

L'affaire Karachi

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Introduction

A car bomb explosion in Karachi, Pakistan, on May 8, 2002, killed fourteen people, including 11 French nationals, employees of the French state shipbuilder Direction des Constructions Navales (DCN, now DCNS), and exposed a major corruption scandal in France and Pakistan. The DCNS employees were working on the construction of 3 submarines ordered by Pakistan in 1994. While initial suspicions for the bombing fell on Al Qaeda, another line of inquiry quickly developed: that the bombing was the work of a Pakistani official angered that he was no longer receiving the bribe payments he'd been promised as part of the deal.

Investigations into the submarine deal had already begun in Pakistan in 1997, when the Pakistani chief of Naval Staff admitted the existence of large bribes, or commissions, paid by DCN to secure the deal. The attack in Karachi prompted new investigations in France, which gradually revealed a system of commission payments—bribes and kickbacks—tied not only to the Pakistani submarines, but also three frigates sold to Saudi Arabia. As well as being used to bribe officials in the recipient countries, some of the commission payments were channeled back to France as so-called 'retrocommissions', to fund the 1995 Presidential election campaign of Edouard Balladur, the French Prime Minister at the time of the deal.

Key Facts

Buyer countries: Pakistan, Saudi Arabia

Selling Countries and Firms: DCN (France)

Year of Procurement Decisions: 1994 (both Pakistan and Saudi Arabia)

The Equipment Sold:

- 3 Agosta-B Submarines (Pakistan – “Agosta” contract)
- 3 La Fayette Frigates (Saudi Arabia – “Sawari II” contract)

Initial Price:

- FRF (1994) 5.41 billion (Pakistan) or USD (1994) 976 million
- FRF (1994) 19 billion (Saudi Arabia) or USD (1994) 3.43 billion

Sum involved in corruption allegations: EUR 327 million

Dramatis Personae

Renaud Donnedieu de Vabres – special advisor to the cabinet of Defence Minister Francois L  otard; on trial for misuse of corporate assets and concealment of the misuse.

Thierry Gaubert – advisor to Budget Minister Nicolas Sarkozy; on trial for misuse of corporate assets and concealment of the misuse.

Nicholas Bazire – director of the cabinet of Prime Minister Edouard Balladur; on trial for misuse of corporate assets and concealment of the misuse.

Dominique Castellan – former president-director general of the international division of DCN; on trial for misuse of corporate assets and concealment of the misuse.

Francois Léotard – former French defence minister (1993-1995); under judicial investigation on suspicion of complicity in the misuse of corporate assets.

Edouard Balladur – prime minister (1993-1995); placed under examination by an investigating magistrate as of May 2017; under judicial investigation on suspicion of complicity in the misuse of corporate assets.

Ziad Takieddine – businessman and middleman for commissions; on trial for misuse of corporate assets and concealment of the misuse.

Abdul Rahman El-Assir – businessman and middleman for commissions; on trial for misuse of corporate assets and concealment of the misuse.

Ali Ben Moussalem – suspected mastermind of the intermediary group; deceased since 2004.

Admiral Mansur ul Haq – chief of Naval Staff in Pakistan (1994-1997); sacked for receiving bribes

Nawaz Sharif – Prime Minister of Pakistan (1990-1993, 1997-1999)

The Arms Deal

Since 1992, France competed with Germany and other arms exporters to sell submarines to Pakistan. French state shipbuilder DCN ultimately won the contract, signed in 1994, to sell 3 Agosta-class submarines to Pakistan for USD 976 million, with the first to be built in France, and the other two in Pakistan, with support from DCN. As a major international arms sale by a state-owned company, the process of negotiating and securing the deal involved the highest levels of the French government, in particular Defence Minister Francois Léotard and Prime Minister Edouard Balladur.

At the time, the payment of commissions in connection with major arms deals—payments made by exporting companies to agents and middlemen, who in turn use the funds to channel bribes to key decision-makers and other relevant officials in the prospective buyer country in an attempt to seal the arms deal—was standard, and legal in France. This changed in 2000 when France signed the Organization for Economic Cooperation and Development (OECD) Bribery Convention. At the time, the payment of commissions was so regular a feature of such deals that French government ministers assigned the French Defence Export organization, La Société Française de Matériels d'Armement (SOFMA), with the task of handling 338 million Francs (EUR 51.5 million) of commission payments for the submarine deal to Pakistani decision-makers.

