

## **Review of MLATs received in the Eli Cohen case**

### **File 46/11/20 – MLAT from Israel to the UK**

1. Letter of סג"צ ירון לונדון, רמ"פ פשמ"א בינ"ל יאחב"ל to Yitzchak Blum of 4/10/2011: In the 2004 search of Cohen's premises, investigators discovered that Cohen had sold a CSD for the F-14 that Cohn to Andrew Marks's company Logic Resources – no proof at that Cohn knew that it was destined for Iran. Yachbal asks Yitzchak to find out if Israeli investigators can be permitted to participate in the upcoming proffer in England of Marks that the Americans will be conducting.
2. The U.S. agreed to Israeli participation in the proffer in London. According to Marks's information, Cohen would send U.S. origin parts to Viktoria Air Cargo which is the freight forwarder in Germany Marks used to ship to Iran. Viktoria would repackage the goods. One of Viktoria's primary employees was an Israeli citizen named Mordechai Lictman.
3. The Americans had been informed of the results of 15 of Gadi Watterman's undercover files.
4. The initial response, which was changed later: The Americans and the British agreed to the presence of Israeli investigators during a conversation with Marks which would be held in the U.S. Embassy in London but no recording to the conversation by the Israelis will be possible and Marks will not sign any written statement. Therefore Yachbal decided not to participate. Also representatives of the Israeli MOD decided not to attend, for the same reason.
5. Gadi Watterman told Yitzchak on Nov. 7, 2011 that Marks is willing to meet the Israelis separately and sign a statement for them and therefore Yitzchak should submit an MLAT to the UK.
6. In 1999 and in 2002 Israel investigated Cohen on suspicions of selling military equipment destined to an "enemy" end-user. – See the letter of Jan. 11, 2012 from רואי כחלון. This letter also shows that in a meeting with Amit Eisman on 28.8.2011 it was decided that Malmab would check out the following

regarding its undercover files: a) Are the items Cohen exported on the list according to the new law? B) Are they dual use items?

7. On July 9, 2012, the Americans agreed that Israeli investigators could be present at the American interview of Marks in London and make either audio or video recordings or both and also have Marks sign statements, as long as they shared them with the U.S. Richard Joffe, the ICE Attache in TA wrote the above and also opined that they "interpret" Marks's cooperation agreement to include testimony in "other countries, if the U.S. prosecutor requests it". The Americans also agree to VC testimony of Marks by Israel.
8. On Dec. 5<sup>th</sup>, 2012 Yitzchak sent a MLAT to the UK in order to request to interview Marks. Marks already had been interviewed in Conn. by U.S. investigators with the participation of Gadi Watterman – August 2011. In the end, the Israeli interview in the UK did not take place.
9. Meeting of 20/2/2013 – Amit Eisman, Moshe Kachlon, Richard Joffe, Mathew, Noach Nadler of Malmab, Liron Cohen, Ayellet Levy, Hadas (Praklatut Haifa) - **Richard stated that at this stage, Israeli investigators are asked not to conduct investigative acts involving Marks. Ayellet Levy, on the basis of her preliminary review of protocols and materials brought before her, stated that there is ample prima facie evidence for Cohen's arrest and extradition to the U.S. – Decided: that Yachbal won't investigate and Israel will not interfere in the American investigation. On this basis Amit sent a letter on Feb. 26, 2013 to Eli Abarbnel stating that there is no basis at this time to send him the investigation file.**

**Note: There is no connection between Arie (Eli) Cohen and our old file no. 3/04/32.**

#### **11/93/21 – American MLAT to Israel of September 29, 1993:**

This file deal with various suspicions under investigation by the U.S. including *inter alia* "conspiring to illegally export defense articles from the United States", "exporting defense articles from the United States for diversion to Iran", and "exporting defense articles from the United States to Israel allegedly for the Israeli Ministry of Defense" and "exporting additional defense articles from the United States and Israel for diversion to Iran".

