

**Export-Led Corruption:
The European Union, Oil, Arms and Infrastructure Projects**

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That the global economy involves extensive bribery/corruption has been well-publicized by NGOs such as Transparency International, and, goaded by TI, by some international organizations, such as the World Bank, OECD and IMF. The extent of the involvement of European states in the creation and perpetuation of this system is less well known. Not only is corruption an element of transnational business transactions, it has been a part of the agendas of European politicians, their parties, their state-owned firms and/or “national champions”. This paper argues that, contrary to standard expectations, increased economic competition and trade openness lead to more, not less, corruption in certain kinds of export markets and foreign investments. The paper studies the arms trade, oil industry and major infrastructure projects. The political and economic dynamics of these sectors create a self-reinforcing system of corruption. Empirical evidence comes from a variety of European cases.

Export-led Corruption

When asked to explain how, on his modest government salary, he could have purchased 123 plane tickets for over \$34,000, a former French bureaucrat, Jean-Charles Marchiani, replied that the funds came from “the savings of his 90 year old mother-in-law”¹. That excuse failed to convince the French police, who instead suspected Marchiani of being directly involved in the sale of arms to Angolan President Eduardo Dos Santos at a time when the French government had banned such sales, and of surreptitiously using the French oil company, Elf, to fund Dos Santos’ rival in the Angolan civil war.² The \$34,000 sum was but the tip of the iceberg of profits available from corrupt transactions in the export of arms and import of oil.

This paper is a review and analysis of three major areas of foreign economic activity in which corruption plays a significant if not determining role: infrastructure development, armaments, and oil. The evidence from these sectors directly challenges claims that international organizations such as the European Union and the OECD have damping effects on corruption.³ For the sake of greater access to export markets and sales, EU member states and their firms disregard their own laws, those set forth in international agreements, and those of other countries.

¹Fabrice Lhomme, “Jean-Charles Marchiani mis en cause” Le Monde 21 Nov. 2002.

²Nicolas Beau, La Maison Pasqua Paris: Plon, 2002, 95; Renaud Van Ruymbeke, Ordonnance de Renvoi devant le Tribunal Correctionnel de Non-Lieu Partiel et de Requalification. No. du Parquet 9418769211, No. Instruction 2039/94/29 Procédure Correctionnelle. Cour d’Appel de Paris. Tribunal de Grand Instance de Paris. 13 Dec, 2002, pp. 97-100.

³Wayne Sandholtz and Mark M. Gray, “International Integration and National Corruption” International Organization 57/4 (Fall, 2003), 761-800.

I call this export-led corruption. Export-led growth has been a means some developing countries have used to rapidly raise their economic growth, and become serious entrants in the international economy. Typically, the state leads an all-out effort to enter and succeed in foreign markets; imports and the domestic economy are steered towards facilitating exports.⁴ In the case of “export-led corruption,” corruption is a means of increasing exports, of increasing foreign market share, and it is often state-sponsored.

That the global economy involves extensive corruption has been well-publicized by NGOs such as Transparency International, and, goaded by TI, by some international organizations, such as the World Bank, OECD and IMF. The extent of the involvement of European states in the creation and perpetuation of corruption in the international political economy is less well known. Not only is corruption an element of transnational business transactions, it is a part of the agendas of European politicians, their parties, and their state-owned firms, including the so-called “national champions”. To quote a British NGO’s report, “if corruption is growing throughout the world, it is in large part fuelled by policies and programmes that are being pushed by Western governments and which are further underwritten by poor governance and misdirected funds in the North.”⁵ European governments have often condoned or turned a blind eye towards corrupt foreign practices by their multinationals and have encouraged corruption within their state-owned enterprises and used it as a tool of revenue

⁴Stephan Haggard, Pathways from the Periphery. The Politics of Growth in the Newly Industrialized Countries Ithaca: Cornell University Press, 1990.

⁵House of Commons Select Committee on International Development Appendix 4, Memorandum submitted by The Corner House, “Underwriting Corruption: Britain’s Role in Promoting Corruption, Cronyism and Graft”. printed 27 Feb. 2001.

generation and foreign policy.

In a reversal of the traditional moral hierarchy, it is more often third world governments which investigate and try to prosecute the corrupt practices of European (and US) multinationals. European states have by and large ignored corruption in programs they fund via such major international organizations as the World Bank and the IMF (not to mention the UN), as well as toward their own international development and export credit agencies. In Great Britain, where since 1906 it has been illegal for corporations and politicians to bribe foreign officials, not a single individual or corporation has even been investigated, let alone stood trial, for breaking that law.

Not only has competition for rents been a factor in cross-border corruption within Europe, it has been so internationally, with European countries, including those with reputations as least corrupt, being host to multi-nationals that routinely bribe foreign officials and intermediaries in order to land contracts. Furthermore, some of the funds from the contracts revert back to European politicians and businessmen for private or political party use. In some countries this has been standard practice, in others “only” an occasional incident.

Most studies of corruption conclude that increased competition in government contracting and in the private sector will reduce corruption. These studies fail to recognize that calling for policies which increase competition in the market may be irrelevant in some sectors, such as the manufacture of commercial planes, arms, oil and utility infrastructure. The stakes (profits, rents) are very high; and firms and states have the perception that winning any particular contract is critical for gaining substantial market share and for maintaining and increasing domestic employment and economic growth. Because of that, as economic competition

increases, firms are willing to pay bribes, and their domestic governments are willing to overlook or indirectly subsidize the bribes (through export credits) in order to help their firms land contracts.

The hypocrisy is just below the surface. In many cases, the companies involved in or implicated in corruption outside of Western Europe are “from countries that have signed the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.” This Convention obliges signatories to adopt national legislation which makes it a crime to bribe foreign public officials, and specifically requires that ‘Investigation and prosecution of the bribery of a foreign public official ... 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’ (Article 5).” The legislation may have been adopted, but it and the Convention’s mandate to put aside economic and diplomatic considerations are routinely ignored.

The paper starts with a discussion of the general dynamics of corruption in the export economy of the EU (pp. 6-15), then reviews and analyzes the evidence in the infrastructure (pp. 15-23), arms (pp. 23-39) and oil (pp. 39-49) sectors. It goes on to discuss state enforcement of corrupt contracts (pp. 49-53). The last section concludes, noting those factors which may reduce corruption in these sectors, and countervailing tendencies.

General Characteristics

Perverse incentives

It is critical to recognize that those most likely to write and enforce the policies and

attendant rules promoting competition often have a vested interest in doing precisely the opposite. Unfortunately, the incentives government officials face reward the status quo. First, as French officials are discovering, it costs an enormous amount of time and money to investigate and prosecute such corruption. Second, doing so renders public actions and expenditures which those involved would have preferred had been kept confidential: does Elf Aquitaine (now TotalFinaElf) like having rival oil firms know exactly how much it was paying the Gabonese president for its operations there? Does the German political class want the public to know that in order to sell Airbus planes to Canada, politicians condoned the paying of bribes? Firms and governments prefer that trade secrets, such as amounts of bribes, names of intermediaries, remain secret. In addition, prosecution of major domestic multi-nationals is akin to biting the hand that feeds the politicians. Third, the OECD mandate to prosecute despite possible economic repercussions loses to the economic argument that if “their” companies aren’t bribing, then rival states’ companies will anyway, and will therefore win the contracts. The “what’s good for the multinational is good for the domestic economy” argument is irresistible to politicians, particularly when the corruption occurs off-shore, out of sight of constituents and practically off limits to domestic investigative agencies. Ditto for the bureaucrats who supposedly regulate the industries in question. Finally, the possibilities for personal enrichment compete with officials’ sense of propriety

Commissions

Western politicians and firms claim that bribery is a “must” in many parts of the world. As one managing director of a British weapons manufacturer said, “Commissions make the world go round. There’s nothing illegal about them. I don’t know of a [Saudi] Royal who’ll get

out of bed for less than 5%.”⁶ Some argue that commissions should not be called bribes, they are instead like brokerage or realtor fees – a payment to someone who makes a deal happen, who finds terms on which buyer and seller can agree. Yet commissions support corruption. When the commission is 25% of the contract, and when it is not transparent where all the money from that commission goes, is it really just a commission?⁷ Commissions are used to purchase the award of contracts, even and often especially in competitive markets (where there is competition between suppliers). A French official in the finance ministry said that “They go up in certain Asian countries for some types of transactions, because there is very strong competition.”⁸ An industrialist noted that sometimes the commissions, which are often turned to private ends by the recipient, reach 45% of the contract in highly competitive markets because it is necessary “to coax” the client.⁹ When the client is a government official or political figure, that’s bribery. A British exporter noted that Nigerian generals routinely demanded a 70% commission, and he candidly (and anonymously) called it for what it was: bribery and corruption.¹⁰

Middlemen are prevalent in export-led corruption. They advertize themselves as being connected to the right people in the right places and they stress that without their intervention, Western firms will get nowhere. They rely on the personalistic nature of much of politics and

⁶John Hoakes, of Thorn EMI, quoted in *The Guardian* 14 Nov. 1994.

⁷The Chairman of Thorn EMI, Sir Colin Southgate, said he paid a commission of £ 10 million on a £ 40 million weapons contract. The Guardian 14 Nov. 1994.

⁸anonymous, quoted in Eric Plouvier “Corruption à la française III” Le Monde 15 Oct. 1992.

⁹Jacques Isnard, “Fournisseur et client sont complices” Le Monde 14 March 1998.

¹⁰quoted in Neil Cooper, The Business of Death: Britain’s arms trade at home and abroad London: Tauris Academic, 1997, p. 143. in The Guardian, 13 Nov. 1995.

business, and given their own lack of familiarity and contacts in the countries in which they wish to land contracts, firms and states believe them. When an intermediary is paid a commission, he/she routinely gives part of it to key officials and leaders in the country awarding the contract. Often, part of the commission makes its way back to the home country by way of the foreign bank accounts of key politicians and industry leaders. For example, one of the French state's oil company intermediaries, André Guelfi, estimated that of the \$100 million Elf paid him in commissions for the various contracts he brokered, he spent \$70 million paying third parties, including political leaders.¹¹ Intermediaries also “isolate businessmen [and states] from unpleasant truths.”¹² Using an intermediary keeps the corruption at arms length. As a French exporter said, “One is not too curious neither about the real power that is behind [the deals], nor about the real recipient of the funds.”¹³ Commissions may reach extraordinary heights in order to buy the compliance of the intermediary, giving the latter a strong incentive not to double cross his/her “employer”.

Secrecy

Corruption needs secrecy, and in the competitive infrastructure projects, oil and arms trade, it has it. Most European countries seldom fully disclose the terms of weapons sales. Information is provided “on an unofficial and selective basis”, oversight by elected parliaments

¹¹Renaud Van Ruymbeke, Ordonnance de Renvoi devant le Tribunal Correctionnel de Non-Lieu Partiel et de Requalification. No. du Parquet 9418769211, No. Instruction 2039/94/29 Procédure Correctionnelle. Cour d'Appel de Paris. Tribunal de Grand Instance de Paris. 13 Dec, 2002 [hereafter, Ordonnance], pp. 372-387.