Corruption Allegations

In autumn 1994, shortly before the signing of the “Agosta” contract in September, Renaud Donnedieu de Vabres, special advisor to the cabinet for Defence Minister Francois Léotard, imposed two new middlemen into the deal, Franco-Lebanese businessmen Ziad Takieddine and Abdul Rahman El-Assir. They were allocated a further 216 million Francs (EUR 33 million) in commissions. Takieddine and El-Assir were also given roles as middlemen for at least 200 million Francs (EUR 30.5 million) of commissions in another deal, “Sawari II,” selling three DCN La Fayette-class frigates to Saudi Arabia, also signed in 1994.

These two new middlemen, whose official role in the deal is not clear, are alleged to have been used to channel some of these commission payments back to France, to fund Balladur’s presidential election campaign, thereby circumventing France’s strict campaign spending limits. This back-channeling of commissions is known in France as ‘retro-commissions,’ and was illegal even at the time. Unusually, Takieddine and El-Assir were paid the bulk of the FRF 216 million commission up front in 1995, through a Luxembourg shell company, Heine SA, established for this purpose by DCN. Early payment of commissions would have been necessary for them to be used for the 1995 Presidential campaign.

The Investigation and Outcomes

In the 1995 French Presidential Election, Prime Minister Balladur was defeated in the first round of voting by his rival in the center-right Rassemblement pour la République (RPR) party, Jacques Chirac, who went on to win the Presidency in the run-off against Socialist Lionel Jospin. When Chirac assumed the presidency, he ordered an investigation into the possibility that retro-commissions had funded Balladur’s campaign. On discovering that they had been part of the Pakistan and Saudi deals, he ordered the payment of commissions for both to be stopped. This investigation was carried out within the French government’s executive office at the Elysée Palace and was not made public when it occurred.

In Pakistan, Prime Minister Nawaz Sharif, who was elected to a second term of office in 1997 (having previously ruled from 1990-1993), started to investigate corruption in arms deals under previous governments. Former Naval Chief of Staff Admiral Mansur ul Haq was blamed for the commissions in the Agosta deal, and was forcibly retired. Subsequently, under President Pervez Musharraf, he was extradited from the United States in 2001 and arrested. He was later released in 2002 under a plea deal, where he admitted receiving kickbacks in connection with various arms deals, and was fined and stripped of rank.

In June the following year, a Pakistani court sentenced to death three men, Asif Zaheer, Mohammad Rizwan, and Muhammed Sohail, for their roles in the attack, allegedly carried out on behalf of an al-Qaeda-linked group. However this otherwise unremarkable tragedy in the “global war on terrorism” was anything but neatly wrapped up. Investigators in France quickly called into question the official narrative and a Pakistani appeals court reversed the convictions in 2009. Others accused of or suspected of taking bribes included Admiral ul

Haq's predecessor, saeed Khan, whom ul Haq claimed was responsible for the deal; a former director of naval intelligence; former Prime Minister Ali Zardari; and a number of other naval officers.

Following the May 2002 bombing, parallel investigations began in France, one on the official hypothesis that the attacks had been conducted by an al-Qaeda affiliate, and the second tracing the possibility of a connection to the Agosta deal. The second investigation, spearheaded by former counter-espionage official Claude Thévenet, concluded that the attack may have been orchestrated by Pakistani officials angered by the cessation of bribe payments. These conclusions were summarized in a September 2002 report entitled "Nautilus." The Nautilus report was kept secret, but leaked in 2008 and publicized by the French outlet *Mediapart*. This led to further investigations, pushed by families of the victims, by Marc Trévidic and Renaud Van Ruymbeke, into the retro-commissions theory of the attack (Trévidic), and the retro-commissions themselves (Van Ruymbeke). Van Ruymbeke also investigated retro-commissions in the Saudi contract.

A judicial report in 2014 by Van Ruymbeke and another judge confirmed the existence of the retro-commissions, with Balladur and Léotard held responsible, along with the other officials and intermediaries named above. The report also gives a total figure of EUR 327 million for commissions paid on the Pakistan and Saudi deals, via the "Network K" of intermediaries, including Takieddine and el-Assir. The report concluded that the information they had received could lead to the criminal liability of Balladur and Léotard, for actions carried out in the course of their duties as members of the government, the investigation of which falls under the responsibility of the Court of Justice of the Republic. Donnedieu de Vabres, Takieddine, and other officials, were referred for investigation by a Correctional Tribunal—courts which deal with intermediate levels of offenses. Following an appeal and an order to review the judgement by the Court of Cassation, these referrals were confirmed in May 2016; in July 2017, they were referred to trial. Balladur and Léotard were placed under formal examination by an investigating judge in May and July 2017, respectively. The cases remain ongoing.

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