The MLAT requests "the investigative file of the MOD with respect to Cohen and ...AVS from the time period September 1992 through the present; records from the MOD relating to quotations, orders, solicitations, deliveries to or from AVS from the

time period January 1, 1991 through May 5, 1993", bank records, shipping records, and "records from the Israel Foreign Trade Risk Insurance Corp. relating to AVD, Haitai (H.K.) Company, Haitai International, Inc., Metropolitan Airmotive Portugal/Metropolitan Airmotive Portugal LDA/ Metropolitan Airmotive of Europe, Ltd., Amblecode Seoul Ltd./Amblecode Trading Ltd./Ambelcode Trading Handels Gmbh, and Albert Berg Gmbh".

"Urgency of this Request The trial in this matter is scheduled for November 8, 1993 before United States District Judge Edward R. Korman in Brooklyn, New York. These records are needed to establish elements of some of the crimes with which Cohen is presently charged, to establish critical elements of some additional crimes with which Cohen is expected to be charge on October 18, 1993, and to comply with the prosecutor's discovery obligations under United States law".

The MLAT contains multiple pages outlining the factual suspicions against Cohen. In short: "In August 1992, the Portuguese Customs Service discovered a shipment of Unites States-manufactured defense articles – consisting of 120 engines, 120 transmissions, 120 final gear drives and related components...all for the M113-A1 Armored Personnel Carrier – stored in two partially state owned warehouses in Lisbon and Alverca, Portugal. Portuguese law enforcement authorities discovered that three representatives of the Iranian Ministry of Defense inspected this shipment of defense articles, along with several co-conspirators....During this time, Cohen advised Aerofrete, the freight forwarder handling this shipment, that these articles were to be exported to Iran. The Portuguese government determined that the owner of the defense articles was AVS, a company controlled, owned and headed by Cohen.....It was determined that these articles had arrived in Portugal via Israel, Rotterdam, Netherlands, Cadiz, Spain and the United States. Furthermore, some of the defense articles...had been exported from the United States for use by the Israeli Ministry of Defense. In fact, the Israeli Ministry of Defense was not the end user of these items and had never ordered them from either Cohen or AVS; nor did Cohen receive authorization from DTC...to export these articles from Israel to Portugal. After the discovery of the defense articles, Cohen represented to the Portuguese authorities that the final gear drives had been shipped to Lisbon at the request of the Portuguese Army, through its agent, Metropolitan Airmotive, LDA, while the other articles were strictly commercial....The Portugese Army, however, determined that it had never ordered these final gear drives; that it had no relationship with AVS or Cohen....The Portuguese authorities gave AVS the option of returning the defense articles to the United States or shipping them to Israel; Cohen advised that the articles would be returned to the United States. Instead, Cohen arranged for Euroatla, a Portuguese shipping company, to ship the defense articles to LeHavre, France. Upon reaching France, though, the defense articles were secretly transshipped to another vessel in Cherbourg and surreptiously delivered to Iran on

or about December 28, 1992, as scheduled. Meanwhile, Cohen and his co-conspirators obtained substitute goods and shipped them until May 5, 1993, to the United States in place of the defense articles". Prior to the shipment to Portugal, "On June 8, 1992, Cohen caused Union Bank of Israel, Ltd., to issue an irrevocable letter of credit for \$186,042 in favor of Omni International Ltd., of Imlay City, Michigan, U.S.A. (the manufacturer of the final gear drives discovered in the Portuguese warehouses). On June 25, 1992, Cohen caused the same bank to issue another irrevocable letter of credit for \$216,000 in favor of Tracom, Inc., of Ft. Worth, Texas, U.S.A. (the manufacture of the engines discovered in the Portuguese warehouses)". The latter pleaded guilty to violation of the Arms Export Control Act and its principal pleaded guilty to submitting "a false and fraudulent document to the U.S. Customs Service". "On January 6, 1993, after the delivery of the defense articles to Iran, Cohen caused payment by Shinhan Bank of Hong Kong to Bank Leumi London, of another irrevocable letter of credit, for \$1,564,940, as payment for delivery of the 120 final gear drives, 120 transmissions, multiple engines and related components. Thereafter, a portion of these proceeds was transferred to Cohen's personal Swiss bank account, following which monies were transferred from the Swiss account to an account in the name of his wife (No. 92275), Hanna Cohen, at Apaolim Bank Ltd., Netanya, Israel". "Meanwhile, in September 1992, after news accounts of this incident appeared in Lisbon and Tel Aviv, the Israeli MOD commended an internal investigation into this matter, during the course of which Cohen was apparently interviewed on at least one occasion. On March 8, 1993, a grand jury in Brooklyn returned a seven-count indictment charging Cohen with various offenses relating to this illegal scheme, and a warrant was issued for Cohen's arrest".

