials, and officers in both Angola and France.

This series of deals, of dubious legality, received extensive political support and cover from large parts of the French political and governmental establishment—in many cases in return for bribes (proven or suspected). Falcone and Gaydamak were recommended to the Angolan government in a letter from Pasqua, and Falcone obtained a privileged position as an agent for one of the French export agencies, SOFREMI (société française d'exportation du ministère de l'Intérieur). Support from the French establishment also facilitated the creation of a network of shell companies and offshore accounts used to launder the dirty money from the affair.¹¹⁵

In all, 36 individuals were convicted in a French court in 2009 in connection with the Angolagate affair, including politicians, military officers, businessmen, lawyers, government officials and advisors, and even a writer. These included Falcone, Gaydamak (in absentia, having fled to Israel where he had citizenship), Pasqua, Jean-Christophe Mitterand, and Jean-Charles Marchiani, a senior advisor to Pasqua who acted as a key intermediary between the arms dealers and the Angolan government. Pasqua was, however, subsequently acquitted on appeal; while he was shown to have received a donation of EUR 228,000 from Brenco towards his European parliament election campaign in 1999, no clear link could be established between this payment and the support he provided to Falcone.

114 “Angolagate,” World Peace Foundation, website, May 5, 2017, <https://sites.tufts.edu/corruptarmsdeals/2017/05/05/angolagate>.

115 Guisnel, *Armes de Corruption Massive*, Ch. 7.

Pasqua was, over the course of his political career, the subject of numerous criminal investigations relating to illicit political finance, but was only ultimately convicted (after appeal) in two such cases—one involving the sale of a casino, the second involving another case of retro-commissions, associated with sales of internal security equipment by SOFREMI, during Pasqua’s tenure as interior minister (1993-95). Falcone was once again one of the chief agents used by SOFREMI for the payment of commissions—regular and retro—and beneficiaries included various figures close to Pasqua, including his son Pierre-Philippe Pasqua, and Jean-Charles Marchiani. Charles Pasqua was convicted of complicity in the affair, rather than as a recipient of bribes himself.¹¹⁶

CDU PARTY FUNDING SCANDAL

The CDU party funding scandal was a far-ranging affair involving many cases of government corruption. While the scandal’s arms-related deals, both involving armored vehicles manufacturer Thyssen-Henschel, were relatively minor in monetary value, they produced allegations leading directly to the downfall of Helmut Kohl and his successor, Wolfgang Schäuble. In one important respect, the Thyssen-Henschel deals resembled the French retro-commission scandals: politicians in the exporting country were as much the target of bribes as those in the importing country.

In around 1985, the German firm Thyssen-Henschel¹¹⁷ began lobbying the Canadian

government for support to build an armored vehicles plant in the province of Nova Scotia, in an area called Bear Head.¹¹⁸ Thyssen-Henschel wanted both to sell vehicles to the Canadian armed forces and to circumvent Germany’s strict export regulations; the company sought from the Canadian government a five-year export license for sales to Algeria, Bahrain, Kuwait, Pakistan, Saudi Arabia, and the United Arab Emirates. The firm’s pitch to the government of Prime Minister Brian Mulroney, who represented a constituency neighboring the proposed project, emphasized the potential to revitalize the provincial economy. The project was never approved despite support from Mulroney and local politicians due to opposition from the defense and external affairs ministers, as well as their senior staff. Canada already produced armored vehicles, was not planning to purchase more in the short term, and the export licenses sought by Thyssen-Henschel challenged the Department of External Affairs’ traditional reluctance to approve controversial arms sales.

Nonetheless, over the course of a decade of unsuccessful advocacy for the deal, Thyssen-Henschel paid DM 4 million to a middleman, the German-Canadian Karlheinz Schreiber, who hired Canadian lobbyists and sought diplomatic support from the German government. In October 1994, Schreiber passed DM 100,000 to Brigitte Baumeister, CDU treasurer, as a donation for the party, during a period when he was continuing to lobby for the deal. Baumeister later testified that she handed the sum to Wolfgang Schäuble, then serving as the leader of the parliamentary CDU faction, but the sum was never booked into official CDU accounts. At the time, German campaign finance law required that donations worth more than DM 20,000 had to be declared.¹¹⁹ Mulroney

part of Rheinmetall.

¹¹⁸ The timeline and narrative produced here is drawn largely from Cameron and Cashore, *The Last Amigo*.

