

The Honorable Angel Gurría  
Secretary-General of the OECD  
OECD  
2, rue André Pascal  
F-75775 Paris Cedex 16  
France

8. January, 2006

Dear Mr. Secretary General,

Transparency International is deeply concerned about the UK Government's decision to terminate the investigation of alleged foreign bribery by BAE Systems Plc, Britain's largest defense contractor, in connection with the Al Yamamah contract with the Government of Saudi Arabia. We understand that this action will be discussed at the forthcoming meeting of the OECD's Working Group on Bribery during the week of January 15, 2007.

The UK Government should be asked to reinstate the investigation of BAE Systems' Saudi contract, because its termination violates Section 5: "Enforcement" of the OECD Convention. This provides that foreign bribery enforcement "shall not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved." If allowed to stand, the termination of the BAE investigation would emasculate an essential provision of the OECD Convention, thereby undermining the credibility of the Convention as an important weapon in the fight against international corruption.

The reason why Section 5 is essential is that for large orders -- involving arms, infrastructure projects, petroleum or other extractive industries -- the key decision makers will invariably be top government officials. Concerns can always be raised that investigating allegations of payments to such officials would have serious effects on sensitive government relations. Dropping prosecutions because of such concerns would mean that bribe payments would only be punished if they were made to lower level officials, or to officials from small countries with no ability to retaliate.

Preserving the credibility of the OECD Convention is crucial because it represents the most effective instrument for dealing with the supply side of international corruption. The OECD and its Working Group on Bribery deserve great credit for the progress made in transforming the promise of the Convention into effective action to curb bribery. The UK action threatens to derail the Convention just when success is in reach. How long can governments of other OECD countries be expected to continue enforcing prohibitions against foreign bribery, if the UK can terminate an investigation for reasons of political expediency? What credibility will the OECD have in forthcoming discussions with China, India and Russia?

The consequences of letting the UK action stand would seriously damage anticorruption initiatives other than the OECD Convention. Last month the Conference of States Parties to the UN Convention Against Corruption decided to establish an effective monitoring mechanism. If the progress of the OECD Convention can be derailed by the arbitrary action of the UK, what does that do to the prospects for getting the much more complex UN Convention off the ground?

There would also be serious setbacks for the efforts of G8 leaders and leading international financing institutions to mainstream anticorruption concerns in international development programs. What credibility will other governments give to calls by Western leaders regarding the primacy of the rule of law and the need for mustering political will to combat corruption?

In view of these considerations, we strongly urge the OECD to persuade the UK Government to reinstate the Serious Fraud Office's investigation of BAE Systems' Saudi contract. We understand that the Serious Fraud Office is also investigating BAE Systems contracts in six other countries. Assurance should be obtained from the UK Government that these investigations will be allowed to continue. This is important to help rebuild the credibility of Section 5 of the OECD Convention.



Huguette Labelle  
Chair



David Nussbaum  
CEO

Cc: Mark Pieth  
Maria Gabounelli  
Patrick Moulette