¹²Susan Rose-Ackerman (1978). Corruption. A Study in Political Economy. New York: Academic Press, p. 193.

¹³anonymous, quoted in Eric Plouvier “Corruption à la française III” Le Monde 15 Oct. 1992.

is rare, and media coverage is regarded as a nuisance, at best.¹⁴ Despite claims of being democratic, governments keep to themselves information such as “to which countries and in what quantities goods such as artillery shells, land mines and cluster bombs have been licensed for export.¹⁵” Oil companies have protested efforts to have them “publish what they pay” in bribes (always called commissions) or reveal their financial circuits.¹⁶ A TotalFinaElf spokesman said that “Whether it’s the oil industry or any other industry, obviously you wouldn’t want your competitors to know what you pay. It’s not that we’re against it, or that there’s something to hide; it’s just the standard.”¹⁷ Infrastructure projects are seldom decided by transparent processes; with neither the governments nor the firms involved having an incentive to share their pricing and payment information with the public or each other.

Even in a country with a stronger tradition than most of public oversight by way of parliamentary committees, the unwillingness to investigate possible corruption in overseas exports is strong. The economic and political costs are deemed too great: in Britain, the state’s

¹⁴D. Gibbs, “Secrecy and international relations” Journal of Peace Research 32/2 (1995), 213-28; Davis, Regulation of Arms and Dual-Use Exports, p. 234.

¹⁵British House of Commons, The Right Honourable Sir Richard Scott, Report of the Inquiry into the Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions: Return to an Address of the Honourable of the House of Commons Dated 15th February HC 1995/96, 115 (HMSO: London, 1996), paragraph K8.13. In the full quote, Sir Richard is challenging the need for secrecy.

¹⁶In describing Elf’s convoluted, obfuscating and anti-competitive legal status, the French parliamentary committee investigating it said it was “hardly compatible with [European] community law (to say the least) [sic]”. Commission des affaires étrangères, Assemblée Nationale, “Rapport d’Information sur le rôle des compagnies pétrolières dans la politique internationale et son impact social et environnemental” Assemblée Nationale, N° 1859, Vol. I, (13 Oct.). Paris: Assemblée Nationale, 1999, p. 61.

¹⁷The International Consortium of Investigative Journalists Greasing the Skids of Corruption. Center for Public Integrity, 2002, p. 10.

refusal to release an investigative report on a shady arms deal with Saudi Arabia was justified on the grounds that “The Saudis would have been upset.”¹⁸ One could just as well have added that the British public would have been upset. This is the same state that, in other contexts, lectures or “advises” new democracies on the importance of transparency, openness and other anti-corruption policies in government and in economic transactions.

It is symptomatic of the problem, but perhaps no surprise, that in France, investigating magistrates have run up against the brick wall of “defense secrecy” in trying to investigate bribes and kickbacks possibly associated with the sale of French military equipment to Taiwan and other similar contracts¹⁹

Combined with secrecy incentives in the West, firms doing business in less developed countries may have little incentive to “publish what you pay” for access to a market, for landing a contract: when BP did so, it was almost thrown out of the Congo; its competitors, unwilling to do so, were not.²⁰

Tied Aid and other forms of financing

While they have regulated themselves within the EU to limit state subsidies to their own industries, they have left the international market virtually regulation free.²¹ Another

¹⁸Public Accounts Committee Chair Robert Sheldon, quoted in Independent 23 June 1997.

¹⁹Hervé Gattegno, “Fregates de Taiwan: l’enquête sur les commissions se heurte au secret-défense” Le Monde 22 June 2002.

²⁰Serge Michel, Serge Enderlin, “Les Rois du Brut” Le Figaro 16 July 2003.

²¹There has been pressure in recent years to reach agreements limiting export subsidies, but, as usual in international accords, the rules and enforcement provisions are weak. Tied-aid has been exempt from the rules. Andrew M. Moravcsik, “Disciplining Trade Finance: THE OECD Export Credit Arrangement” International Organization 43/1 (Winter 1989), 173-205,

government strategy for increasing domestic economic and political revenue, which is not technically corrupt but which can foster corruption, is increasing the level of aid given to a country in order that it can purchase weapons or infrastructure projects from the donor country. The UK provides an example of how it works. In 1988-89, the UK's aid to Nigeria was £ 6.3 million. In 1989-90, UK aid increased tenfold, to £ 67.7 million. Also in 1990, the UK negotiated the sale of eighty "made in the UK" Vickers tanks to Nigeria for at least £50 million. "A Whitehall spokeswoman said £59.4 million of this aid was to finance essential imports. She insisted there was no link between the aid increase and the arms deal."²² Rather than force Nigeria's corrupt president, Sani Abacha, to pay for the tanks, or for the "essential foreign aid" which the oil-rich country shouldn't have needed, with funds he had sequestered in Swiss banks, by way of British banks, the British government coddled the Nigerian ruler, used public money to facilitate sales for the UK's privatized defense industry, and foisted the costs onto British taxpayers. In essence, the scheme is not unlike that of politicians inflating a contract by an amount more than sufficient for the contractor(s) to pay the required kickback and make a hefty profit at the same time. Significantly, research by the NGO World Development Movement found that between the 1980s and 1990s, foreign aid to "eight of the largest buyers of British arms, including Oman and Indonesia, has risen while aid overall has fallen by 20 per cent. Last year alone, as aid to Africa was cut, ECGD [Export Credits Guarantee Department] increased

here at p. 181.

²²Christopher Elliott, David Fairhall and Michael White, "Fresh pressure on arms deals" The Manchester Guardian Weekly 20 Nov. 1994.

five times its financial backing for arms sales to ‘risky markets’.²³ This process appears to have accelerated as weapons sales became ever more competitive, and from the perspective of politicians, had the benefit of ostensibly providing business for their infrastructure contractors too. The system sets up an absurd cycle: for rulers of developing countries, the more subsidies there are for European contractors, the more they will have bidders for their contracts, the more the bidders will be compelled, due to intense competition, to offer bribes.²⁴

It is well known that Western banks and states have long profited from their role as repositories for illicitly gained funds.²⁵ What is less well known is the extremes to which Western corporations and states have gone to facilitate this. France’s Elf oil corporation provides an example. And lest the reader protest that this merely reflects the old industrial Gaullism, where industry is seen as a tool of the state, these practices continued during Elf’s privatization, and appear to have continued after its merger with TotalFina.²⁶ In order to absorb and selectively disperse some of Gabon’s petro-dollars, the Gabonese president, Omar Bongo, set up a bank in Paris (FIBA) in 1975. When Gabon’s regime nearly bankrupted the bank in

²³In 1984, India used its British foreign aid to purchase 21 British military helicopters. In 1993, two months after Foreign secretary Douglas Herd promised Indonesia \$500 million in aid, Indonesia agreed to a £65 million “soft loan” for a power station. Christopher Bellamy, “Campaign condemns arms sales subsidies” The Independent 15 Nov. 1994; Davis, 125.

²⁴In addition, the cost effectiveness of such programs is dubious at best, and the ease with which buyers can obtain weapons enables them to engage in behavior which the export-credits are there to off-set the risk of for the sellers: civil wars, currency crises, etc. Neil Cooper, The Business of Death London: Tauris Academic, 1997, p. 143; World Development Movement, Gunrunners Gold. How the public’s money finances arms sales London: WDM, 1995, p. 22.

²⁵R.T. Naylor, Wages of Crime Ithaca: Cornell University Press, 2002.

²⁶Global Witness, Time for Transparency. March 2004, pp. 27-35.
<http://www.globalwitness.org/reports/show.php/en.00049.html>

1978 through deficit spending, Elf stepped in to buy forty percent of its shares and took over its directorship. FIBA became the personal bank of Bongo and other African “dignitaries” and their families and friends. It helped finance weapons purchases for at least one civil war (in the Congo, June to October 1997, led by Congo President Lissouba), and numerous loans to Bongo’s friends and even Elf managers. The wife of the Congo’s president Lissouba routinely withdrew over a million francs in cash. When Bongo’s domestic bank went bankrupt, Elf stepped in to have FIBA create a branch in Libreville. According to testimony of its general director, Pierre Houdray, FIBA was “at the crossroads of relations between the French oil firm and multiple African states (Gabon, Congo, Angola).” The bank was located on one of Paris’ most prestigious streets, and its clients routinely withdrew millions of francs on the strength of a phone call from the Gabonese President. The bank did not bank keep receipts of transactions in Bongo’s personal accounts. Instead, once a year the director met Bongo and asked him to sign for the withdrawals, but did not keep a copy for himself or for the bank! FIBA facilitated the establishment of off-shore accounts, such as with Crédit Foncier de Monaco, noted for being both a Corsican stronghold and the bank for about thirty African elites from Gabon and Congo. Deposits to Bongo’s official and personal accounts primarily came by way of Western banks (in Lichtenstein, the US, and Switzerland).²⁷ In essence, corruption in Gabon, the Congo and other African countries was not only paid for by Elf (and other Western oil companies), but laundered by Elf.

²⁷Ordonnance, p. 70-4; Houdray on p. 71. In 2000, the French began an investigation into FIBA’s money laundering activities. Two days after a raid to collect documents, FIBA was broken into, presumably in someone’s attempt to recover and destroy other incriminating evidence. FIBA was liquidated on June 1st, 2000. Ordonnance, 70.

The following survey shows that in their efforts to increase overseas business for their contractors, to sell arms, and find oil, the Europeans also increase overseas corruption. Infrastructure projects, arms and oil have all the ingredients for corruption: heavy government involvement, huge potential rents undercut by the monopsony position of the developing countries. European states set up institutions which facilitate corruption even as they sign agreements and pass laws condemning overseas bribery. Firms convince government officials that winning contracts and having market access is crucial to their profitability. Because those who bear the direct costs are politically unorganized or disenfranchized (taxpayers in the European countries, the poor in the less developed countries), and those who profit are politically powerful and well-organized, export-led corruption continues.

INFRASTRUCTURE PROJECTS

Competition for business in “emerging markets” generates its own corruption – it is not just the less developed countries which contaminate the “clean” firms and governments of the advanced industrial states. Intense competition in overseas contracting is prone to corruption and has led to such perverse outcomes as firms forming cartels to reduce competition for major projects (see below). The (West) European market for major development projects has become saturated; economic integration facilitated mergers and the demise of smaller players, and the big firms aggressively exported their practices to foreign markets. The projects can be worth hundreds of millions in revenue, are awarded in processes with no independent oversight, and are so large that multiple “competitors” can be included in the award. As a sales manager of a major firm stated, it leads “to some strange bedfellows. The big contractors are joint venturing

and not trying to do it all anymore.” They collaborate to share what was a hotly contested market, such as Asia in the 1990s (before the financial crisis): “There are new projects announced every week, which means that everybody is there competing”.²⁸ In forming consortia and other types of alliances, contractors reduce the effective number of competitors in a market, and create conditions which facilitate corruption: fewer players, more coordination, less transparency.