¹¹⁹ This transaction was revealed by Schreiber

¹¹⁶ “Charles Pasqua condamné à un an de prison avec sursis” [Charles Pasqua sentenced to a suspended one-year prison term], *Le Monde* (online), Apr. 30, 2010, http://www.lemonde.fr/societe/article/2010/04/30/charles-pasqua-condamne-a-un-an-de-prison-avec-sursis_1345326_3224.html.

¹¹⁷ Thyssen-Henschel was at the time a subsidiary of the Thyssen Industrie conglomerate, but is now

was never tried, even though a Canadian public inquiry found he had acted inappropriately in taking CAD 225,000 in cash from Schreiber in 1993, after leaving office, to lobby UN Security Council members to buy Thyssen-Henschel products.¹²⁰ Schreiber claimed both that the total fee was CAD 300,000 and that the arrangement had been made while Mulroneu was still in office.

While the Bear Head project never got off the ground, Thyssen-Henschel made good use of its middlemen to secure a deal to sell similar armored vehicles to Saudi Arabia during the Persian Gulf War. Jürgen Massmann, an executive at Thyssen-Henschel, had already established by the summer of 1990, during the build-up to the Gulf War, that the Saudis were interested in the Fuchs armored vehicle, a variant of which can operate under chemical, biological, radiological, or nuclear (CBRN) conditions.¹²¹ Massmann

in a January 2000 interview, leading to a series of mutual recriminations between Baumeister and Schäuble which ultimately cost the latter the chairmanship of the CDU. See “Q&A: Germany’s party funding scandal,” BBC News (online), June 29, 2000, <http://news.bbc.co.uk/2/hi/europe/610234.stm>; Christoph Maria Fröhder, Hans Leyendecker, and Stephan Wels, “Lügen, tricksen , täuschen - Die verlogene Ehre des Walther Leissler Kiep” [Lies, tricks, and deception – the false honor of Leissler Kiep], *Das Erste – Norddeutscher Rundfunk* (online), Aug. 30, 2001, <https://daserste.ndr.de/panorama/archiv/2001/Luegen-tricksen-taeuschen-Die-verlogene-Ehre-des-Walther-Leissler-Kiep,erste7584.html>; and Tony Czuczka, “Tearful Exchange in German Scandal,” *The Washington Post* (online), Aug. 29, 2000, http://www.washingtonpost.com/wp-srv/aponline/20000829/aponline140006_000.htm.

120 Les Whittington and Richard J. Brennan, “Brian Mulroneu acted inappropriately in accepting cash, inquiry finds,” May 31, 2010, https://www.thestar.com/news/canada/2010/05/31/brian_mulroneu_acted_inappropriately_in_accepting_cash_inquiry_finds.html.

121 Hans Leyendecker, “Gleiches Muster, schwi-

brought Schreiber into the deal to lobby the deputy minister of defense in charge of arms exports, Ludwig Holger Pfahls. Pfahls’ support was deemed necessary to help overcome the arms embargo that Germany had traditionally maintained on the Middle East. Another middleman, Mansour Ojjeh, arranged for bribes to Saudi parties. In September 1990, Pfahls, Saudi representatives, and Thyssen-Henschel executives agreed to a DM 446 million deal, with DM 220 million earmarked for consulting fees, for 36 armored vehicles (including 10 CBRN-capable vehicles) to be taken out of Germany army formations and transferred immediately to Saudi Arabia.¹²² Thyssen-Henschel would then manufacture replacements over time.

Despite encountering initial pushback from the German Ministry of Defense, which opposed selling the military’s own vehicles, and from other ministers interested in preserving the embargo, Pfahls and Schreiber were able to win cabinet support for the deal in February 1991. In August 1991, Schreiber handed over DM1 million (EUR510,000) in cash to CDU Treasurer Walther Leisler Kiep (Baumeister’s predecessor), and Horst Weyrauch, a party tax advisor. The sum was deposited into an account in Frankfurt and later dispensed to Kiep, Weyrauch, and Uwe Lüthje, another long-time party finance official. Schreiber insisted that the sums were a donation to the CDU.¹²³ Kiep had played a role in the Saudi

eriger Beweis” [The same pattern, difficult to prove], *Süddeutsche Zeitung* (online), May 19, 2010, <http://www.sueddeutsche.de/politik/prozess-gegen-thyssen-manager-gleiches-muster-schwieriger-beweis-1.885147>.

122 Michael Hilbig, Wolfgang Stock, and Olaf Wilke, “Schmiergeld Affäre: Schatten der Vergangenheit” [The Bribery Affair: Shadow of the Past], *Focus Magazin* (online), No. 47, Nov. 22, 1999, https://www.focus.de/politik/deutschland/schmiergeld-affaere-schatten-der-vergangenheit_aid_179097.html.

