

1. AGENTS/CONSULTANTS/INTERMEDIARIES

<p>No mention</p>	<p>1. ECAs to require details on agents' commission to be provided for all transactions above a certain threshold (5%) before decision for support is made, including amounts paid, services rendered, purpose of commission and names of agents.</p>	<p>1. Upon demand, applicants and exporters to disclose identity of agent and amount plus purpose of commission 2. For medium and long-term transactions over a certain amount with public sector buyers, exporter and applicants to disclose information as above.</p>	<p>Requiring that exporters and, where appropriate, applicants, disclose, upon demand: (i) the identity of persons acting on their behalf in connection with the transaction, and (ii) the amount and purpose of commissions and fees paid, or agreed to be paid, to such persons.</p>	<p><i>November 2003 and June 2004</i> 1. ECAs should require details of agents' commission, including identity of agent, purpose and amount of commission and services rendered on all transactions. 2. ECAs should agree a set of "red flags" on agents in their due diligence procedures, and require agency agreements from companies. <i>September 2005</i> 1. ECAs should require full disclosure of details on agents' commission on all transactions regardless of percentage of contract or whether it is directly supported by the ECA or not. 2. Agents' commission paid by third parties in relation to the</p>	<p><i>October 2005</i> 1. ECAs to retain the right to require disclosure of due diligence findings on agents. 2. ECAs to require disclosure in all cases in relation to agents, agents of affiliated entities, joint venture or consortium partners or major sub-contractors. Disclosure should include identity of agent, amount of commission, services for which commission is paid, details of bank account to which commission is paid; any known link between buyer and agent, whether commission is a reasonable amount for services rendered.</p>	<p>(Slovak Republic) ECA to require clients to disclose "sufficient information such as details on agents' commissions" to enable the ECA to verify if bribery has occurred. (Australia) "Verification of agents commissions could potentially uncover attempts to pay bribes to foreign public officials through intermediaries"</p>	<p>Netherlands: requires disclosure of details of agents' commissions on all transactions, including name of agent, amount of commission, purpose of commission, timing of commission payments and whether these are dependent upon payments by the buyer. Above 5%, the Netherlands requires proof of the purpose or the commission and the agency contract.</p>
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				contract should also be disclosed. 3. Disclosure to include, as well as identity of agent, purpose of commission, place of payment, and any relationship between agent and buyer 4. ECAs should refuse to directly support agents' commissions above 5% or US\$ 5million/Euro 4 million.			

2. INFORMING APPLICANTS OF LEGAL CONSEQUENCES OF BRIBERY

ECAs to inform all applicants of legal consequences of bribery under its national legal system	ECAs to inform applicants requesting support about the national legal consequences of bribery in writing and at the time of the application.	ECAs to inform applicants and exporters about legal consequences of bribery under its national legal system	Informing exporters and where appropriate applicants requesting support about the legal consequences of bribery in international business transactions under its national legal system including its national laws prohibiting such bribery and	No mention	No mention	(Various reviews) ECAs should undertake proactive action to raise awareness of risks of bribery, including making information available to clients, such as on their websites	Canada: has an anti-corruption brochure for clients and sends out letters and circulars to clients.
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			encouraging them to develop, apply and document appropriate management control systems that combat bribery.				

3. UNDERTAKING THAT EXPORTERS HAVE NOT ENGAGED IN BRIBERY AND THAT THEY MAINTAIN ADEQUATE ANTI-BRIBERY CONTROLS

ECAs to <i>invite</i> applicant and/or exporter to provide an undertaking/declaration that neither they nor anyone acting on their behalf, have been engaged or will engage in bribery in the transaction.	ECAs to <i>require</i> , as a pre-requisite for support, the applicant and/or exporter to provide a declaration that neither they, nor anyone acting on their behalf, have been engaged in bribery in the transaction. This requirement should be for all applications including short-term support.	ECAs to require applicants and exporters to provide an undertaking/declaration that they maintain appropriate anti-bribery controls and that neither they, nor anyone acting on their behalf have been engaged or will engage in bribery in the transaction.	Requiring exporters and, where appropriate, applicants, to provide an undertaking/declaration that neither they, nor anyone acting on their behalf, such as agents, have been engaged or will engage in bribery in the transaction.	No mention	1. Applicants to give anti-corruption declarations on behalf of itself and affiliated companies. 2. Applicants to declare that they have undertaken appropriate due diligence in relation to agents, joint venture partners, major sub-contractors, and anyone acting on its behalf, and to declare that to the best of their knowledge and belief, none of these entities has engaged or will engage in bribery. 3. Applicants to declare that they	No mention	UK: (based on interim response to current consultation) requires clients to give declaration on its own and controlled companies behalf; and requires clients to declare that they have made reasonable enquiries of their co-venture partners in relation to the transaction, and that these enquiries have not give any cause to believe that any consortium partner has engaged in bribery.
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					maintain appropriate anti-bribery controls, that they monitor compliance with these controls and take appropriate action against anyone engaged in bribery.		