In April 1993, the Israeli MOD restored Cohen's export license and terminated its investigation because it did not unearth any direct evidence of Cohen's involvement in the shipment from France to Iran and because it did not receive requested information from the U.S., due to the "pendency of an undercover investigation in which the Vice President of AVS in Manhattan (Eugene Pascal) had secretly pleaded guilty to submitting a false and fraudulent document to the U.S. Customs Service, and was cooperating with the United States against Cohen and others". [Note that AVS (Netanya) is an Israeli company and there also is an AVS in the United States with an office in Manhattan – Cohen is the Director and manager of both companies]. On April 14, 1993 Cohen was arrested in the United States and his briefcase seized. It contained "extensive books and records", including "important documents relating to this conspiracy" (some examples were provided in the MLAT).

The MLAT offenses were conspiracy, violations of the Arms Export Control Act and regulations, making false or fraudulent statements and money laundering (also smuggling goods into the U.S.). There are no violations of the International Economic Emergency Act – apparently this indictment predated that act, but the Indictment in

the United States specifically and clearly includes Cohen's intention to ship these goods to Iran. It also states that the goods arrived in Iran as scheduled and Cohen received the money from the Letter of Credit issued originally for this shipment. Some of this money went into the bank account of his wife, Hanah in Israel.

The MLAT further states: "The prosecutor has been advised that the MOD and the Government of Israel, did not order and never authorized Cohen to order on its behalf, the following items: replacement parts for "Hawk" anti-aircrafts system, engine and transmission for M113-A1 Armored Personnel Carriers", etc.

Thereafter in an undated letter, Attorney Ruth Bar of the Ministry of Defense asked the U.S. prosecutor for :a copy of a document found in Eli Cohen's briefcase. This document is the one confirms the transfer of defence/military articles to Bandar-Abbas port in Iran". Also, the American request of October 3, 1993, to received transcripts of the oral arguments before the Supreme Court (in an unspecified case) was denied. [From other documents, he is referring to a Begatz case – בג"צ 4311/93 -brought to prevent Israel from providing the Legal Assistance requested in the above MLAT]. A Certificate of Immunity was issued on documents in the Begatz, for national security purposes and those of foreign relations – signed by then Prime Minister and Minister of Defense Yitzchak Rabin.

The Americans were notified that representatives of Israel's MOD would not travel to the U.S. to testify against Cohen in the upcoming trial.

In the Begatz case 43311/93, the Mancal of the MOD provided an affidavit ללא פרסום, which stated the following: On 12/7/92 MOD signed a contract with AVS, by means of its director, Eli Cohen, providing for the sale by the MOD to AVS of 48 surplus engines for a "נגמ"ש". According to the contract, AVS had to provide a "End User Certification" and that the goods were sold for purposes of export to the United States, only. This affidavit refers to a notification by the American authorities to the AVS representative in the U.S. , Pascal [the Vice President of AVS in NY], that the company's request for an export permit was denied due to the fact that an indictment had been filed against Eli Cohen in the U.S. for violations of Section 38 of the Arms Control Act and Eli Cohen is the Director and Manager of the U.S. AVS company. On 13/9/93 a committee recommended temporarily to suspend AVS (Netanya) from the list of suppliers of the MOD, due to the suspicions in the U.S.. Despite this, the other AVS company was not suspended –(כרמיאל)אופטיקה ומתכת - AVS - The IDF was ordering periscopes from this company. The MOD is considering the committee's recommendation and has yet to decide on השעייה.