The infrastructure projects are so big that numerous firms from multiple countries can be awarded a piece of the action, and the financing also gets to be distributed. A case in point is the Lesotho Highlands Water Project. It was conceived in the 1980s, allegedly in order to divert water from the Senqu/Orange river in water-rich but otherwise poor Lesotho to allegedly water-hungry South Africa. The project involved nine different companies from Europe and South Africa, and three international consortia. All allegedly paid bribes, ranging from \$2,439 (Diwi Consult of Germany) to \$733,404 (the Highlands Water Venture consortium).²⁹ At the time of writing, one of the international consortia and two additional firm were found guilty in Lesotho of bribing the (former) Lesotho head of the project.³⁰ The consortia had transferred about

²⁸Randy R. Kessler, sales manager of KTI Corp, in Gary J. Tulacz, “Finding ways to make it happen abroad” Engineering News-Record 20 May 1996.

²⁹The Highlands Water Venture consortium included Impregilo (Italy), Hochtief (Germany), Bouygues (France) Keir International and Stirling (UK) and Concor and Group Five (South Africa). Antonio Tricarico, Dams on Trial. The World Bank and the ‘Cancer of Corruption’. Rome: Reform the World Bank Campaign, 2000, p. 3.

³⁰The Lesotho official was sentenced to 18 years in prison on a 57 year sentence for taking over \$2 million in bribes. He said he did not demand the payments, but that he was offered them. This could mean he was tempted out of the blue, or that the consortia anticipated his likely request. As contracts for various parts of the project were signed, payments were made to his Swiss bank account via an intermediary who himself seems to have skimmed off a “commission” of 40% (and since died before the trials). The Corner House, “Underwriting

\$300,000 to him.³¹ A Canadian firm, Acres International, after having said, “We vehemently deny the accusation. Nobody in Acres had any knowledge of any payments to Sole [the Lesotho official],”³² was convicted of a £ 278,000 bribe and fined £ 1.6 million (about \$2.2 million).³³ The UK member of the consortium admitted that all firms had contributed to the payments, but singled out the French firm as the organizer: “Spie ran the contract. They had the prior relationship with the agents, UDC” a Panamanian registered shell run by a French citizen.³⁴ Given that the project (the first of five parts) cost about \$2.7 billion, this was corruption on the cheap.³⁵

Some of the funds for the full five phases of the Lesotho project came from Crédit Lyonnais, a major state-owned French bank which later collapsed under negligent, if not fraudulent, management, and Dresdner Bank, whose CEO, Hans Friderich, had been convicted a

Corruption. Britain’s Role in Promoting Corruption, Cronyism and Graft” Memorandum House of Commons Select Committee on International Development, Appendices to the Minutes of Evidence, 27 Feb. 2001, p. 13.

³¹Lesotho Highlands Project Contractors included Spie Batignolles (France), Balfour Beatty (UK and of Pergau aid for arms fame) Campenon Bernard (France), LTA (South Africa), and ED Züblin (Germany). Antonio Tricarico, Dams on Trial. The World Bank and the ‘Cancer of Corruption’. Rome: Reform the World Bank Campaign, 2000, p. 3; David Pallister, “Blacklisting threat to UK firm” The Guardian 6 July 2002.

³²quoted in Tricarico, Dams on Trial, p. 8.

³³David Pallister, “Canadian company fined pounds 1.6 m” The Guardian 29 Oct. 2002

³⁴ “Memorandum submitted by Balfour Beatty” Select Committee on International Development, Minutes of Evidence, Jan. 2001 (memo not dated more precisely).

³⁵Anon., “Lesotho over the financing hump” International Trade Finance 28 Nov. 1991.

few years earlier of tax evasion in the Flick bribery affair.³⁶ Another part of the story is about the unusual, if not illegal, financial maneuvers taken by the World Bank to ensure that the project could be started despite international economic sanctions against South Africa. The World Bank arranged the establishment of a trust-fund in London through which payments from international financiers and government export credit agencies could be made: Lesotho was to be the official debtor even though [sanctioned] South Africa was to service and pay off the debt.³⁷

Rather than increased competition and international trade reducing corruption, these forces merely facilitate its “export”. An investigative report noted that, “The companies implicated in this scandal are no strangers to allegations of corruption. For example, Spie Batignolles and Sogreah were involved in Kenya’s Turkwell Gorge Dam which, because of bribes reportedly paid to Kenya’s president and energy minister, cost more than twice what the European Commission said it should have.”³⁸ Other European firms were also implicated in that project (GE Alstom, Norconsult, and Knight Piesold).³⁹ In another, the Swedish telecomms

³⁶On financing, Anon., “Lesotho over the financing hump” International Trade Finance 28 Nov. 1991.

³⁷Antonio Tricarico, Dams on Trial. The World Bank and the ‘Cancer of Corruption’. Rome: Reform the World Bank Campaign, 2000, p. 1; The CornerHouse (sic) Dams Incorporated. The Record of Twelve European Dam Building Companies, London: Swedish Society for Nature Conservation, (Feb. 2000), no pagination, “Lesotho Highlands Water Development Project” section.

³⁸Antonio Tricarico, Dams on Trial. The World Bank and the ‘Cancer of Corruption’. Rome: Reform the World Bank Campaign, 2000, p. 9.

³⁹House of Commons, Select Committee on International Development, Appendices to the Minutes of Evidence printed 22 March 2001, “Recent Cases of Corruption Involving UK Companies and UK-backed International Financial Institutions”, p. 1.

giant, Ericsson, is under investigation by the Swiss judiciary for having paid bribes of up to SF 550 million to set up mobile phone networks in Bulgaria, Slovenia, Poland and Libya.⁴⁰

Legal thinking and practice on the part of Western corporations appears to facilitate such practices.⁴¹ The UK firm involved, Balfour Beatty, argued to a UK House of Commons committee that the problem lay with the consortium, not with Balfour Beatty – in the business world’s “mind”, participation in a consortium absolves the individual firm of responsibility for the consortium’s actions. Its legal department wrote that “Balfour Beatty PLC is not the subject of any charges in the Lesotho courts. A joint venture [of which it was a part], led by French contractors, is the subject of charges.”⁴² The firm’s Chairman, Lord Weir, wrote that “On major contracts, a company may be a member of a consortium, joint venture, or partnership, consisting of other companies, either international or local, but may well not be the managing partner or the partner with prime responsibility for the sales and commercial aspects of the contract”. It is the corporate version of [Bill Clinton’s infamous] “I smoked but did not inhale”.⁴³

⁴⁰Anon., “Schmiergelder für Osteuropa und Libyen?” Der Spiegel # 22 (24 May 2003).

⁴¹As the spokeswoman for ExxonMobil said of odd transactions involving a US based bank, Riggs, and oil revenue from Equatorial Guinea, “I don’t know where our payments are made ... we have very high business standards and ethical standards.” Anon., “ExxonMobil says has no knowledge of Equatorial Guinea oil probe” Platts Oilgram Price Report, 12 May 2003.

⁴²“Attachment 2 Inaccuracies in evidence submitted to the committee”. Select Committee on International Development, Minutes of Evidence, 24 Jan. 2001.

⁴³Spie Batignolles’ contortions in the court room have been similar. The firm merged with Schneider (a major French electronics firm), which claimed that because all of Spie’s assets and obligations were transferred to a subsidiary in Lesotho, Schneider was not responsible for the corruption. The Lesotho judge disagreed, noting that the requisite legal changes were not carried out in Lesotho: “Whatever happened in France, nothing happened in this country”. Schneider pleaded guilty to bribery in order to avoid a trial. The Lesotho court fined it R10 million (about \$1.5 million). Anon. “Electrical company must stand trail in Lesotho bribery case” Financial Times 12 Dec. 2003; Anon., “Global company fined R10-M for Lesotho

Western states feed overseas corruption through their export credit guarantee agencies. These agencies underwrite export sales to, and Western built projects in, areas considered to be risky investment environments. On the domestic side, there is also the potential for corruption, if not merely conflict of interest. The agencies enable their multi-nationals and even domestic contractors to conduct business in environments that are so unviable that exporters and contractors would not normally do business there. The official view was well put by Lady Chalker, then Minister of Overseas Development: the export credit program “finances developmentally sound projects of commercial and industrial significance to Britain. ... These projects have directly brought us £ 3.9 billion in export orders. They have created and maintained tens of thousands of jobs for British workers. Hundreds of British companies have benefitted from contracts and subcontracts, which they have won with our help.”⁴⁴ Italy’s export credit agency, SACE, has provided a \$1.13 billion guarantee on a commercial loan by German and Italian banks for a highly controversial, massive gas pipeline project from Russia to Turkey, partly by way of the Black Sea. Another Italian guarantee agency, within the state-held energy firm ENI, has backed an \$866 million loan for the same project. The deal, which won the “European Oil and Gas Deal of the Year” award in 2000, has, inevitably, fallen prey to corruption. On-going investigations implicate officials and firms in Turkey and Russia;⁴⁵ given the size of the contract, and the involvement of Western firms and government agencies, it is

bribery” Financial Times 25 Feb. 2004.

⁴⁴Foreign Affairs Committee, House of Commons. Third Report. Public Expenditure: Pergau hydro-electric project, Malaysia, and related matters. Vol. II. Minutes of Evidence and Appendices, London: HMSO, 1994, p. 54.

⁴⁵Antonio Tricarico, “Oil in the Caspian: The Blue Stream-Black Sea Gas Pipeline Project” www.eca-watch.org/problems/caspoil/bluestream.html, p. 2, 8,11.

unlikely that Italian and German politicians and firms would not have been affected. Likewise, Indonesia offers an untold number of cases of corruption in large, western built and western underwritten projects.⁴⁶

Export credit guarantee agencies get involved in states' efforts to create markets where they don't exist. An example is the Pergau, Malaysia, dam. It was built with £ 234 million of British aid, despite Britain's Overseas Development Administration reporting in 1990 that such a project would not be economically useful or viable until 2005. Promoting British firms, Prime Minister Margaret Thatcher pledged in 1989 to the Malaysian government that the aid would be forthcoming. The procurement contracts were won by two UK firms; Malaysia did not hold a competitive international bid. One of the winning firms, Balfour Beatty, was a major donor to Thatcher's Conservative party;⁴⁷ the other, Cementation, employed her son, and its parent company, Trafalgar House, was directed by Thatcher's former foreign affairs advisor, Sir Charles Powell. Costs went up 25% within two weeks of the British and Malaysian Prime Ministers agreeing to the deal.⁴⁸ But there is more, and worse. "Documentary evidence subsequently revealed that the aid package was linked in writing to a reciprocal arms deal

⁴⁶Peter Bosshard, "Publicly Guaranteed Corruption: Corrupt Power Projects and the Responsibility of Export Credit Agencies in Indonesia" www.eca-watch.org/problems/corruption/bosshard_intro.html; 2000. There is evidence that the European firms Suez and Thames bribed Indonesian President Suharto to privatize Jakarta's water system. Andreas Harsono, "Water Politics and the Fall of Suharto" Center for Public Integrity/International Consortium for Investigative Journalism, 10 Feb. 2003. www.icij.org/water/printer-friendly.aspx?aid=52

⁴⁷Balfour Beatty denies this. "Attachment 2. Inaccuracies in evidence submitted to the committee". Select Committee on International Development, Minutes of Evidence, 24 Jan. 2001.

