

# **TRANSPARENCY INTERNATIONAL (UK)**



## **SUBMISSION BY TRANSPARENCY INTERNATIONAL (UK) TO ECGD ON ECGD'S PROPOSED ARRANGEMENTS FOR HANDLING INFORMATION ABOUT AGENT'S IDENTITIES**

**April 2006**

## ECGD'S ANTI-BRIBERY PROCEDURES

### SUBMISSION BY TRANSPARENCY INTERNATIONAL (UK) TO ECGD ON ECGD'S PROPOSED ARRANGEMENTS FOR HANDLING INFORMATION ABOUT AGENT'S IDENTITIES.

1. ECGD has established under its March 06 Procedures a special highly confidential disclosure system in relation to agents. If the Supplier requests these "special handling arrangements", only a few senior executives in ECGD are permitted to know the identity of the Supplier's agent. These arrangements include mandatory destruction by ECGD of all electronic records of due diligence on these agents.
2. The reason for this "Cold War" type of confidentiality is hard to comprehend. Many agents and intermediaries are companies or individuals of the highest integrity, and provide legitimate business services for fair remuneration. Often they are appointed as an alternative to the Supplier establishing a subsidiary in that territory. The agent may provide services such as an office, engineers, translation, co-ordination, liaison with the client, show room or warehouse. They would be paid a market rate for these services. If they are reputable, there is no reason why these agents should not be willing to be open and transparent in their business dealings, and be willing to have details of their identities, scope of work and commission payments made available as part of the due diligence procedures. They should have nothing to hide. Agents would be likely to wish their experience and expertise to be widely known so that they attract more business.
3. At the other end of the spectrum are the murky intermediaries who "assist in winning the contract", and are paid amounts vastly disproportionate to the actual work they undertake. Their commissions are often used wholly or partially to pay bribes. They are normally people of influence with government officials, and are often related to senior officials. Sometimes the agents are companies owned by the senior officials themselves. These agents would not wish their identities to be known. If the local population or press knew who the agent was, or what he was being paid, there could be adverse publicity and repercussions for the Supplier and its agent. In particular, the press or local whistle-blowers may reveal that the agent had a close relationship with a senior official connected with the transaction. Therefore, there should always be extreme concern where the Supplier attempts to keep these details confidential. Suspicion must be present that the details of these agents are being kept confidential because of their close links to someone who has influence over the contract award or contract management process.
4. It is therefore impossible to understand why ECGD has permitted these special confidential arrangements under its March 2006 procedures. The justification given by ECGD (that the details have to be kept confidential because disclosure of the identity of the agent may damage the Supplier's "*competitiveness and commercial interests*") is simply not credible.
5. TI(UK)'s advice to any export credit agency would be that the less willing the Supplier is to reveal details of its agent to the public, the higher the suspicion is that the agent may be corrupt, and the higher the level of due diligence which the export credit agency should undertake. However, by its commitment to keep the identity of the agent secret, ECGD has made it very difficult for itself to undertake proper due diligence. Due diligence requires more than a search of the internet. It requires actions such as making enquiries about the agent in the relevant territory, and making visits to the agent's premises to ascertain whether he exists, and is capable of undertaking the services required. This type of due diligence enquiry would normally be undertaken by professional companies who specialise in this field. How can this be undertaken if only a few very senior officials in ECGD are entitled to know the agent's identity? As it would be virtually impossible for ECGD, under the restrictions of the confidentiality arrangements, to undertake proper due diligence, ECGD's only alternative when a Supplier asks to use the special confidentiality arrangements would be to refuse cover. Allowing the Supplier special confidentiality arrangements is therefore an unacceptable position.
6. **TI(UK) Recommendation:** This confidentiality concession should be withdrawn.

7. This submission has been made on behalf of Transparency International (UK). TI(UK) is the UK national chapter of Transparency International, which is the world's largest non-governmental anti-corruption organisation. TI(UK) works with governments, business and civil society with the aim of helping bring about a reduction in both domestic and international corruption. This submission has been developed by a working group established by TI(UK) for this purpose.

Transparency International (UK)  
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