On August 30, 1993, פשי, היועץ המשפטי למערכת הביטחון, informed Cohen's attorney that the committee recommended that AVS and Cohen would be considered only for purchases from the MOD of "not significant military equipment" only. Additionally, due to the American intention to issue an indictment, the MOD will request additional information from the Americans and might not issue Cohen and AVS export licenses. This letter relates to a Begatz no. 4311/93. It explains that Cohen has failed to prove that 50 engines he purchased from the MOD and exported actually were sent to the U.S. The letter also states the following:

4" ("יודגש, כי בדבריו בשימוע הצהיר מר כהן כי המנועים יוצאו על ידו מישראל לליסבון-פורטוגל במסגרת עסקה עם חברה דרום קוריאנית (כאשר תחייב למשהב"ט על ייצוא לארה"ב), ורק בשלב מאוחר כלשהוא (לא נמסר תאריך מדויק, ואף לא ניתן הסבר לשנוי ביעוד) החליט על מכירה לחב' אמריקאית בפלורידה. לאחר שזו חזרה בה, החליט למכור הציוד לחב'")

Ambelcode

שהינה חברה הרשומה בלונדון ואשר לדבריו של מר כהן עצמו בשימוע, הינה בעלת קשרים עסקיים גם באיראן. בהקשר זה ראוי לציין כי למדינת ישראל, רגישות מיוחדת לגבי עסקאות עם איראן נוכח פעולות הטרור העויינות של חיזבאללה מלבנון וכן רגישות במישור הקהילה הבינלאומית".

On 1/6/93 Ambelcode Trading Ltd. of London wrote to AVS in New York that it confirms receipt from AVS of 50 engines "after modification to commercial type-demilitarization at United State cost". (retroactive letter)

On 12/7/93 Eli Cohen, on behalf of AVS in New York, wrote to AVS in Netanya that he confirms "the receipt of 50 Engines Type 6V/53 in the United States. These engines include 48 Engines purchased by AVS Ltd. from the Israel Defense Forces". (retroactive letter)

Cohen failed to provide a Bill of Lading proving that the engines arrived in the United States and also failed to provide any U.S. Customs documentation of this claim.

פרוטוקול [סודי] שנערך ע"י הועדה המייעצת למנכ"ל (בהתאם להמ"ב 43.11) למר אלי כהן ביום 18.8.93: כהן ובאי כוחו נכחו בישיבה זו: אל כהן העיד כי הוא רכש 49 מנועים ממשדד הביטחון וקיבל היתר ייצוא בו לא צוין ה- אנד יוזר אך שהציוד נועד למטרות אזרחיות. "במפעלים בנתניה בוצע אזורח למנועים. תצהיר של סא"ל זוהר, הובא על ידי – לפיו נאמר כי לא ניתן לעשות שימוש צבאי במנועים האמורים. התצהיר מראה שאכן בוצע אזורח למנועים ב-92".

He testified that he sent 120 engines to Portugal, including the 49 above, (the others were not sent from Israel), in order to meet his order from a South Korean company named Haiti and the latter **assured him** that the engines were destined for the

United States. ההינעים were not suitable to Iran. Cohen further claimed that there is no need for an export license for the goods because they also have a civilian use. "מנועים לשימוש אזרחי, וכך נאמר גם בהיתר עצמו". "המשלוח מצרפת לדרום קוריאה יש שטר מטען בו מפורטים מספרי המנועים שיצאו מפורטוגל ורואים במפורש ש-49 המנועים שנשלחו מישראל לפורטוגל אינם אלו".

His client in Florida got "cold feet" so he sold to the sister company of Haiti named אמבלקוד in London. He sold to that company at cost because he was left penniless. Furthermore, the Supervision Order does not apply to engines or engine parts. Cohen said that he didn't have the money to send the 49 engines to the United States so the British company sent them to Rotterdam and then Cohen sent two people from Cohen's German company (Berg) to Rotterdam to finish the conversion of the engines to civilian use. "הם גמרו את האזרוח". He has a certification about this conversion from Ambelcode, which he submitted. It is signed by a "Mr. Ree", manager of the company. From Rotterdam, in January-Feb. 1993, the 49 engines were sent by Ambelcode to AVS in Baltimore. Cohen is waiting to get the bill of lading from Rotterdam to Baltimore, which Mr. Ree will send him. The engines arrived in Baltimore at the end of Feb., the beginning of March. He has an undertaking from Ambelcode that it will send the engines to the U.S. and a letter from himself as head of AVS in NY that the engines indeed arrived in the U.S.; Cohen is trying to locate Mr. Gee in order to get Ambelcode's assurance. Cohen was asked to testify that no engines, from any source were sent to Iran, according to any agreement to which he was a party. He testified:

"לא היה סיכום דברים לא בע"פ ולא בכתב, או כוונה לשלוח המוצרים למקום אחר, 120 מנועים לדרום קוריאה, ו-50 מנועים לארה"ב".