⁴⁸Committee of Public Accounts, House of Commons. Session 1993-1994. Seventeenth Report. Pergau Hydro-Electric Project London: HMSO, 1994, p. v.

whereby the Malaysian government agreed to buy over £ 1,000 million worth of British military equipment in return for the UK funding of [the] Pergau [dam]”.⁴⁹ When the press got wind of this, the British government back-pedaled rapidly to de-link the deals. Technically, it succeeded, but in practice, it left the Malaysian government and the British public with the impression that there had been an illegal arms-for-aid quid pro quo, and, in all but the fine print, there was one.⁵⁰

The justification is export trade: France’s office of overseas commerce, the Direction des relations économiques extérieures (DREE), states, “For external trade, the designated objective of the Republic is to do contracts, not to set oneself up as the defender of morality.”⁵¹ As in other countries, France’s export credit agency covers the cost of “commissions”, in its case, of up to 8% (but one which is easy to evade by writing up some of the commissions as consulting fees).⁵² The tax authorities generally allow commissions of up to 15% of the contract to be tax deductible.⁵³ In other words, the state subsidizes corruption as it promotes exports.

⁴⁹House of Commons, Select Committee on International Development, Appendices to the Minutes of Evidence printed 22 March 2001, “Recent Cases of Corruption Involving UK Companies and UK-backed International Financial Institutions”, p. 8.

⁵⁰Foreign Affairs Committee, House of Commons. Third Report. Public Expenditure: Pergau hydro-electric project, Malaysia, and related matters. Vol. II. Minutes of Evidence and Appendices, London: HMSO, 1994, pp. 57-8; Foreign Affairs Committee, House of Commons. Session 1993-4. Third Report. Public Expenditure: Pergau hydro-electric project, Malaysia, and related matters. Vol. I. Report, together with the Proceedings of the Committee. London: HMSO, 1994, pp. liv-lv.

⁵¹anonymous, quoted in Eric Plouvier “Corruption à la française III” Le Monde 15 Oct. 1992.

⁵²Eric Plouvier “Corruption à la française III” Le Monde 15 Oct. 1992.

⁵³Coverage is not automatic, sometimes other foreign policy considerations prevail. France’s electronics group Thomson could not conclude a contract with the Algerian government in 1993 for the sale of about \$35 million for communications facilities because the export credit agency thought the commissions, of 10%, were too high. Jacques Isnard, “Les commissions sur

Just as with the export of major infrastructure projects, arms sales are another sector in which fierce competition, rather than reducing corruption, leads to more of it. The next section exposes and explains this phenomena.

ARMS TRADE

Four suspicious deaths, one mistress financed by the state-owned oil company, one foreign affairs minister sporting \$2,000 Italian shoes, half a billion dollars in bribes, six naval destroyers sold for over \$3 billion to a country to which the selling country does not grant diplomatic recognition; such are the ingredients of a Franco-Taiwanese arms sale scandal. Arms sales generate numerous convoluted schemes made possible by corrupt transactions. For weapons manufacturing states, arms exports are seen as crucial to what they argue is a critical domestic industry and they go to great lengths to ensure that export sales occur. We will return to the Italian shoe-destroyers story at the end of this section. First, it is necessary to understand that since the early 1980s, competition by European firms and states for weapons sales within or outside Europe has been fierce.⁵⁴ And contrary to conventional wisdom, it is because of that competition that it has been prone to corruption. The connection between the two phenomena is that while the sector is highly competitive, the potential profits (“rents”) are enormous and in the

les ventes françaises à l'étranger ont atteint 10 milliards de francs en 1994" Le Monde 17 March 1995.

⁵⁴SIPRI world armaments and Disarmament. SIPRI Yearbook London: Taylor & Francis for the Stockholm International Peace Research Institute, 1984; Ron Smith, Anthony Humm, Jacques Fontanel, “The Economics of Exporting Arms” Journal of Peace Research 22/3 (Sept. 1985): 239-247; United States General Accounting Office, Military Exports. A Comparison of Government Support in the United States and Three Major Competitors. Report to Congressional Committees. May, 1995; GAO/NSIAD-95-86.

name of national security and corporate confidentiality, the bid process is cloaked in secrecy. The fact that “the transaction price is rarely well-defined” also makes it a sector ripe for corruption.⁵⁵ And because it is a sector in which bribery has been the norm, firms have little fear that other firms, including new market entrants, will “rat” on them: the other firms are also engaged in bribery.

Competitive markets include firms that are “less competitive” than the market leaders. For the less competitive, bribing or granting kickbacks to those in charge of facilitating market access, and of granting contracts and licenses may have a lower marginal cost than being driven out of business by the efficient competitors in the market. Bribes are used to persuade the buyer (a government official, for instance) to accept lesser quality goods – a payment for the opportunity cost of having the buyer forego a superior product.

Further, sellers and purchasers seldom face hard budget constraints, as the military industrial complex are usually politically protected from the budget axe.⁵⁶ If any of the arms manufacturers are nationalized, as they were in France for a time, “Arms and arms export decisions are more than ever shielded from public debate and from societal pressures ...

⁵⁵“The transfer takes place as part of a package involving the equipment itself, spares, training, access to technology, export credits, insurance for payment, offset agreements, and now increasingly counter-trade (barter) arrangements.” Ron Smith, Anthony Humm, Jacques Fontanel, “The Economics of Exporting Arms” Journal of Peace Research 22/3 (Sept. 1985): 239-247, p. 241. Also Leslie Wayne, “‘Offsets’ replace bribes to clinch arms deals” The New York Times 17 Feb. 2003.

⁵⁶Lewis W. Snider, “Arms Exports for Oil Imports? The Test of a Non-linear Model” The Journal of Conflict Resolution 28/4 (Dec. 1984), 665-700; Chan, Steve (1980). “The Consequences of Expensive Oil on Arms Transfers” Journal of Peace Research 17/3: 235-246; Gregory S. Sanjian, “Great Power Arms Transfers: Modeling the Decision-Making Processes of Hegemonic, Industrial, and Restrictive Exporters” International Studies Quarterly 35/2 (June 1991), 173-193.

Nationalization created more the illusion than the reality of public accountability and elected government control.”⁵⁷

The arms trade also sets up a dilemma which is often “resolved” through corruption. As one scholar noted, “governments with major domestic defence industries are required to undertake two contradictory roles: the regulation and control of military exports, on the one hand, and the promotion of foreign sales, on the other.”⁵⁸ It is a highly lucrative and yet internationally competitive economic sector, and one for which exports are often critical to the profit margin. Buyers can select from a wide range of suppliers. Yet as an economic sector subject to major concerns about national security, arms exports face extensive regulatory hurdles. Officials on the weapons export control boards – the oversight committees – tend to be from the industries and agencies which have a direct interest in promoting exports: defense and the military. This conflict of interest can degenerate quickly into corruption. Transparency, often eliminated in the name of national security and relations with other countries, is in short supply.⁵⁹ Under the cover of “national” and “commercial” interest, parliamentary representatives in Britain and elsewhere have been barred at times from asking the government questions about arms exports.⁶⁰ The combination of bureaucratic barriers to sales and no transparency creates both the demand for corruption and its supply.

⁵⁷Edward A. Kolodziej, Making and Marketing Arms. The French Experience and Its Implications for the International System. Princeton: Princeton University Press, 1987, 240.

⁵⁸Ian Davis, The Regulation of Arms and Dual-Use Exports. Germany, Sweden and the UK. New York: Oxford University Press, 2002, p. 22.

⁵⁹Sweden, a notably uncorrupt country, has been a notable exception to this. Ian Davis, The Regulation of Arms and Dual-Use Exports Oxford: Oxford University Press, 2002, 234.

⁶⁰Davis, *ibid*, 132.

In addition, the EU's structure, with its free movement of goods, can "undermine national [export] controls" by making it possible to export the goods from the state "with the weakest legislative or administrative system"⁶¹. Given how loosely some states have interpreted their own guidelines on weapons sales, corruption of their own officials may not be necessary to gain permission to export. In Belgium, anti-tank grenade launchers are considered "hunting weapons" and therefore have legally been exported to countries on which there are arms embargoes.⁶²

The importance of the arms trade to the major exporters is seen in the government agencies each has established to promote arms sales.⁶³ By 1961, France had a government agency for promoting the sale and export of French arms.⁶⁴ The French also have a special consulting firm (owned 49.9% by the French state) which "helps" purchasing countries "define

⁶¹Davis, *ibid*, 53.

⁶² International Consortium of Investigative Journalists, "The Field Marshal" Center for Public Integrity 2002. p 2.

⁶³The real economic costs and benefits are seldom examined by exporting governments and their industries. The benefits tend to accrue to the specific industries and to the government officials linked to them, while the costs are borne by taxpayers at large (and of course those against whom the weapons are used in other countries). This is not unlike the economics (and politics) of cities and major league ballparks. See Campaign Against the Arms Trade, "Subsidies Factsheet" Feb. 2002. Consulted 28 March 2004. <http://www.caat.org.uk/information/publications/economics/subsidies-factsheet-0202.pdf> While this paper is concerned with practices within the EU, the US takes the lead in promoting and even fully financing the foreign purchase of its defense equipment. United States General Accounting Office, (1995). Military Exports. A Comparison of Government Support in the United States and Three Major Competitors. Report to Congressional Committees. May; GAO/NSIAD-95-86.

⁶⁴the Délégation ministérielle pour l'armement (DMA) which soon became the délégation générale à l'armement (DGA). Pierre Marion Le Pouvoir Sans Visage. Le complexe militaro-industriel Paris: Calmann-Lévy, 1990, p. 37-8.

their operational needs, weapon requirements, and specifications.”⁶⁵ The UK has a “Defence Export Services Organisation” which “co-ordinates the direct government support for arms exports, providing marketing assistance and advice on negotiation and financing arrangements, as well as organising arms exhibitions and promotional tours.”⁶⁶ Were it not for the fact that these arrangements are, according to the laws of their countries, legal, they would fit the classic definition of “state capture”.⁶⁷

Even in countries which reputedly have arms length distance between firms and the government, the arms export business is instead one of cozy relations. The “liberal market economy”⁶⁸ gives way to the “conflict of interest” economy. In Britain, the committee which approves export license applications, the Export Control Organisation within the Department of Trade and Industry, is staffed by officials seconded from industry to the agency. The “oversight” groups in the UK meant to enforce the rules (a Ministry of Defense Working Group, and an Interdepartmental Committee on Defence Sales to Iran) were “heavily biased in favour of the exporters. Thus, among the ‘non-lethal defence equipment’ exported to Iraq during the late

⁶⁵United States General Accounting Office, Military Exports. A Comparison of Government Support in the United States and Three Major Competitors. Report to Congressional Committees. May, 1995; GAO/NSIAD-95-86, p. 23.

