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## **Submission from the Campaign Against Arms Trade to the Human Rights Committee inquiry on Business and Human Rights**

1. The Campaign Against Arms Trade (CAAT), which was established in 1974, is working for the reduction and ultimate abolition of the international arms trade, together with progressive demilitarisation within arms-producing countries. CAAT has worked on three of the topics in your additional call for evidence - Private Military and Security Companies, export credits and bribery.

### **Private Military and Security Companies**

2. While mercenaries have long been around, the growth of the "Corporate Mercenary" company, which both the industry and the Government prefer to call the Private Military and Security Company (PMSC), is a fairly recent phenomenon. The growing industry is anxious to legitimise itself, but has, nonetheless, attracted much criticism of its activities in places such as Sierra Leone and Iraq.
3. CAAT intends to respond to the Foreign and Commonwealth Office's consultation on Promoting High Standards of Conduct by PMSCs. It is extremely disappointing that the Government is proposing to abdicate responsibility for regulating the industry to the trade association, the British Association of Private Security Companies (BAPSC). The Government appears to feel that by working with the trade association; by itself only using PMSCs with high standards; and liaising on the international level, will be enough.
4. Since the activities of PMSCs can result in killings and in human rights violations, this is totally inadequate. Not least, it fails to address the fact that overseas governments, mining companies, media organisations, aid agencies and others also have contracts with PMSCs - the UK government's purchasing power is not a solution in these cases.
5. CAAT thinks the Government should immediately scrap its proposal of self-regulation by BAPSC and make an alternative proposal which includes the following features:
  - a) PMSCs should be prohibited from combat and banned from providing training, strategic advice and other support for combat;
  - b) all other PMSC services should be open to individual licensing requirements and open to prior parliamentary and public scrutiny. This should be complemented by an open register of PMSCs;

c) the PMSCs should be made responsible under UK law for any breaches of human rights or the laws of war that may be committed by their employees.

## **Export credits**

6. Recently, military industry, more than any other, has benefited from Export Credits Guarantee Department (ECGD) support. Even though arms account for just 1.5% of total UK exports, in 2006-7, 42% of all export credits were for military goods and, in 2007-8, the figure was even higher, 57%. Arms manufacturer BAE Systems topped the list of companies receiving export credit guarantees.
7. This has now changed. Although on 31st March 2008 the ECGD's total liability for BAE's Saudi Arabia arms deals was £750million, the company cancelled the cover with effect from 1st September 2008. BAE has kept ECGD cover for other military deals, including those with South Africa and Romania, but the removal of its Saudi business would have left the ECGD without approximately half its income. For the ECGD staff, it was fortuitous that the economic downturn has given the ECGD new roles.
8. At least in the near future, it appears that military goods will form a smaller proportion of the ECGD's portfolio. CAAT does, however, still have concerns arising from the Industry and Exports (Financial Support) Bill and the proposed Letter of Credit Guarantee Scheme (LCGS) and is responding to the consultation on the latter. CAAT does not think there should be any ECGD cover for military projects, or other unproductive expenditure, but thinks the current proposals might make matters worse than at present.
9. Although it is, of course, understandable that the Government would wish to introduce new measures to support business during a financial crisis, it is essential that this does not mean that any anti-corruption, human rights, development or environmental checks are watered-down, or responsibility for them devolved.
10. For instance, CAAT's understanding of the LCGS is that a master guarantee would be given to a bank, which would then be responsible for the individual customers. Notwithstanding that the Government says that the LCGS would probably be used for small amounts, so would more likely involve consumer products than military goods, infrastructure projects, etc, there is a danger that once standards are relaxed there will be more exceptions to them.
11. As the ECGD does not screen military projects for human rights, environmental or development impacts - it relies on the export licensing process, even though this has an extremely poor record of taking human rights concerns into account, takes little notice of development impacts and makes no environmental assessment - it is the attitude to anti-corruption that is most pertinent to CAAT. Here the ECGD still needs to repair the damage done to its international reputation. The October 2008 Report from the Organisation for Economic Co-operation and Development's Anti-Bribery Working Group said that the SFO had handed the ECGD evidence of misrepresentations by BAE to the ECGD in connection with the issuance of insurance, but that the ECGD had done nothing about it.

12. As with PMSCs and the BAPSC, CAAT does not think the Government should pass its responsibility for ensuring that its funds do not underwrite corruption (or, indeed, exports with socially undesirable impacts) to a third party, in this case, the banks. The progress made with anti-corruption measures and the Business Principles must not be rolled back for the sake of short-term expediency.

## **Draft Bribery Bill**

13. Together with The Corner House, CAAT took legal action on the Government's December 2006 decision to stop the Serious Fraud Office (SFO) investigation into BAE's Al Yamamah arms deal with Saudi Arabia. In July 2008 the House of Lords overturned a High Court ruling and said that the SFO Director had acted lawfully when he ended the inquiry after threats from Saudi Arabia to the UK's national security.
14. CAAT has not made a submission to the Committee examining the draft Bribery Bill as it believes others have greater expertise to undertake the detailed legal critique required. However, CAAT believes it is vital that the loophole that allowed the House of Lords' judgment is plugged. People with friends in powerful places should not be able to use threats to evade justice, even when these threats are couched in terms of national security.
15. The new anti-bribery legislation must make it clear that investigations and prosecutions cannot be stopped on grounds of national security unless there is an imminent risk to life and all other options have been explored.

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