Cohen stated that he discovered from a Portuguese member of Parliament that the freight forwarder connected to Ambelcode had business in Iran and that the "customer" initiated the sale to Iran, without Cohen's agreement. Furthermore, in the Letter of Credit opened in Bank Leumi in London with Haiti, Cohen included a provision that the goods would be transferred from one European port to another, to prevent transport to Iran. Cohen also received a copy of a letter from Haiti to the United States, stating that all 120 engines and the propulsion elements "והמסרות" arrived in South Korea. Upon request, Cohen testified that he had not violated the American Arms Export Control Act. Furthermore, Cohen stated:

"העובדה שצבא האמריקאי עד לרגע זה לא ביטלו חוזים איתי וקבלתי בקשות למכרזים חדשים... הרישיון האחרון שקיבלתי מהם היה בפברואר '93 לפריט בערך \$545. עוה"ד שלי מתמנה כתת שר לנושא

#### ARMS CONTROL

הוא מכיר את הנושא, ונתן לי חו"ד משפטית כי ניתן יהיה ליישר את הדברים".

He also explained that the Americans are going to settle for AVS's confession to a technical violation and the company will receive a \$10,000 fine.

Cohen has no idea where the engines went in the U.S. and the committee said that they should be located. Cohen's attorney requested that Cohen be permitted to execute the outstanding orders and in the meantime, he will find additional documents.

תעודה בדבר ראיות חסויות:

**Yitzchak Rabin, as Prime Minister and Minister of Defense, on 12/8/93 signed a certificate in the Begatz case 4311/93 brought by Cohen and his companies AVS against the Director of the MOD and the MOD, according to Section 44 of the Evidence Ordinance. He certified that submitting the following documents might endanger the security of the State and its foreign relations:**

**"כל מסמך וכל מידע שהתקבל מהרשויות הממונות על אכיפת החוק בארה"ב, וכן מסמכים פנימיים של משרד הביטחון הכוללים סיכומי דיון או כל מידע אחר בקשר לחקירת חשדות נגד אלי כהן או אחד מהחברות – העותרות 2 כד 5".**

The MOD submitted an affidavit to the Begatz, stating inter alia that an Israeli export license was required even if there was a civilian use for the goods. Also, from this affidavit one can see that there were no "lists" of specific goods under the Supervision Order, but rather categories. - See the affidavit for its full import.

The MLAT file clarifies the limitations placed upon Cohen, since in the end he was not able to provide the Bill of Lading or other proof as to the supposed arrival and whereabouts of the goods in the United States – he was barred from purchasing IDF surplus except for goods of "no significant military value" and his ability to obtain export licenses was limited. – see the MOD affidavit. The affidavit also indicates that the MOD uncovered further evidence, apart from the American indictment and any evidence the Americans might or might not have provided. The investigation was turned over to the INP.

The MLAT file includes the American Indictment – note AVS is not a formal defendant and there are no charges of violation of a law or regulation specifically prohibiting the export to Iran. The Iranian export allegations are included in violations of the Arms Export Control Act. He also was indicted for money laundering charges.



The MLAT file does not contain 2 missing pages of the Committee hearing protocol, the Begatz decision (sealed), any Israeli or American evidence or the plea agreements and convictions of Cohen and AVS (if those were related to this indictment, at all).

[It should be noted that on Nov. 3, 2015 I received a new e-mail from the Americans back tracking from their recent email notification that none of the Counts 1-3 goods were dual use. Now they wrote (after I sent the certificate about the CSD for F-14 indicating that it also had a civilian use) that an item is placed on the US Munitions List because its principal purpose is a military one but that doesn't mean it doesn't have a dual use. See the introduction to the Indictment in this MLAT file for an explanation of which items are on the Munitions list.]