123 “Eine Million vom Waffenhändler - Die prominentesten Namen in der Affäre und ihre möglichen

deal; in early February 1991, Schreiber had met with him to push for the export approval, which was forthcoming at the end of that month.

In both the Canadian and Saudi deals, the commissions paid out by Thyssen-Henschel had a specific purpose. In the Canadian deal, it was to convince the Canadian government not only to support the Bear Head plant with promises of open export licenses, but also to buy armored vehicles from the plant in future. In the Saudi deal, the bribes were specifically targeted toward loosening the German export restrictions to the Middle East. However, the Saudi deal also included payments that amounted to normalized profiteering; not only did the Saudi participants receive DM 220 million in kick-backs through Ojeh, Schreiber allegedly paid out kick-backs to Max Strauss, son of long-time Bavarian leader Franz Josef Strauss. In both cases, it also appears that the bribes were first suggested by the selling company's side, although the bribes to unidentified Saudi beneficiaries are an exception.

The nexus between the German bribes and political finance seems fairly clear, even though some bribes clearly ended up in personal accounts. Both the DM 1 million delivered to Kiep and the DM 100,000 given to Baumeister were consciously handed over to party treasurers and clearly intended to be political donations. That they were not booked into party accounts is consistent with the pattern of off-budget patronage funds controlled by Helmut Kohl uncovered in the broader investigation into the CDU's internal finances. The Saudi bribes could be understood as rewards to powerful members of the government holding important sinecures

Motive" [A million from the arms dealer – the most prominent names in the affair and their likely motives], *Der Tagesspiegel* (online), Nov. 22, 1999, <https://www.tagesspiegel.de/politik/eine-million-vom-waffenhaendler-die-prominentesten-namen-in-der-ffaere-und-ihre-moeglichen-motive/105766.html>.

as part of a patronage network, although there is little that has been publicly reported that can put substance on this hypothesis. In Canada, Mulroney was retired, or nearing retirement, when he pocketed Schreiber's bribe. However, Bavarian employees at Messerschmitt-Bölkow-Blohm, which had previously hired Schreiber as a middleman on other Canadian deals, told their colleagues in Canada that commissions on those older deals were involved in the 1984 Progressive-Conservative Party's leadership competition, which had brought Mulroney to power.¹²⁴

THE FUTURE OF RETRO-COMMISSIONS

Retro-commissions scandals were a recurring feature of French arms exports in the 1980s and 1990s, and also the source of a major scandal in Germany. Retro-commissions are a particularly pernicious form of arms trade corruption, in that, in addition to subverting democratic processes and election finance limits, which are there to create a level playing field for political competition, they are frequently used to provide political cover for arms sales of dubious legality, or to provide political incentives for arms exports that would otherwise not be permitted. Moreover, deals involving retro-commissions almost always involve the more regular sort of bribery of decision-makers in recipient countries as well; indeed, they have often been conducted under the cover of such commissions.

Are retro-commissions still possible post-OECD Convention? They are likely to be more difficult to arrange. While European companies still do—now illegally—pay bribes to decision-

124 Specifically, the MBB executives claimed in these internal communications that CSU money had funded Brian Mulroney's leadership campaign against Joe Clark, and that commissions from Airbus and MBB Helicopter deals in Canada were used to compensate the CSU afterward. Cameron and Cashore, *The Last Amigo*, pp. 129-130.

makers in the buyer countries, it is no longer possible to enlist the direct involvement of state officials to arrange these, as was formerly the practice;¹²⁵ rather, they must do so through their own network of shell companies and agents, independently of politicians. Meanwhile, politicians cannot, as was the case for example in L'affaire Karachi, insist that the exporting company use particular agents they have enlisted, with a view to receiving retro-commissions. The possibility of companies seeking to bribe ministers to overcome political objections to a sale cannot be ruled out, but this could only be done at greater risk to all concerned, lacking a legal and state-sanctioned mechanism (the main commissions package) to disguise the payments.

Nonetheless, it would be premature to write an obituary for the phenomenon of retro-commissions, given the continuing insatiable demand for political finance, licit or illicit, in polities of all types. The Sarkozy Libyan case (see above) is a timely illustration of this. While the allegations in this case do not concern retro-commissions, being instead an example of direct bribery of a French politician by a foreign leader, there is certainly an arms deal connection. According to the allegations, Sarkozy, as interior minister, authorized the export of considerable internal security technology to Libya, following years of embargo. As president, Sarkozy sealed numerous arms deals with Gaddafi (of which only some were delivered, before the outbreak of war in 2011), and also did much to rehabilitate the dictator's image in the international community.¹²⁶

¹²⁵ In fact, the UK Ministry of Defence already retreated from direct involvement in arranging bribes in the 1970s, preferring to leave the matter to companies to organize for themselves, while turning a studiously blind eye. Nicholas Gilby, *Deception in High Places: A History of Bribery in Britain's Arms Trade* (London: Pluto Press, 2013).

