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Submission from the Campaign Against Arms Trade to the Export Credits Guarantee Department's Consultation on changes to ECGD's anti-bribery and corruption procedures introduced in December 2004

Do the changes made to ECGD's anti-bribery and corruption procedures in December 2004 have the effect of ensuring that, so far as practicable, 1) taxpayers' money is not used to support transactions tainted with bribery and/or corruption; and 2) an undue burden is not placed on exporters and/or banks?

If you consider that the changes do not possess this balance, please indicate what changes you think would do so.

Background

1. The Campaign Against Arms Trade (CAAT) is working for the reduction and ultimate abolition of the international arms trade, together with progressive demilitarisation within arms-producing countries. As a step towards this, CAAT is seeking an immediate end to Government assistance for the export of military equipment.
2. Export credits form a substantial part of this Government support. In reports commissioned by the ECGD, and published in April 2000 and January 2003, the National Economic Research Associates conclude that the premiums charged by ECGD do not include all the costs involved. In other words, export credits are subsidised by the tax-payer. The then Trade and Industry Secretary, Patricia Hewitt MP, accepted this, saying that: "the Government's view remains that any attempt to eliminate the subsidy should be done only on a multinational basis." (Hansard, 26.3.03)
3. Between a third and a half of the export credits issued annually by the ECGD are for military goods. Even those who do not agree with CAAT that this support must end, will agree it is imperative that public money is

not used to underwrite any deals where bribery or corruption is a feature.

4. CAAT was pleased when the ECGD adopted its more rigorous anti-bribery procedures in May 2004. Particular improvements were that commissions paid to agents had to be disclosed and that both the applying company and any affiliates or joint venture partners had to show that they had robust anti-corruption procedures in place. It was with some dismay, therefore, that CAAT learnt that revised, watered down, procedures were to be introduced from December 2004 after three companies, BAE Systems, Rolls Royce and Airbus, and their trade associations lobbied Patricia Hewitt.
5. It is surely the height of arrogance for companies to ask for public support through the ECGD, but to refuse to provide information which would help the ECGD ascertain that no corrupt practice is involved.
6. The three companies named above lobbied for the relaxation of the May 2004 procedures, but none are named as Consultees in the current document. CAAT hopes that the companies, as well as the trade association, have made submissions to this Consultation so that their arguments take the form of public statements rather than private lobbying behind the scene.

Agents' commissions

7. CAAT is particularly concerned about the December 2004 procedures in so far as they concern agents' commissions. One recent example illustrates just why it is essential that agents' details are provided to the ECGD.
8. In January 1995 and April 1996 Alvis Vehicles Ltd signed contracts for the supply to Indonesia of Scorpion light tanks and Stormer vehicles together with associated equipment. ECGD issued guarantees worth \$105 million in January 1995 for the first contract and a guarantee of £65 million in September 1996 for the second. The export of the vehicles under these two contracts was concluded in 1998. In September 1998, following the economic crisis in South East Asia, Indonesia defaulted on payment for the vehicles and the ECGD has paid out claims of \$46.6 million and £67.5 million for the contracts respectively. ECGD is currently owed £80.7 million by Indonesia for these deals, with the last payment due in June 2021 (Hansard, 13.1.05).
9. In December 2004 Mr Justice Park released into the public domain the skeleton arguments and witness statements in the case *Chan U Seek vs Alvis Vehicles Ltd*. These documents reveal that Alvis Vehicles Ltd employed a company called PT Surya Kepanjen (PTSK) to secure the two contracts. According to the witness statement of Rini Soewondho (a General's daughter who ran PTSK) her ability to secure the support of the

Indonesian army and President Suharto's inner circle was crucial in sealing the two contracts. To do this she employed a company called Global Select (owned by Suharto's daughter) which reportedly collected £16.5 million of the sale price. The payments to Suharto's daughter were described in court by Alvis executives as an "incentive" and a "tax".

10. John Weiss of the ECGD said in a letter dated 13th May 2005 to CAAT Steering Committee member Nicholas Gilby that the ECGD does have the Alvis contracts, but that it is not normal practice for the ECGD to hold copies of contracts.
11. CAAT believes it is essential that the ECGD requires copies of all contracts when it is supporting projects or offering insurance cover and that such contracts, or supporting documentation, contain full details of agents used. The ECGD should scrutinise the contracts and other documents and make further inquiries about the agents if necessary. In the Alvis case, use of companies owned by a General's daughter and the President's daughter ought to have raised questions about propriety.

Associated companies

12. Many of the military deals (and, undoubtedly, others) supported by the ECGD are large and complex. The deals with South Africa are a case in point. Dogged by allegations of corruption, some now proven in the Courts, the deals involved companies from several European countries working with others in South Africa to supply a massive package of military equipment. Many of the contracts are underwritten by European export credit agencies, including the ECGD, which, on 31st March 2005, was exposed to the tune of £708 million.
13. Although the web appears complex, it can be assumed that none of the companies involved is likely to have entered into contracts without a thorough understanding of the relationships between them, their financial standing and the like. This being the case, CAAT does not believe that any company would face an undue burden in confirming that, having made "all reasonable enquiries", neither the company itself nor any joint venture partner or subsidiary is engaging in corrupt practice. Refusal to sign such an undertaking can only lead to the supposition that the companies are, at the very least, knowingly turning a blind eye to corruption.

Audit trail

14. Since the ECGD is providing private companies with public support, it should have the right to make inspections that the public can feel confident with. This is not the case with the December 2004 procedures,

as the ECGD has to give notice of an audit and use an auditor acceptable to the company.

15. It should be a condition of ECGD support that companies allow random inspections to make sure that its anti-bribery warranties are complied with. CAAT would suggest that any company unhappy with this provision has something to hide.

UK reputation and example

16. The UK government has made much of the need to root out corruption overseas as, for instance, in the report of the Commission on Africa. This makes it all the more essential that the UK government should be seen to be doing all it can to root out corruption by companies supported by UK public funds.
17. It is interesting, but not in the least surprising, that military exporters featured prominently amongst those which lobbied for the ECGD's anti-bribery rules to be relaxed. Such exports have been the subject of many allegations of corrupt practice. These allegations have been widely reported in the media overseas.
18. Unless the ECGD has strict anti-bribery and corruption procedures, and rigorously enforces them, there is a real danger that such allegations will continue and that the reputation of UK companies generally will be damaged. Other UK companies may also find that there is an expectation that they will offer bribes and thus lose business if they do not.

Not too onerous

19. According to Douglas Alexander MP, then Minister of State for Trade and Investment, the ECGD supported ten transactions in respect of five companies under its May 2004 anti-corruption procedures. That these companies were able to comply with the demands of the procedures, begs the question as to why BAE Systems, Rolls Royce and Airbus were not.
20. Indeed, BAE Systems' Corporate Responsibility Report 2004 says that the company has reviewed its compliance policies and processes and that its anti-corruption rules are in accordance with those of the International Chamber of Commerce and are aligned with Transparency International's Business Principles for Countering Bribery. If this is the case, it is hard to see that complying with the ECGD's May 2004 procedures would increase the company's workload in any significant way. The same is likely to be true of the other companies.

Summary

21. In summary, CAAT does not think the December 2004 procedures are sufficient to ensure that taxpayers' money is not used to support transactions that are tainted with bribery and/or corruption. CAAT urges the ECGD to adopt procedures with the main features of those introduced in May 2004. This would show that the UK government's commitment to stamping out corruption is not mere rhetoric.

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