4. CHECKING CONVICTIONS AND DEBARMENT BY IFI'S

No mention	ECAs to require applicants to advise whether they have been a) debarred by the World Bank or any other multilateral or bilateral financial institution as a result of bribery; or b) found guilty in a national court of having engaged in bribery.	ECAs to require applicants and exporters to disclose occurrences within a set period preceding application of a) any debarment of the exporter, any subsidiary or affiliated entity by the World Bank, any other multilateral financial institution or any government entity as a result of bribery; b) any conviction, charge, civil or administrative determination, penalty, order or settlement involving the	1. Verifying and noting whether exporters and, where appropriate, applicants, are listed on the publicly available debarment lists of the following international financial institutions: World Bank Group, African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development and the Inter-American Development Bank.	<i>September 2005</i> ECAs should require disclosure in application forms of convictions, admissions or debarments by an IFI or bilateral aid agency of the applicant, and any senior executive, agent, subsidiary or joint venture partner.	1. ECAs should require disclosure of existing debarments, charges, convictions or other criminal proceedings. 2. ECAs should require this disclosure with regard to affiliated entities, agents, joint venture or consortium partners, major sub-contractors and anyone acting on its behalf. 3. ECAs should refuse cover to any applicants debarred by the World Bank or any other multilateral or bilateral financial	(Greece) ECA should instruct staff to verify whether applicant is under investigation for or has been convicted of bribery.	Various countries (UK, Italy and others) require applicants to state whether they have been convicted or debarred on the application form.
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		exporter or any subsidiary or affiliated entity, for violations of laws against bribery.	<p>Bank.</p> <p>2. Requiring exporters and, where appropriate, applicants, to disclose whether they or anyone acting on their behalf in connection with the transaction are currently under charge in a national court or, within a five-year period preceding the application, have been convicted in a national court or been subject to equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country.</p>		institution under the debarment has expired.		

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5. DUE DILIGENCE

No mention.	ECAs to apply enhanced due diligence where company has been convicted, consider withholding support, and consult publicly available debarment list before making a decision to provide support.	ECAs to undertake enhanced due diligence where the ECA becomes aware that an applicant, exporter, or any subsidiary or affiliated entity, within a certain period preceding the application has been debarred for bribery as at 4) above, or found guilty or charged for bribery as at 4) above.	Undertaking enhanced due diligence if: (i) the exporters and, where appropriate, applicants, appear on the publicly available debarment lists of one of the international financial institutions referred to in 2 c); or (ii) the Member becomes aware that exporters and, where appropriate, applicants or anyone acting on their behalf in connection with the transaction, are currently under charge in a national court, or, within a five-year period preceding the application, has been convicted in a national court or been subject to equivalent national administrative	ECAs should have in place rigorous anti-corruption due diligence procedures.	ECAs should have standard due diligence for all applications at application stage, and enhanced due diligence procedures for projects where there is a higher corruption risk. Enhanced due diligence should take place where an applicant has been debarred or convicted, or where there are ‘potentially suspicious circumstances’ such as excessive agent’s commissions, vague services to be performed by agents, allegations or credible information about corruption, the project has a high market value or represents a high market stake, use of subsidiaries or	(Various reviews) Found that several countries had no systems in place for detecting bribery or helping to train staff to detect bribery.	Several countries state that they have due diligence procedures in place (Canada, Sweden, UK).
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			measures for violation of laws against bribery of foreign public officials of any country; or (iii) the Member has reason to believe that bribery may be involved in the transaction.		other third parties in obscure conditions, or the project is located in a country with high prevalence of corruption.		

6. INFORMING LAW ENFORCEMENT AUTHORITIES ABOUT SUSPICIONS OR EVIDENCE OF BRIBERY

After support has been given, if involvement of a beneficiary in bribery is proved, ECA to take appropriate action, including referral of evidence of bribery to the appropriate national authorities.	ECAs “should inform” national investigative authorities when there is a “suspicion” or “sufficient evidence” of bribery.	ECAs to develop and implement procedures to disclose to their law enforcement authorities instances of credible evidence of bribery in case that such procedures do not already exist.	1. Developing and implementing procedures to disclose to their law enforcement authorities instances of credible evidence ¹ of bribery in the case that such procedures do not already exist. 2. If there is credible evidence at any time that bribery was involved in the award or execution of the export contract, informing their law	<i>September 2005</i> 1. ECAs should inform national investigative authorities of suspicions or evidence of bribery as a matter of routine practice 2. ECAs should put in place appropriate whistle-blower procedures to enable staff and outsiders to raise concerns about corruption.	1. Prior to approval of credit, there should be an obligation on ECAs to submit credible evidence of bribery to the appropriate authorities. 2. After approval of support, credible evidence should also be disclosed to the appropriate authorities.	(Various reviews) ECAs should develop consistent and reliable frameworks for disclosing suspicions to the law enforcement authorities.	United Kingdom: reports suspicions of bribery immediately to law enforcement authorities.
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¹ For the purpose of this instrument, credible evidence is evidence of a quality which, after critical analysis, a court would find to be reasonable and sufficient grounds upon which to base a decision on the issue if no contrary evidence were submitted.

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			enforcement authorities promptly.				