⁶⁶Mick Lambert, Judith Rattenbury and Ian Prichard, The Political Influence of Arms Companies London: Campaign Against Arms Trade, 2003, p. 3.

⁶⁷“actions of individuals, groups, or firms in both the public and private sectors to influence the formation of laws, regulations, decrees, and other government policies (i.e., the basic rules of the game) to their own advantage by means of the illicit and non-transparent provision of private benefits to public officials.” The World Bank, Anticorruption in Transition: A Contribution to the Policy Debate (Washington, D.C.: The World Bank, 2000), pp. 1-2.

⁶⁸Peter A. Hall and David Soskice, “An Introduction to Varieties of Capitalism” in Hall and Soskice, eds. Varieties of Capitalism. The Institutional Foundations of Comparative Advantage New York: Oxford University Press, 2001, pp. 1-68.

1980s were fighter aircraft spare parts, body armour, gun sound-ranging equipment and machine tools for the manufacture of artillery shells.”⁶⁹

The arms trade has been a buyer’s market for several decades, even when the buyers don’t have sufficient funds or are otherwise poor credit risks. The government of the seller state steps in to provide export credit loans, guarantees, and foreign aid in order to facilitate the sale. This is even the case for arms sales to oil-rich countries, such as Qatar and Saudi Arabia, not to mention to oil-rich but otherwise poor countries such as Angola and Nigeria.⁷⁰ In 1989, when weak oil prices threatened Saudi Arabia’s ability to meet its obligations, the UK government scrambled to arrange a loan for Saudi Arabia so it could continue to “purchase” (with oil) the military equipment on order under the “Al Yamamah” defense contract (see below).⁷¹

The contradiction which results from the intersection of national security interests restricting arms exports and national economic interests promoting those same exports is sometimes likely to be “resolved” by corruption. The case of the sale of German tanks to Saudi Arabia illustrates the point. In 1990, Jürgen Massmann, the head of Thyssen Henschel, the tank unit of the major industrial firm Thyssen, initiated contacts with a middleman involved in other

⁶⁹Ian Davis, Regulation of Arms, p. 147; Scott Report. British House of Commons, The Right Honourable Sir Richard Scott, Report of Inquiry into the Export of Defence Equipment and Dual-Use Goods to Iraq and Related Prosecutions HC 1995/96 115 (HMSO, London 1996) D1.103-44, pp. 187-292.

⁷⁰Susan Hawley, “Turning a Blind Eye: Corruption and the UK Export Credits Guarantee Department” Dorset: The Corner House, 2003. <http://www.thecornerhouse.org.uk/document/correcgd.html>, 32-33. Chrissie Hirst, no date The Arabian Connection: The UK Arms Trade to Saudi Arabia. Campaign Against Arms Trade, p. 9. Report available at <http://www.caat.org.uk/information/publications/countries/saudi-arabia.php>

⁷¹Andrew Gowers, “UK seeks 2bn pounds loan to help Saudi military deal” Financial Times 27 Nov. 1989.

corruption cases, Karlheinz Schreiber, for the purpose of arranging the sale of Thyssen tanks to Saudi Arabia. Thwarting Thyssen's aims were Germany's restrictive export laws prohibiting weapons sales to sensitive, conflict-ridden areas such as the Middle East. Saudi officials, in turn, were eager to buy the Thyssen product, the "famous Fuchs 'sniffer' tanks", a state of the art tank for detecting biological, chemical and nuclear residues.⁷² Schreiber had excellent contacts at Thyssen, in the (CDU-CSU/FDP) German government (particularly among the Bavarians, such as Walther Leisler Kiep and Max Strauss) and in Saudi Arabia. Thyssen also contacted Mansour Ojjeh, a billionaire Saudi businessman,⁷³ to ensure that the Saudi royal family would agree to the purchase, and to its terms. Despite the Saudi government having a ban on "commissions" for any of its purchases of weapons, Thyssen's Massmann, Ojjeh and Schreiber knew that only commissions would make the deal work. And that they needed a contact in Germany's defense ministry. They chose the deputy minister, Holger Pfahls, who had already been contacted by the Saudi Ambassador, and who had also been head of Germany's counter-espionage service, and who had been considered a protégé of a leading conservative politician, the (late) powerful Bavarian prime minister Franz Josef Strauss (CSU).

The deal faced two circumstances which made it more complex than usual: first, Saddam Hussein invaded Kuwait on August 2, 1990; second, Thyssen had just sold its complete inventory of Fuchs tanks to the United States. The first complication meant that lobbying on the

⁷²Stevie Cameron and Harvey Cashore, The Last Amigo Toronto: Macfarlane Walter & Ross, 2001, p. 179.

⁷³Ojjeh owned Techniques d'Avant-Garde, which is more widely known for TAG Heuer, an expensive Swiss watch brand. TAG is a conglomerate of aviation firms, hotels, construction firms, electronics companies worldwide. Cameron and Cashore, The Last Amigo, 180.

German side would have to be more intense, as Germany was awaiting the American response before making any moves. To deal with the second complication, Massmann, Ojeh, Schreiber and a handful of key Saudi and German military officials met and decided to suggest “loaning” the Saudis some tanks from the German army: “Thyssen could refit the equipment for the Saudis’ use and immediately begin manufacturing replacement vehicles for the German army”.⁷⁴ The deal also included some other equipment and maintenance facilities. Total cost was almost half a billion DM or about \$200 million, with an incredible \$100 million of it going to “consulting fees,” the universal euphemism for bribes and commissions. Schreiber has testified that he paid DM 1 million to the CDU and DM 1 million to the CSU.⁷⁵ Relative to the overall amount, Walther Kiep received about DM300,000, and used most of it to pay his fines from the Flick affair!⁷⁶ Thyssen figured that even with the “fees”, it would make a profit of 8-10%.⁷⁷ By October, Thyssen and the Saudis had reached agreement on the main points, but Thyssen still had to obtain permission to export the tanks. Approval of the Kohl-led German cabinet came in February, 1991.⁷⁸ Much evidence points to the likelihood that corruption was used to enable

⁷⁴Cameron and Cashore, The Last Amigo, 183.

⁷⁵On CSU payment, no author, “German challenger’s party received illegal funds” Agence France Presse 14 May 2002.

⁷⁶Schreiber gave Kiep a total of DM1 million, DM420,000 of which Kiep gave to the CDU’s tax advisor Horst Weyrauch, and DM370,000 to Uwe Lüthje, “a party insider and friend.” Kiep and Schreiber later denied that there was any connection between these sums and the Saudi tank deal. Cameron and Cashore, The Last Amigo, pp. 206-7

⁷⁷ibid, 183-187.

⁷⁸In Germany, decisions to grant export licenses officially lie with the Ministry of Economics but in practice require assent from Defense and sometimes full government cabinet approval. Davis, Regulation of Arms 169, 195

Germany's economic considerations trump its national security considerations. The conflict between having a defense industry which inherently demands a steady stream of sales and a foreign policy which restricts or bans exports to certain countries, thereby blocking sales, got resolved by corruption.

Likewise for the sale of six French destroyers to Taiwan in 1992. France did not have diplomatic relations with the Republic of China, and was wary of further disturbing already unsettled relations with mainland China, with which it did have diplomatic relations, so when the then state owned defense firm, Thomson-CSF, applied to sell its destroyers to Taiwan, the Foreign Affairs Minister, Roland Dumas, opposed the sale (which the weapons export board had approved).⁷⁹ The case was all the more urgent in that Thomson risked losing out to its German and American rivals.⁸⁰ To the rescue one Alfred Sirven, number two man at the state oil company, Elf, and Christine Deviers-Joncour, who later chronicled her experiences in a book she titled, "Whore of the Republic."⁸¹ Through circuitous financial and social networks, Sirven set Deviers-Joncour up as Dumas' mistress in order to convince Dumas to allow France's defense firm, Thomson, to sell destroyers to Taiwan in 1991.⁸² While Elf had nothing formally to do with Thomson, high level managers at Thomson believed that Elf (via Alfred Sirven) had a

⁷⁹Thomson-CSF became Thales in 2001. "La commission interministeriel pour l'étude des exportations de matériels de guerre" (CIEEMG). Hervé Gattegno, "Fregates de Taiwan" Le Monde 20 July 2000. Jacques Isnard, "M. Joxe veut vendre des Mirage à Taiwan après l'échec finlandais" Le Monde 13 May 1992.

⁸⁰Anon. "Après de longues négociations" Le Monde 14 Sept. 1991.

⁸¹Christine Devriers-Joncour, La putain de la république Paris: Calmann-Lévy, 1998.

⁸²Procureur de la République Jean-Pierre Dintilhac, "Requisitoire contre Roland Dumas" extract in Le Monde 11 Feb. 2000.

network of connections to Peking (necessary in order to pacify opposition to the sale by the Peoples Republic of China) and to the French Ministry of Foreign Affairs (necessary to obtain approval for the sale to Taiwan).⁸³ Indeed, Thomson and Elf may have had closer connections than is generally known: it was Thomson's director of African operations, where Elf (see below) had extensive operations (characterized by corruption and political manipulation) who brought Deviers-Joncours into Thomson. It appears that Sirven and Christine Deviers-Joncours saw the Thomson deal as one from which they could profit handsomely (to the tune of approximately \$32 million, or 160 million francs, not counting the \$33,000 a month Elf paid to Deviers-Joncours, nor her Elf credit card for her expenses).⁸⁴ Charged with making things happen, Deviers-Joncours and Sirven did. Ironically, when, via a Swiss shell firm, they tried to collect on the promised "commission" for their services, Thomson's CEO refused to pay. Apparently not willing to see a corrupt deal violated, then President François Mitterrand had his office lean on Thomson's CEO to pay the bill.⁸⁵

The bill that Thomson seems to have paid was for far more: half a billion dollars, to a Chinese intermediary, "Andrew" Wang. Wang reputedly used some of the funds to purchase the acquiescence of mainland Chinese leaders to the sale of the destroyers to Taiwan, and, as alleged by Roland Dumas, French foreign minister at the time, to various political or other figures in

⁸³Hervé Gattegno, "Fregates de Taiwan" Le Monde 20 July 2000.

⁸⁴no author, "Le pole financier cherche des beneficiaires" Intelligence Online 23 Jan. 2003; Christine Devriers-Joncours, La putain de la république Paris: Calmann-Lévy, 1998.

⁸⁵Thomson's then CEO, Alain Gomez, allegedly did not know about the illicit arrangements until after Thomson had been committed to them. Hervé Gattegno, "Fregates de Taiwan" Le Monde 20 July 2000; *ibid*, "Deux proches de François Mitterrand soupçonnés d'être intervenus dans l'affaire des fregates" Le Monde, 20 Oct. 2000.

