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Mr. Patrick Crawford
Chief Executive
Export Credits Guarantee Department
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14 June 2005

Re: Consultation on changes to ECGD anti-bribery and corruption procedures

Dear Mr. Crawford,

The UK members of the Publish What You Pay Coalition (PWYP) welcome the opportunity to comment on the ECGD's recently re-opened consultation on its anti-bribery and corruption procedures.

In short:

- We fully support concerns raised by The Corner House and Transparency International UK that the ECGD's revised procedures are insufficient to ensure that taxpayers' money will not be used to facilitate or encourage corruption.
- With respect to the extractive industries, revenue transparency should be a condition for all future export credit agreements. There is great impetus for the ECGD to act to this end given that the World Bank Group has committed to require revenue transparency as a condition for financing extractive sector projects and that the UK government has played an active role in promoting transparency in the extractive industries around the world.

PWYP is an international coalition of over 280 NGOs seeking greater transparency in the payment and receipt of extractive industry revenues in developing countries. Many of these members are Southern-based NGOs representing the concerns of citizens in resource-rich countries whose lives are directly affected by the extractive industry.

As the ECGD will be aware, oil, gas and mining industries constitute the major source of investment for many developing countries. Revenues from such investments are paid to "host" governments in the form of taxes, royalties and other payments. Such revenues, if properly managed, could provide a possible basis for more equitable growth, poverty alleviation, political and economic stability. However, a lack of transparency in the payment and use of such revenues has meant that all too often, oil wealth has left only a legacy of corruption, poverty and conflict. Corruption is endemic in the extractive industries. Indeed, Transparency International ranked the oil and gas sector the third most

corrupt industry in its 2002 Bribery Index. The ECGD itself has recently come under fire for its loan to a UK subsidiary of Halliburton involved in a joint venture project to build a gas plant on Bonny Island in Nigeria for which bribes are alleged to have been paid.

As a major underwriter of investments in the extractive industries the ECGD has a key responsibility to uphold best practice on disclosure and transparency. The ECGD recognises this in its own Business Principles which states it “*will promote a responsible approach to business and ensure our activities take into account the government’s international policies, including those on sustainable development, human rights, good governance and trade*”. The absence of clear transparency requirements as a precondition for financing arrangements indicates that there is significant room for improvement, particularly in light of its own stated policies but also HMG’s own stated commitment to transparency in the sector through the Extractive Industry Transparency Initiative (EITI). Moreover, the UK report on the OECD Guidelines last year makes clear its expectations of the ECGD more broadly in this regard: “*the ECGD’s internal procedures will check on the consistency of the operations of its customers (both in the UK and overseas) and particularly those relating to environment, employment, combating bribery and transparency.*”

As you will be aware, the UK government has also committed to other key initiatives to support transparency as follows:

- **Commitment to poverty reduction in Africa as a priority for its presidency of the G8.** Given the predominance of extractive industry investments in African economies, the role to be played by a more transparent management of its revenues is clear.
- **Commitment at the G8 Evian Summit 2003 to an Action Plan to “Fight Corruption and Improve Transparency”** in sectors including the extractive industry; these were re-iterated at Sea Island 2004 and are on the agenda for Gleneagles this year.
- **Commission for Africa Report which states that ECAs “have a poor record of using their unique position to encourage better governance”;** a clear recommendation that ECAs must do more to combat corruption and promote good governance: “*developed countries should encourage ECAs to be more transparent and require higher standards of transparency in their support for projects in developing countries.*”

At an international level too, governments and international financial institutions (IFIs) have demonstrated progress on transparency. This is relevant to the ECGD not least because it cites World Bank standards as a benchmark for its own monitoring and reporting in its “Case Impact Analysis Process.” These developments are as follows:

- **Formal acknowledgement by the World Bank, IMF and the EBRD that revenue transparency should be a fiduciary duty** for all loans, investments, underwriting and technical assistance programmes to resource-rich countries. For example, by September 2006 revenue transparency will be a condition of all MIGA insurance and guarantees to extractive sector projects. ECAs are estimated to support twice the amount of oil, gas

and mining projects as all multilateral development banks. They therefore have a responsibility, *as a bare minimum*, to implement policies that are consonant with those of IFI's.

- **Two pieces of legislation passed recently in the US require greater transparency and accountability of IFIs:**
 - *The US Appropriation Bill on Foreign Operations, Export Financing and Related Programmes*; passed in 2004, this Bill requires its international financial institutions (IFIs) to establish systems for revenue and expenditure accounting, independent audits, public dissemination of such audits, and verification of government receipts against company payments.
 - *The Lugar Development Bank Bill, May 2005*; the US Senate Foreign Relations Committee Chairman, Senator Lugar has introduced legislation that ties reforms for transparency to re-authorisation of funding for 5 multilateral development banks (World Bank, the Asia Development Bank (ADB), the EBRD, the African Development bank and the Inter-American Development Bank.)

We are encouraged by the ECGD's recognition both of the significance of this sector and the existence of the EITI. Again, in its "Case Impact Analysis Process" it states that it will: "*for cases...where ECGD is in direct contact with project sponsors...ensure that sponsors are aware of the Initiative and will encourage adherence, particularly in countries which have already or are about to sign up to the initiative.*" (10.4). However, this response falls far short of both expectations and current best practice.

We would like to see a much stronger commitment to real action in the following ways:

1. **A fuller, formal policy on transparency that matches standards of best practice in the sector**, as illustrated by the US Appropriations Bill, the IMF Supplementary Code on Fiscal Transparency, the World Bank Group's new transparency standards for project financing, and Save the Children UK's recently published standard for measuring transparency in the sector (enclosed with this letter). This policy should impose full revenue transparency requirements on all applicants from the extractive sector as a pre-condition for future export-credit agreements.
2. **Formal and regular engagement with the EITI process.** The EITI Secretariat indicated its intention a year ago to involve the ECGD in meetings but this has not materialised.
3. **Proactive collaboration with other ECAs through the OECD Working Group on Export Credit and Export Credit Guarantees to develop a common policy on transparency requirements.** One of the policies outlined in the "Sustainable Development and Human Rights" chapter of its Business Principles commits the ECGD to "*press for the establishment of a multilateral framework of common guidelines for assessing environmental and social issues related to project implementation.*" This initiative provides a good entry point for development of a policy on transparency.

4. Further development of its sustainable development indicators to include an assessment of performance on transparency and disclosure. Save the Children UK's framework of indicators measures the progress of governments and companies on transparency in the sector. It would be happy to further discuss the relevance and applicability of this framework to the ECGD.

In conclusion, we believe that failure to tackle the issues outlined above would constitute a derogation of the ECGD's clear duty to its tax-payers, to the British Government, its customers and to the developing countries in which its customers operate.

In the foreword to the ECGD's Business Principles, the (then) Secretary of State for Trade and Industry stated that the department was well positioned to "*confirm its place amongst the leading export credit agencies of the world.*" We believe that the Department's current consultation on its procedures offers the ECGD a unique opportunity to justify this claim.

We welcome the opportunity to discuss our concerns with you further.

Yours sincerely,



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