7. WITHHOLDING SUPPORT WHERE THERE ARE SUSPICIONS OR EVIDENCE OF BRIBERY

If there is sufficient evidence that bribery is involved in the award of the contract, ECA “shall refuse to approve credit, cover or other support”.	ECAs should apply enhanced due diligence and suspend processing of an application for official support when there is a “suspicion” or “sufficient evidence” of bribery.	ECAs to take “preventative and corrective actions that are appropriate given the specific circumstances of the transaction if there is credible evidence that bribery was involved”, including “refusing to approve credit, cover or other support”.	If, before credit, cover or other support has been approved, there is credible evidence that bribery was involved in the award or execution of the export contract, suspending approval of the application during the enhanced due diligence process. If the enhanced due diligence concludes that bribery was involved in the transaction, the Member shall refuse to approve credit, cover or other support. If, after credit, cover or other support has been approved bribery has been proven, taking appropriate action, such as denial of payment, indemnification, or	ECAs should commit to withholding support where there are detailed and credible allegations of bribery and where an official investigation has begun.	<i>October 2005</i> Where there is credible evidence of bribery, ECAs should take appropriate action, “such as suspending processing of the application, refuse coverage, credit or other support, or take other corrective or preventive actions”. <i>April 2005</i> Denial of coverage is an administrative/contractual measure rather than a criminal sanction. Therefore a standard of “more likely than not” or “balance of probabilities” should be applied by ECAs with regard withholding support where an applicant is alleged	No specific comment or recommendation	Not clear in practice whether any ECA takes this approach on a consistent and non-discretionary basis.
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			refund of sums provided.		to have engaged in bribery.		

8. DEBARMENT FOLLOWING LEGAL JUDGMENT OF BRIBERY

No mention	In the case of a final legal judgement of bribery, ECAs should deny access to official support for other applications from the same exporter for a certain number of years.	ECAs to develop and implement procedures to deal with companies that have been convicted of bribery in order to ensure that support is not provided to any company that has not taken appropriate internal corrective measures to deter further bribery.	In case of a conviction in a national court or equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country within a five-year period, verifying whether appropriate internal corrective and preventive measures ² have been taken, maintained and documented.	ECAs should refuse cover to companies who have, or whose senior executives have been convicted of corruption or bribery.	<i>October 2005</i> ECAs should develop and implement fair, proportionate and transparent debarment systems to be implemented consistently by all ECG Members.	(Various reviews) Exclusion from export credits as an administrative sanction is an effective tool in combating bribery. Many reviews have recommended specifically that countries either revisit their policies for excluding companies convicted of bribery, or develop proper systems for refusing companies convicted of bribery export credit support.	No country yet has a consistent debarment procedure in place. Canada states that it will debar companies convicted of corruption until the party has taken appropriate measures to deter future bribery.
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Such measures could include: replacing individuals that have been involved in bribery, adopting an appropriate anti-bribery management control systems, submitting to an audit and making the results of such periodic audits available.

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9. AUDITING/VERIFYING CLIENT BOOKS

No mention	No mention	No mention	No mention other than in a footnote as one of the possible measures that ECAs could take to verify that internal corrective action had been taken: “submitting to an audit and making the results of such periodic audit available” (see above).	ECAs should have in place audit procedures to allow for spot checks on customer documentation.	ECAs should obtain the right to inspect and audit relevant information both in relation to the applicant and in relation to agents, joint venture partners etc. This right should be obtained in its contracts with exporters.	No specific comment or recommendation.	Three ECAs (Sweden, Greece, and the UK) have audit procedures for checking companies books where there is a suspicion of bribery. However, none of them appear to have used these audit procedures in practice. No ECA has a spot-check audit system for dealing with corruption.
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9. REQUIRING CLIENTS TO REPORT CORRUPTION ALLEGATIONS TO THE AUTHORITIES AND THE ECAS

No mention	No mention	No mention	No mention	No mention	Applicant should be required to report instances of bribery to both the appropriate authorities and to the ECA.	No specific comment or recommendation.	UK (based on interim response to consultation): requires as a contractual obligation that exporters will promptly notify ECGD of any corrupt activity by any consortium partner or anyone involved in the transaction and supply ECGD with full details of the corrupt activity.
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OECD ECG
2000 ACTION
STATEMENT

OECD ECG 2003
BEST PRACTICES

OECD ECG 2005
DRAFT PROPOSAL

OECD ECG
2006 ACTION
STATEMENT

ECA-WATCH
DEMANDS

TRANSPARENCY
INTERNATIONAL

OECD WORKING
GROUP ON
BRIBERY

ECA BEST
PRACTICE

10. REQUIRING APPLICANTS/EXPORTERS TO PROVIDE A WRITTEN COPY OF ITS ANTI-BRIBERY PROCEDURES

No mention	No mention	No mention	No mention	No mention	Applicants should be required to have implemented anti-bribery procedures and to submit copies to the ECA. ECAs should compare these against best practice and ECAs should recommend compliance with best practice as a minimum standard.	No mention	UK (based on interim response to consultation): requires a copy of the anti-corruption code of conduct from exporters, if it has one, and to state whether it will be applied to the relevant contract.
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