France.⁸⁶ The commissions continued to be paid even as investigations became public knowledge.

The destroyer sale appears to have involved massive and coordinated corruption at the highest levels of government and industry in France and Taiwan. Close connections between the defense industry (much of which was state owned) and politicians, with the addition of national security shielding deals from public scrutiny, facilitated corruption. So too did extensive competition for sales in defense: immediately after the French firm Dassault (of Belgian bribery fame) lost a sale of French fighters to Finland, the French Minister of Defense, Pierre Joxe (at time of writing, member of the Constitutional Court), advocated selling 100 of the fighters to Taiwan. The failure to sell the Dassault planes to Finland was expected to lead to severe financial difficulties: Dassault hadn't had a weapons for export order in over four years.⁸⁷ The solution: sell them to a country with which France had no formal relations (Taiwan, ROC) and for which doing so will irritate a major ally (China, PRC). What with Andrew Wang being the point man for such deals in Taiwan, he again served as intermediary, and enabled other French firms to piggyback sales onto the fighter sales.⁸⁸

Exposure of such high level corruption has deadly costs. In 2000, the commercial attaché

⁸⁶Hervé Gattegno, "Frigates: l'enquête sur les commissions menace tout l'armement français" Le Monde 30 Oct. 2001; Anon. "Taiwanese premier backs foreign minister over French frigate scandal" BBC Monitoring Asia Pacific 8 March 2003.

⁸⁷The planes were the Mirage 2000-5. Jacques Isnard, "M. Joxe veut vendre des Mirage à Taiwan après l'échec finlandais" Le Monde 13 May 1992; William Dawkins, "France and Taiwan cement Dollars 2.6bn jet fighter contract" Financial Times 19 Nov. 1992.

⁸⁸Wang allegedly was paid \$400 million for this set of deals. Hervé Gattegno, "Frigates: l'enquête sur les commissions menace tout l'armement français" Le Monde 30 Oct. 2001; Laurent Maudit, "Pots-de-vin et contrats d'exportation" Le Monde 16 Dec. 1999.

to Taiwan at the time of the Thomson destroyer and Dassault Mirage jet sales in France's external secret service (DGSE) told his father, also of the DGSE, that "there were men in Taiwan and in France, at the highest level of Thomson, who had made colossal fortunes from these contracts." Not long after, the attaché, Thierry Imbot, was found dead, allegedly having fallen out of his apartment window one dark and stormy night.⁸⁹ He may have known too much.⁹⁰ A Thomson employee, Jacques Morisson, met a strikingly similar end five months later. He too had told a confidant that he feared he would be assassinated due to his knowledge of the underside of the destroyer sale. The Taiwan chief of naval procurement, Captain Yin Ching-feng, was assassinated in 1993 after pressing too hard in his investigation of the inflated price paid for the destroyers, knowing full well that the inflated price covered the bribes.⁹¹

Similarly dubious deals have taken place across the Channel (not to mention across the Atlantic, but that is the subject of another essay), even in a so-called "liberal market economy" and even under the auspices of that presumed advocate of the free market, Margaret Thatcher. A spectacular case in which not just the transaction price, but the price of the entire deal, was anything but clear is the British Al Yamamah arms sales to Saudi Arabia (details in CAAT

⁸⁹According to the official version, he fell out the window while trying to "repair the shutter very late on a windy night". Hervé Gattegno, "Frigates de Taiwan" Le Monde 22 June 2002; anon., Intelligence Online 11 Oct. 2002.

⁹⁰He was also a friend of French Interior Minister Charles Pasqua's friends, the arms dealers and "Angolagate" perpetrators, Pierre Falcone and Arcady Gaydamak. Anon., "Le pole financier a entendu Lee sur les frigates" Intelligence Online 9 Jan. 2003.

⁹¹At the time of writing, the case is again being investigated, with the aid of the Swiss judiciary. Anon., "La justice suisse relance l'enquête sur le sulfureux dossier des frigates de Taiwan" Le Temps 9 Dec. 2003; Fabrice Lhomme, "Quatre morts suspectés dans l'ombre du dossier" Le Monde 19 Nov. 2003.

report).⁹² The sale had two phases, known as I and II. Phase I was signed in 1986, but even while being negotiated, a British newspaper lodged serious allegations that the deal involved bribes of over three-quarters of a billion dollars (£ 600 million).⁹³ Perhaps just as extraordinary were the terms of the deal: the 72 (Tornado) fighter jets and 24 Hawk trainers would be “paid for almost entirely in oil.”⁹⁴ The privatized (!) British oil firm BP, and also Shell, were to pump the bartered oil in both cases, sell it on the open market, and deposit the funds in the UK Defense Ministry’s account, which would then reimburse the (recently privatized!) arms manufacturers, such as BAe. The details were not public, and it is not even clear the Thatcher government could put a real figure on the sale, which was reputed to be worth about £5.5 billion. But this was trivial relative to what was to come: a deal (Al Yamamah II) worth at least £ 10 billion. As the Financial Times put it, for the UK it was the “biggest sale ever, of anything, to anyone.”⁹⁵ The Saudis choice of the UK yet again may have been partly due to the UK government’s refusal to

⁹²Chrissie Hirst no date The Arabian Connection: The UK Arms Trade to Saudi Arabia. Campaign Against Arms Trade. Report available at <http://www.caat.org.uk/information/publications/countries/saudi-arabia.php>

⁹³John Hooper “‘Bribes of 600 million pounds’ in jets deal” The Guardian 21 Oct. 1985.

⁹⁴For a variety of political reasons having to do with US and other states’ activities and policies in the Middle East, the sale was highly controversial. In addition, the deal (I) included sizeable “offsets”—British commitments of direct investments, subcontracting and technology transfer to Saudi Arabia. The value of the offsets was also hard to estimate. Al Yamamah II was to include a huge offset deal, but as of 1999, one still hadn’t been concluded. Hirst, quoting a Financial Times report, p. 10; on offsets, Hirst, , 20-21; David White, Robert Mauthner, “Britain’s Arms Sale of the Century” Financial Times 9 July 1988.

⁹⁵David White, Robert Mauthner, “Britain’s Arms Sale of the Century” Financial Times 9 July 1988. The deal struck many as morally corrupt: it was not just a deal “to supply simply weaponry but an entire military infrastructure to one of the most repressive and corrupt regimes in the Middle East.” Will Self, “Addicted to Arms” The Independent 26 April 2002.

make public the details of the first agreement.⁹⁶ It did not do so for the second, either. While the arms trade rewards secrecy, that secrecy also sets up conditions for corruption.

Numerous allegations of bribes surfaced, one of which was actually admitted to by the chairman of Thorn EMI, subcontracting with BAe, the main contractor for the Al Yamamah deals. The chair, Sir Colin Southgate, said that his firm had paid a 25% commission on a £ 40 million shipment. When the managing director of the same firm was told that Saudi law prohibited “commissions” on arms deals, he replied, “Then they got a big problem with Al Yamamah.”⁹⁷

The British had perhaps learned from Lockheed’s misfortunes in the 1970s that to remain competitive in the arms trade, silence is best: even when allegations of corruption were to have been investigated by the UK’s National Audit Office, the subsequent report was not published, in contrast to thousands of other investigative reports the NAO has produced.⁹⁸ (British firms, by the way, may claim the commissions as tax deductions). The export credit agencies of most

⁹⁶It was also due to the fact that the US Congress was refusing to allow weapons sales to the Saudis.

⁹⁷John Hoakes, quoted in Hirst, p 31. Also David Pallister, “Thorn Admits Fees on Saudi Arms Deal” The Guardian 14 Nov. 1994. Related and very complicated cases involving a Conservative Minister of Defense Procurement, Jonathan Aitken, bribes and kickbacks on Westland/Sikorski helicopters, and on illegal arms sales to Iraq and Iran also emerged, and have been confirmed in varying degrees (Aitken was a glaring case of conflict of interest, and then perjury). CITES

⁹⁸In Al Yamamah deals, partisan competition was negligible: at the time, the head of the parliamentary committee with authority to release NAO reports was a Labour MP (Robert Sheldon, now Sir Robert). Despite allegations of bribes paid to Saudis, and kickbacks on those bribes to the British Conservative party, and to Margaret Thatcher’s son, Sheldon kept a lid on the report, as has Blair’s Labour government. Blair, instead, promises to maintain the same strategy, writing that “Winning exports is vital to the long-term success of Britain’s defence industry”. Will Self, “Addicted to Arms” The Independent 26 April 2002.

European countries also prefer to overlook corruption. In a case of arms sales to Saudi Arabia, there was evidence that the British Ministry of Defense approved of that arrangement and itself took £2 million from it. As to the complicity of politicians, then Prime Minister Margaret Thatcher's office asserted that no commissions had been or were being paid on the deal.⁹⁹ Other evidence contradicts this. In addition, in 1994, allegations and some evidence surfaced that Thatcher's son Mark had been given a £12 million payment by the Saudis as a "gift" related to the deal. British authorities with competence to do so refused to investigate.¹⁰⁰

Increasing the effect of secrecy on corruption in a competitive economic sector is the fact that British political parties were not required to disclose donors or amounts until 2001. For example, if some funds stemming from the Al Yamamah deals had come in to Conservative party coffers, they could have done so in complete secrecy. The party did not even have to resort to "shady financial dealings" in order to hide the donations: no one was allowed to audit party accounts in the first place.

Competition in the arms industry is another factor which fuels, rather than reduces, corruption. Indeed, competition was a major factor in the Thatcher government's extensive efforts to land the Saudi contract. For Britain's major military aircraft firm, BAe (privatized but working in close collaboration with the government), "the long-awaited Saudi contract have [sic]

⁹⁹Thatcher's Defense Procurement Minister told the House of Commons, "The transaction between Her Majesty's Government and Saudi Arabia was on a government-to-government basis in which no commissions were paid and no agents or any middlemen were involved". David Pallister, "Thorn admits fees on Saudi arms deal" the Guardian, 14 Nov. 1994.

¹⁰⁰House of Commons Select Committee on International Development Appendix 3, Memorandum submitted by the Campaign Against Arms Trade, p. 4.

underpinned the future of BAe's profitable military aircraft business.” In the opinion of BAe’s CEO, Dick Evans, “If we had not received the Saudi order we would have had to shut down completely the Tornado line in a couple of months' time.”¹⁰¹ The Saudi order was for 48 more Tornado fighter jets at £5 billion, under the umbrella of the Al Yamamah deal. An identical rationale had been given by the French for the sale of the Dassault fighters to Taiwan (see above).

The Franco-Taiwanese destroyers case, and the Al Yamamah deal, demonstrate at just how high a political and business level arms sale corruption is perpetuated at. Arms corruption is not merely a matter of lower level bureaucrats taking advantage of their position to skim a few extra thousand off a contract; it is high-ranking government and business elites, and middlemen, reaping enormous rewards from their participation in the corruption of their own export control systems, of UN and national arms embargoes, and from the corruption of foreign officials. They exploit the fact that judicial and press investigations will be blocked by the claim of “defense secrets”, and the fact that the arms trade is global but judicial authority is national.¹⁰² They exploit their personal and business connections, to profit from, and thereby reinforce the institutionalization of, the bribery connected to arms sales.

