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### **Submission from the Campaign Against Arms Trade to the Trade & Industry Committee's Inquiry into the Export Credits Guarantee Department's bribery rules**

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 end to Government assistance for the export of military equipment, including the provision of export credit guarantees and insurance.
2. CAAT was dismayed that the ECGD's April 2004 anti-bribery procedures were watered down in December 2004 after behind the scenes lobbying by three companies, and that legal action by The Corner House was necessary before a consultation involving all interested parties was held.

### **Do the procedures in the Government's Final Response to the ECGD's consultation on Anti-Bribery and Corruption Procedures reduce as far as is reasonably practical the risk of the ECGD supporting contracts tainted by corruption?**

3. The procedures announced on 16th March 2006 include key anti-corruption measures that were absent in those of December 2004.

#### **Audit:**

4. It is good that the ECGD will now be able to audit the contract records on a random basis to check declarations that the exporter has not engaged in corrupt activity. It is, however, undermined by giving the companies 5 working days' notice of the audit, as this will allow incriminating documents to be hidden. Likewise, limiting access to documents "up to the date of the award of the Contract" is almost an open invitation to corrupt companies to make an oral promise of an irregular payment beforehand, hide it somewhere in the costs and then pay up after the date of the contract avoiding all danger of scrutiny.
5. The ECGD should have the authority to conduct an unannounced audit and to be able to ask to see any documents relating to the contract which it is supporting, including those after the date of the contract.

## **Agents:**

6. CAAT is pleased that the ECGD will require companies asking for ECGD support to supply the names of the agents being used. Agents have been frequently used for inappropriate payments in the past so CAAT welcomes the ECGD's rejection of the arguments advanced by some exporters that they could not supply information about them as this was commercially sensitive.
7. Paragraph 71 of the Final Response says that a significant number of applicants for ECGD support found it possible to provide details of agents under the May 2004 procedures. However, it is likely that it is those contracts where companies are most reluctant to give information about agents that are those where the possibility of corruption is at its greatest. For instance, in response to a Freedom of Information request to the ECGD, details were given of all BAE Systems projects supported except that in Saudi Arabia. CAAT found it disappointing, but not surprising, that this exception concerned the least transparent, as well as arguably the most repressive, of all the countries involved.
8. As your Committee will be aware, the ECGD is currently asking for representations on its arrangements for handling information about agent's identities. CAAT has welcomed the proposed Special Handling Arrangements set out in Annex C of the Final Response, but made three comments, below.
9. Firstly, it is important that, in addition to the electronic searches suggested, enquiries are made as to the agent's integrity in the country in which s/he is based. This should be done through an appropriate person in the UK's diplomatic mission, who will almost always have far more information about the agent's connections and reputation than an ECGD official in London.
10. Through such enquiries, it should be possible to ascertain whether there is a relationship between the agent and the purchaser of the goods, for instance whether the agent is a public official or the relative of one. In this way, for example, it should have been possible to establish that the agents being used to secure the export of Alvis vehicles to Indonesia in the mid-1990's were the daughters of a Brigadier-General and of the country's President. The latter controlled the monies necessary to make the purchase. This should have led to questions about propriety of the deal.
11. Secondly, paragraph 2/5 of Annex C says that only one copy of the agent's details will be kept. Since even the most "top secret" of Government documents are copied to several people, this seems to be secrecy bordering on paranoia. CAAT would suggest that at least one additional copy is kept.
12. Finally, in paragraph 2/7 of Annex C, it says that the ECGD will be unlikely to be able to proceed with an application if the applicant refuses to allow the ECGD to share an agent's identity with another person to allow further enquiries to take place. In these circumstances the application should always be refused. The applicant has no automatic right to taxpayer support, and cannot expect it to be given unless the ECGD is supplied with the information it needs to be completely satisfied that no bribery or corruption is involved.

### **Representations regarding associated companies:**

13. Companies asking for ECGD support will have to make enquiries of other companies where there is some element of control and state that, as a result they do not believe these companies or their agents have engaged in corruption.
14. However, the companies do not have to make any declarations about non-controlled subsidiaries, sub-contractors or others involved in a project, thus leaving an obvious loophole for the payment of bribes. Likewise, the information about agents only has to be provided where they are appointed by or on behalf of the applicant, leaving the way open for companies to use non-controlled subsidiaries, or the like, for this purpose in order to avoid the provisions of the ECGD's anti-bribery procedures.

### **Are the proposals workable?**

15. These proposals are workable, as, indeed, were those of May 2004 as evidenced by the companies who used them. Additionally, CAAT notes that the opposition to the tough May 2004 procedures came from a handful of companies and the Committee may wish to inquire how representative the stance taken by the Confederation of British Industry (CBI) was of its membership. For instance, it is noticeable that the "CBI delegation" that went to the ECGD on 10th November 2005 comprised a staff member from BAE Systems and another from Rolls Royce, both companies which had opposed the May 2004 procedures, along with the CBI employee. No-one from companies which had used the May 2004 procedures was included.
16. The chief requirement for the Final Proposals to work is a recognition by the UK government as a whole that it may be necessary to put the commitment to stamping out corruption before supporting a deal, however lucrative, with an overseas government, institution or company if the contract can only be realised with the help of a bribe.
17. If the UK takes a tough stance, and restores the reputation that was damaged through the introduction of the weak December 2004 procedures and their genesis, it is in a good position to push for improved export credit agency procedures multilaterally through the Organisation for Economic Cooperation and Development.

### **Transparency and monitoring**

18. The ECGD Annual Report should include information about the Anti-Bribery and Corruption procedures saying how many audits it has conducted to check anti-bribery declarations, how many applications have been refused because of suspicions or evidence of bribery, and how many cases it has passed on to the law enforcement authorities. The numbers of applications and companies requesting the special handling arrangements for their agents should also be reported.

19. In addition, it would be helpful if information on agents' commission, aggregated in the way in which it has been supplied in answer to Freedom of Information requests, could be included in the Annual Report. For each of Aerospace, Civil and Defence sectors it should state:
- a) the total amount of agents' commission not underwritten by the ECGD;
  - b) the number of cases supported by the ECGD where
    - (i) no commission was involved;
    - (ii) agents' commission was paid and underwritten by ECGD;
    - (iii) agents' commission was paid and not underwritten by ECGD;
  - c) the total value of guarantees issued supported by the ECGD where:
    - (i) no commission was involved;
    - (ii) agents' commission was paid and underwritten by ECGD;
    - (iii) agents' commission was paid and not underwritten by ECGD;
  - d) for cases supported by the ECGD, the breakdown of how much agents' commission was paid for by each type of ECGD facility (eg: buyer credit, overseas investment insurance, etc)

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