¹²⁶ Fabrice Arfi and Karl Laske, "Nicolas Sarkozy a bien servi les intérêts de Kadhafi. Voici les preuves" [Nicholas Sarkozy served Gaddafi's interests well:

Moreover, an old friend shows up once again in this latest tale: Ziad Takieddine, the French-Lebanese businessman who was the key agent in the Pakistan and Saudi retro-commissions affair, has claimed that he personally delivered suitcases full of Libyan money to Sarkozy.

6. CONCLUSIONS

Major arms deals are, by their nature, intensely political affairs. Decisions are taken at the highest levels of government and are strongly influenced by relations between states. Where deals are sufficiently large in relation to the country's economy or defense budget, they may also draw political interest and controversy beyond the innermost circles of government. In this light, it is not surprising that politicians' personal and political interests—and the corrupt pursuance of these interests—are often a factor.

The demand for funding for political activities is an important motivating factor for politicians to seek corrupt payments in general, arms-related or otherwise. Whether this is a more or less important motivation than personal greed is a moot point; clearly both are significant. However, the motivations, hence the patterns of payments, are tied to a country's governance system:

- In democracies—the primary focus of this paper—the major part of this political spending is for campaigns for elected office, both to become a party's candidate and in general elections. In addition, however, internal party competition and patronage, not directly linked to e.g. primary campaigns, and general party running costs may also be important.
- In authoritarian systems, political finance is

here is the proof], *Mediapart* (online), Apr. 4, 2018, <https://www.mediapart.fr/journal/France/040418/nicolas-sarkozy-bien-servi-les-interets-de-kadhafi-voici-les-preuves>.

related less to elections (which are strictly for show if they take place at all), and more for sustaining patronage networks.

- In partial democracies, activities such as vote buying, paying local enforcers, and buying the loyalty of those responsible for conducting elections may involve significant costs.

The arms business, due to its lack of transparency, connection to political power, and special features such as offsets, lends itself particularly well to the generation of such illicit, off-the-books sources of political finance. The cases presented in the Compendium of Arms Trade Corruption, in particular those discussed in this paper, illustrate the importance of this link. Through these cases, and the framework introduced in this paper, we can make some preliminary observations about the nature of the connection between political finance and the global arms trade, and the patterns of distribution of corrupt payments.

The first conclusion we can draw from this study helps us understand and predict the range of bribe-recipients in any case, and suggests why bribes are paid out to some officials but not others. A purely instrumental, individual greed-motivated view of corruption would suggest that bribes should be paid primarily to key decision-makers in the procurement process. While many key decision-makers do take bribes, numerous cases suggest that the network of corrupt actors is often much more widespread. These networks can be large for two reasons. In some cases, the key decision-makers have to bring in party officials in order to connect the bribe-giver with accounting experts who can render the monies legitimate enough to spend. Both the Belgian and German party funding scandals saw party treasurers playing a key role in organizing the transactions; in the Barak missile scandal, officials of the Samata Party were key intermediaries. In other cases, the decision-makers feel obligated to reward their political network with bribes to allies occupying key sinecures. Thus, a political

finance perspective on arms trade corruption directs our attention to a larger pool of potential conspirators than a purely instrumental view.

Furthermore, whatever the original political motivations for the corruption, once a corrupt deal is in motion, it can generate secondary corruption requiring the further distribution of bribes; this can be to pay off potential ‘spoilers’, to ensure loyalty among those who are not connected with the decision but who expect their cut, or (in the case of deals large enough to garner serious national attention, such as in South Africa) to build up a broader political base of support for the deal. The need to cover up corruption can generate not just further financial corruption, but also subversion of political and judicial institutions and processes.

Second, the compendium’s case studies give some support to the hypothesis that intra-party competition can be a driver of corrupt activity. While only one of the cases, the French retro-commissions scandal, can be linked directly to a primary campaign, several more were connected to off-budget management of internal party politics. More importantly, payouts to a large networks of sinecured political allies are a very common feature among the case studies. Sometimes, these allies may not even be supporters of the political decision-makers, but rather protectors of the key intermediaries involved in the deal; this would describe the alleged relationship between Franz Josef Strauss of Bavaria and the Canadian-German businessman Karlheinz Schreiber.