Compounding the corruption in weapons sales is the fact that the weapons are often paid

¹⁰¹quoted in Paul Betts, “Hat Trick for British Aerospace” Financial Times, 30 Jan. 1993

¹⁰²In the Thomson Taiwan destroyer case, it was French Minister of Finance, Socialist Laurent Fabius and later the Gaullist Francis Mer who refused to lift the defense secrets block. So far, for any one judiciary to investigate the case, it has required cooperation from authorities in France, Taiwan, Switzerland, and Lichtenstein. Gerard Davet and Fabrice Lhomme, “Deux juges demandent la levée du secret-défense sur les fregates de Taiwan” Le Monde 12 Feb. 2004.

for with petro-dollars¹⁰³ from oil owned by the purchaser country but extracted and distributed by an oil firm from the seller country, which earlier had undoubtedly paid enormous “commissions” if not also outright bribes for drilling rights.

OIL

In order to import oil, a number of European oil companies export corruption. As in the arms industry, it has long been routine in the oil industry to give commissions to the agents who broker deals, and to the official state and its public officials with whom a contract is established. One oil industry businessman said it was like giving advances on royalties.¹⁰⁴ Ceteris paribus, commissions will be higher the more valuable the firms judge the resources to be. As BP said of oil contracts in Angola in the late 1990s, “Noting the significant discoveries made in the last two years in the adjacent deep-water blocks, it was widely believed that the ultra-deep water blocks would possess significant volumes of oil. Hence, competition for access to these licenses was keen and the signature bonus was high reflecting the anticipated prospectivity.”¹⁰⁵ For

¹⁰³Lewis W. Snider, “Arms Exports for Oil Imports? The Test of a Non-linear Model” The Journal of Conflict Resolution 28/4 (Dec. 1984), 665-700.

¹⁰⁴“Commissions”, also referred to as “bonuses”, on contracts with foreign governments, such as the regime in Angola, were automatically tax deductible in France until the loi Sapin (Date?), which requires that each commission’s tax status be decided individually. As of 1999, commissions are not tax deductible if they are given to foreign officials. Commission des affaires étrangères, Assemblée Nationale, “Rapport d’Information sur le rôle des compagnies pétrolières dans la politique internationale et son impact social et environnemental” Assemblée Nationale, N° 1859, 13 Oct. 1999, 67-8. On royalties, see “Supplementary memorandum submitted by BP” in House of Commons Select Committee on International Development , Minutes of Evidence, 9 Jan. 2001, paragraph 12. (internet cite).

¹⁰⁵“Supplementary memorandum submitted by BP” House of Commons Select Committee on International Development , Minutes of Evidence, 9 Jan. 2001, paragraph 12. (internet cite); cf Ordonnance, p. 57.

investments in poor countries where political authority and the legal system are unstable, one can make a rational argument for commissions: they are payments intended to keep state officials from expropriating the oil company's fixed assets. It is a means of surmounting a commitment problem: local rulers can credibly threaten to expropriate assets, so Western firms pay local rulers a bonus to dissuade them from cheating on contracts. The bonus payments, though, set up what an economist might call a situation of "moral hazard": they create incentives for local rulers to continue to be bad bets, "needing" payment so as not to cheat on the next contract. It is for this reason that multi-nationals (and Western states) are vulnerable to the claim that they coddle corrupt, derelict regimes.

Concerning commissions, the chief auditor at BP told a House of Commons committee that in the extractive part of the business, "There is usually some form of bidding for the right to explore or the right to develop in that country... We are very sensitive, of course, given the sums of money involved to ensure that the payment flows which are involved end up in official bank accounts, so that, as far as we have control over events, these activities are clean and above board. Now, of course, in some of these countries it is alleged that when those payments pass into what we will call government bank accounts, there may be things that go beyond that – but of course that is not within our control. We are aware of it but we cannot control it".¹⁰⁶

One of Elf's former CEO's, Philippe Jaffré (1993-1999), admitted that there may be kickbacks on the commissions themselves. He said these may go to the "collaborators of the [oil] firm" in a deal, and, washing his hands of the problem, he added that "it is up to the

¹⁰⁶House of Commons Select Committee on International Development , Minutes of Evidence, Examination of Witnesses (response to question 408), 9 Jan. 2001, Dr. Reg Hinkley. (internet cite).

judiciary to settle the matter.” Another witness to a parliamentary committee said that it was routine practice for Elf to take “5-10% to fund French parties or politicians.”¹⁰⁷ Elf was also used to collect funds *from African leaders* for the electoral campaigns of French politicians.¹⁰⁸

Intermediaries are prevalent in the oil industry. For corrupt activities, in which there is of course no legal authority to enforce contracts, this agent can vouch for both sides, and act as a third party enforcer of sorts.¹⁰⁹ Once this agent is in business, he looks for more business, so will suggest new (corrupt) deals. For legitimate deals, which nevertheless require secrecy (for proprietary commercial information or state “national security”), an agent functions similarly. In addition, overseas contracting faces the problem of bridging the gap between arms length individualist society and a personalistic society. In the former, trust essential to supporting transactions stems more from the legal system; in the latter, trust stems more from personal knowledge. The value of agents to make contacts is high; even higher in corrupt arrangements, where trust is at a premium.

For instance, Elf’s activities in Africa, then in Latin America, Asia and the former Soviet Union, were sustained for decades by a *reseau Corse*, a Corsican network headed by André Tarallo, seconded by André Guelfi.¹¹⁰ Tarallo and the connections and financing he provided to

¹⁰⁷Commission des affaires étrangères, Assemblée Nationale, “Rapport d’Information,” 68. On 5-10%, p. 69.

¹⁰⁸Anon., “Les reseaux Africains” La Lettre du Continent 1 April 1999.

¹⁰⁹Jens Christian Andvig, Levels of Corruption in the North Sea Oil Industry: Issues and Assessment Oslo: Norwegian Institute of International Affairs, 1995, pp. 14-22; Said K. Aburish, Pay-Off. Wheeling and Dealing in the Arab World London: André Deutsch, 1985.

¹¹⁰Tarallo handled Africa; Guelfi was the intermediary for most of Elf’s dealings elsewhere. Guelfi was recommended to Elf’s CEO by managers at another of France’s major exporters of corruption, the water systems company, Générale des Eaux. Ordonnance p. 372.

African leaders were widely regarded as essential to Elf's continued presence in Africa. When Tarallo was arrested in France, one of his assistants in Corsica voiced what was generally believed: "given the quality of his relations with numerous presidents, and especially [Omar] Bongo [Gabon], rebuilding his African network would take years. Tarallo gone, imagine thus that Bongo wants to nationalize Elf-Gabon. With the entry efforts of the Americans, who already are pushing in Zaire, it would be a terrible blow for France".¹¹¹

transparency

Corruption also thrives in the oil transactions because oil is a sector in which transparency is in short supply. As a French parliamentary committee investigating the then two major French oil firms, one state-owned (Elf), one private (TotalFina), found, governments prefer not to shed light on the oil industry. According to a 1992 law, the French government was required to "present a report intended to bring to light the real costs of production, transport and refining of oil products". As the committee stated, "that report had never been submitted".¹¹² Given sensitivities about corporate information, each firm is in a situation in which it might prefer that there not be corruption, and that the required commissions paid be lower, but cannot afford to share information with other companies, for fear that there will not be reciprocal cooperation. As with the arms trade (if we don't sell the weapons to them, someone else will), in

¹¹¹Noël Pantalacci quoted in Stephane Marchand and Jean-Alphonse Richard, "Le groupe pétrolière français déstabilisé en Afrique" Le Monde 7 May 1997.

¹¹²Commission des affaires étrangères, Assemblée Nationale, "Rapport d'Information sur le rôle des compagnies pétrolières dans la politique internationale et son impact social et environnemental" Assemblée Nationale, N° 1859, Vol. I, (13 Oct.). Paris: Assemblée Nationale, 1999, p. 61.

the absence of collective institutions enforcing an agreement not to pay bribes, each firm will proceed on the assumption that bribes/commissions are necessary, and that if they don't pay them, someone else will anyway, and that someone else will take the market.¹¹³ BP was blunt: "The major controversy surrounding signature bonuses centres upon the lack of transparency in the process, and this is an area of great concern to many, including ourselves, and on which we are striving to address [sic]. What is certain is that any British company which refused to participate would merely leave the field open to foreign rivals."¹¹⁴ Where the corporate culture has been one of subterfuge and obfuscation, this lack of transparency can become endemic. In commenting about Elf's role in a controversial pipeline from Chad to Cameroun, a French parliamentary committee stated that it (the committee) "can't help but underline once more the lack of transparency in the decision process, and [can't help but be] surprised at the taste for secrecy that seems to pervade the decision-makers when it comes to Elf and Africa."¹¹⁵ While some secrecy is inevitable (corporations have reason not to reveal all their financial data to their rivals), secrecy has become unnecessarily exaggerated, thereby fostering the payment of larger commissions and larger retro-commissions.

Because the bonuses or commissions are often paid into foreign-held bank accounts,

¹¹³e.g., House of Commons Select Committee on International Development , Minutes of Evidence, Examination of Witnesses (response to question 416), 9 Jan. 2001, Dr. Reg Hinkley. (internet cite). and "Supplementary memorandum submitted by BP", *ibid*, paragraph 13.

¹¹⁴BP noted the condition which might provide an exception: "unless, which is sometimes the case, the technological and scientific expertise provided by the company was clearly superior to its rivals and was judged more essential to the country concerned than immediate revenue." Supplementary memorandum submitted by BP" in House of Commons Select Committee on International Development , Minutes of Evidence, 9 Jan. 2001, paragraph 13.

¹¹⁵Commission des affaires étrangères, Assemblée Nationale, "Rapport d'Information," 113.

domestic authorities and even private auditors cannot easily track the amounts or their ultimate destination. Legitimate commissions may go into a state account, and illegitimate ones into the private accounts of state officials. In addition, the latter may tap into the former, as Gabon President Omar Bongo routinely did. While illegitimate commissions may be against a company's code of conduct (e.g., BP), competitive pressures combined with low risk of discovery create incentives and opportunities to pay them. Elf executives and agents testified that the "*bonus occulte*" was expected by African rulers, and therefore a necessary business tool. According to Elf operatives, these commissions were all approved by Elf's CEO (whether Le Floch Prigent, Jaffré or earlier CEOs), and were signaled to the general secretary of the French President. Hidden commissions were also paid when one African ruler provided introductions for Elf to another.¹¹⁶ Significantly, even though Elf had a new CEO in 1994 and was privatized in 1995, the firm, with the CEO's approval (whether Le Floch Prigent or Jaffré) continued to pay hidden commissions.¹¹⁷ According to witnesses to the French judiciary in the "Elf affair," this practice continued at least until 1998, even as Elf's practices were being investigated by the

¹¹⁶In Gabon, Elf paid \$40 million into Bongo's personal accounts between 1990-1993 for a very valuable license; Elf paid \$35 million to private accounts of officials in the Congo between 1992-1997 for off-shore deep water permits. To effect the payments, Elf used middlemen, or agents. Once the agent's "efficacy" was verified, Elf used him for other jobs, such as transferring \$4 million to the Congo's Minister of Oil (Mr. Koukebene). Elf's point man in Africa, André Tarallo, claimed that, "given the personal relations between Heads of State in these countries", this was particularly worthwhile. He cited Omar Bongo's introductions to successive Nigerian presidents, and Mr. Sassou for Elf's contacts in Angola, and again President Bongo for facilitating Elf's entering Chad and the pipeline deal there. Ordonnance, 13 Dec. 2002, p. 48. www.radiofranceinternationale.fr/Fichiers/evenments/elf/ordonnance.asp, p. 48.