The size of political parties seems irrelevant to their susceptibility to corruption; dominant political parties, such as the ANC in South Africa, can be tempted to use corrupt monies for electoral expenses, while minor ones, such as the Samata Party in India, could parlay control of the defense ministry into illicit profits. The longevity of a democratic regime also seems largely irrelevant, with both young (South

Korea, Taiwan) and old (France, Germany) democracies falling prey to scandals. It is unclear whether the size of deals is important; the compendium includes relatively small cases, such as the Belgian F-16 upgrades program, but also marquee once-in-a-generation contracts.

Third, the role of intermediaries is directly tied to our understanding of who needs to be bribed in the political system. While intermediaries are essential actors in grand corruption schemes because of their specialized knowledge in money laundering and related illicit white-collar techniques, an equally important role they can play is providing the prospective bribe-giver with a pre-existing knowledge of the power structure that needs to be corrupted. The reappearances of Ziad Takieddine in the French cases, of Alfons Puelincxk in the two Belgian cases, of Count Alfons Mensdorff-Pouilly in the Austrian, Czech, and Hungarian deals, and of Sudhir Choudhrie and other arms brokers in the Indian cases all support this theory. However, in the many cases where the bribes were relatively centralized through a key decision-maker, the intermediaries' role in identifying the important power centers was essentially taken over by the political principals themselves.

This report has primarily focused on political corruption cases involving democracies – that is, either as the recipient country, or as the supplier in cases involving retro-commissions. (The recipients in some of the latter cases were not democracies in any sense). This does not mean that political finance corruption is not also a factor in more authoritarian countries; rather that the nature of politics and political finance in these countries is likely to be more opaque and less subject to detailed scrutiny by domestic media and investigative authorities. Also, where electoral competition is less of a serious factor, political finance corruption is more likely to relate to maintaining patronage networks in a political marketplace than in funding election campaigns and regular political

party activities. In some cases, it is known or suspected that senior politicians have received large bribes (for example, Prince Bandar bin Sultan in Saudi Arabia in the al Yamamah deals), but the uses to which this money was put, be they personal or political, is completely obscure.

The policy prescriptions for dealing with this type of arms trade corruption include many that are not substantially different from those relating to other forms of arms trade (and other) corruption: more transparent and accountable budgetary and procurement processes, and greater international financial transparency. A major focus currently in anti-corruption work, for example, is to ensure transparency in “beneficial ownership”, that is make it possible to know who are the actual owners and beneficiaries behind shell companies and other corporations. A significant step forward was the recent decision of the UK Parliament to require public registers of beneficial owners in UK Overseas Territories, such as the British Virgin Islands.¹²⁷ Such measures are as relevant to arms trade and political finance corruption as to other areas.

However, understanding the political finance dimension adds another dimension of difficulty to the problem, in that the incentives for tolerating corruption run deeper than the greed of individual politicians and officials, to the functioning of the political system itself. This means that some of the key agents of scrutiny, such as parliament, may be compromised. Ruling parties, or key factions therein, may well seek to prevent or obstruct investigation of corruption cases in which they are the political beneficiaries; in contrast, if an individual minister has taken bribes purely for their own purposes, it may suit the interests of the government to allow

¹²⁷ D. Sabbagh, “‘Dirty money’: U-turn as Tories back plans to make tax havens transparent”, *The Guardian*, 1 May 2018, <https://www.theguardian.com/politics/2018/may/01/UK-to-introduce-public-ownership-registers-for-overseas-territories>.

this individual to be held responsible. The South African case in particular provides the clearest cautionary tale as to how a political establishment can close ranks to protect its own interests and stymie an investigation, and in so doing undermining the proper functioning of the rule of law in a young democracy.

This form of corruption not only poses a legal and technical challenge, but a political one as well. Overcoming it requires sufficiently robust and independent judicial institutions, capable of resisting the most powerful of political pressures. It also calls for more intense scrutiny of the funding and expenditure of parties and campaigns. This in turn requires a powerful political will to adopt measures that will foreclose options for political financing, limiting the future funding options of both the reforming coalition and its rivals.

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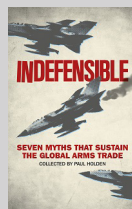
of England, working mostly in the field of defence and peace economics. He holds PhDs in Mathematics and Economics, and is the author of numerous publications on defence and peace economics, development economics, arms industry and trade, and mathematics.

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