¹¹⁷Ordonnance, 13 Dec. 2002, p. 48. www.radiofranceinternationale.fr/Fichiers/evenments/elf/ordonnance.asp, p. 48.

French and Swiss judiciaries.¹¹⁸ Billions of dollars paid by European (and US) oil firms to Angola's oil ministry and national oil company, Sonagol, never were registered in government accounts, and instead seem to have filtered into the private offshore bank accounts of Angola's president and other major public officials.¹¹⁹

opaque organization

The identification of a state's strategic interests with the material interests of its oil firms also facilitate the export of corruption. Elf is a revealing example. France has long had a state directed, limited market economy in which most major economic transactions and developments took place through close, "non-market" negotiations between politicians, bureaucrats and firms. That was particularly the case with the state-owned oil company. As one analyst said in discussing Elf, "there is an osmosis between the political class, the firm's world, the press and civil society and the African governments, which accounts for why certain controversies are avoided ... The network of Charles Pasqua [reference] remains very active and strongly appeals

¹¹⁸Mr. Jaffré, in contrast, told a parliamentary committee that Elf's "bad habits" were peculiar to the years of his predecessor Le Floch Prigent, 1989-1993. Commission des affaires étrangères, Assemblée Nationale, "Rapport d'Information," 70. Other witnesses to the committee contradicted Jaffré's statement. Ordonnance, p. 88.

¹¹⁹According to an Angolan newspaper, Angolense, these are among Angola's ten richest citizens. Economist Intelligence Unit, Angola Country Report Feb. 10, 2003; cf Human Rights Watch "Some Transparency, No Accountability: The Use of Oil Revenue in Angola and Its Impact on Human Rights" vol. 16 No .1A, Jan. 2004, pp. 1-2; Ian Gary and Terry Lynn Karl, Bottom of the Barrel no location: Catholic Relief Services, 2003, pp. 32-3.

to African governments, among others, because they work through decentralized cooperation.”¹²⁰

The firm started as a state-owned enterprise, and its first CEO viewed Elf as France’s blood supply. As another analyst stated, “Elf was France: to attack one was to attack the other”.¹²¹

While there were occasional run-ins between cabinet ministers and Elf, Elf’s policies often prevailed. An evaluation by France’s main audit body, the Cour des Comptes, stated that “it seems that the State did not want to nor could make explicit the precise goals of Elf, beyond the sole search, obviously, for profitability and development.”¹²²

Sirven was, officially, director of general affairs at Elf. In practice, he handled everything from negotiating the terms of Le Floch Prigent’s divorce, to hiring and funding Christine Deviers-Joncour, the woman who became Roland Dumas’ mistress in order to convince him to authorize destroyer sales to Taiwan, to overseeing French intervention in several African civil wars, to coordinating the network which allegedly paid kickbacks on the Elf-Leuna deal, to working out a deal guaranteeing Elf no disruptions in production should the rival party (Unita) win the election, to funding the election campaign of the Angola opposition (Unita).¹²³

Italy was not left out of corruption related to oil. The state oil firm, ENI, became a fief of

¹²⁰Jean-François Bayart, testimony in Commission des affaires étrangères, Assemblée Nationale, “Rapport d’Information,” 78.

¹²¹Pierre Péan, testimony in Commission des affaires étrangères, Assemblée Nationale, “Rapport d’Information,” 58. Testifying to the same Commission, Elf’s CEO at the time, Philippe Jaffré, contested that view, and argued that its history was “extremely banal, identical to those companies which were created by the State, such as ENI, an Italian company or BP, created by the British navy”. Ibid, 59.

¹²²Cour des Comptes, “Les relations de l’État avec Elf Aquitaine et les missions de l’E.R.A.P. [Entreprise de Recherches et d’Activités Pétrolières]” pp. 157-173, Rapport Public 1990, B4141, Bibliothèque de la Documentation Française, here p. 158.

¹²³in 1992, for about \$23 million. Ordonnance, 13 Dec. 2002, p. 97.

the Socialist party, and in 1979 its CEO, Giorgio Mazzanti, “had to resign over kickbacks on crude oil deliveries from Saudi Arabia's Petromin.”¹²⁴

For some observers, including many NGOs, just the fact that oil revenues are being used for weapons purchases by regimes with notoriously bad human rights records (ranging from Saudi Arabia to Burma/Myanmar to Congo to Angola to Indonesia., etc.) is corruption, and is further evidence of corrupt collusion between the West and the developing world, and the corruption of the arms and oil industries. Certainly the case histories are appalling. But in addition to that moral corruption, arms for oil and oil for arms promotes political corruption.

One of the extraordinary offshoots of oil-based corruption is the extent to which Western oil firms become involved in, sometimes with the support of their home governments, in the violent conflicts in the host countries. Thanks to the investigation and prosecution of Elf officials, we have substantial detail on the activities of the French firm. Given the overall structure of the situation, it is not unlikely that Elf was the lone firm engaged in such activities. Elf used its revenue from its exploitation of oil fields in Angola, via contracts with the Angolan government (Dos Santos' MPLA) , to also support that government's challenger, UNITA, led by Jonas Savimbi (deceased 2002). Savimbi, wanting funds for his own private army, was “furious that Elf paid Dos Santos [so he could buy] the helicopters that machine-gunned them. Mr. Savimbi threatened to blow up Elf's oil wells in revenge.” An intermediary, Yves Verwaerde, who was a member of a conservative French party (Parti Republicain), lobbied Elf to give funds to UNITA. Elf's CEO, Loik Le Floch Prigent, had made it clear to several of his officials that “the support of the opposition could be worthwhile in case there was a change of regime”.

¹²⁴Anon., “Anyone for ENI now?” FT Energy Newsletters 19 March 1993.

However, at a later meeting, Le Floch Prigent told Mr. Verwaerde, then a deputy in the European Parliament, that he “was very doubtful about things falling into place between Elf and l’Unita.” Elf “supported the government in place which controlled the oil wells.” Elf’s number two man, Alfred Sirven, confidentially instructed Verwaerde to make arrangements with Unita, letting them know that “the new team was more receptive and that [Elf’s] support for the government in place [MPLA] was due to the former [Elf] team, that of Mr. [André Tarallo, head of Elf’s Gabon subsidiary]”. Nevertheless, Sirven told Verwaerde to make sure “not to disturb Elf’s official policy” towards the Angola government. In addition, the oil company funded L’Unita’s election campaign in 1992.¹²⁵

This situation, as it came to involve illegal weapons exports to Angola, via French and Russian intermediaries who are suspected of having paid off high-level French politicians, has been fairly accurately characterized as “a conspiracy to rob the country of its oil money through over-priced military procurement, kickbacks and the mortgaging of future oil reserves for ready cash in the form of oil-backed loans.”¹²⁶

STATE ENFORCED CORRUPTION

It appears that (in addition to the usual foreign policy justifications), the competitive pressures of the market render blatantly instrumental Western states’ interest in the rule of law: often, when less developed countries try to investigate and prosecute corruption in contracts and

¹²⁵Ordonnance 13 Dec. 2002, pp. 94-100; Global Witness, A Crude Awakening London: Global Witness, 1999, p. 11.

¹²⁶Global Witness, Time for Transparency, Washington, DC: Global Witness Publishing, 2004, p. 38.

projects involving European corporations, Western states try to block the investigations. This is at the same time that they complain of the corruption in less developed countries! Sadly, the LDCs, some of which are among the world's poorest, such as Lesotho, sometimes run out of funds to continue investigations. Despite the OECD agreement to do so, Western states also seldom investigate allegations that their own firms have violated their own laws against bribing foreign officials. In the Lesotho Highlands Water project, the UK made a deliberate decision to leave it to the Lesotho government to investigate.¹²⁷ In the face of potential revenue for their multi-nationals and smaller contractors, states have little incentive to enforce the international anti-corruption measures they have agreed to.

Three cases illustrate the pattern. First, in 1998, Pakistan, under the new (short-lived) government of Nawaz Sharif, challenged the Western-dominated electricity consortium Hubco for having allegedly bribed Pakistan's previous prime minister, Benazir Bhutto, and for recovering those costs by overcharging on electricity rates. Under the previous agreement, Hubco built, owned and operated a 1,200 MW power plant on the Hab river. The World Bank, ten US Senators, and the British government, to name a few, intervened. to block Pakistan's efforts. "Pakistan's Accountability Bureau had claimed that Hubco's project costs were marked up by \$400 million", in addition to the allegations of kickbacks to Bhutto and her cohorts. (The Accountability Bureau had been established by Sharif to investigate corruption under Bhutto). Spurred on by a US energy firm with interests in the project, and motivated by a similar situation

¹²⁷Select Committee on International Development, Appendices to the Minutes of Evidence, Appendix 4, Memorandum Submitted by The Corner House, "Underwriting Corruption: Britain's Role in Promoting Corruption, Cronyism and Graft" paragraph 79. 22 March 2001.

in India involving now bankrupt Enron, the US Senators wrote to the World Bank, which had provided a controversial and scarcely used underwriting provision to cover approximately one-third of the \$1.5 billion project (for reasons of “political risk”). In their letter, the Senators complained that Pakistan’s actions were part of “an alarming trend in several developing countries where federal and state governments use unproven allegations of corruption, collusion and even nepotism to rewrite existing commercial contracts”. The World Bank concurred.¹²⁸ Once Sharif was deposed by military dictator Pervez Musharraf, Pakistan settled its dispute over the electricity rates and withdrew its case against the Hubco consortium and officials.¹²⁹ The post-Suharto government of Indonesia faced a similar situation when it tried to renegotiate

¹²⁸This is not the first time the Bank has tried to prevent investigations into corruption. In the Lesotho dam project, the Lesotho government decided to conduct a management audit because they had detected accounts irregularities in the Highlands Development Authority. They wanted to suspend the director of the authority and one other individual, but the Bank “vigorously opposed the suspension ..., even threatening legal action”. Susan Hawley, “Turning a Blind Eye: Corruption and the UK Export Credits Guarantee Department” Dorset: The Corner House, 2003. <http://www.thecornerhouse.org.uk/document/correcgd.html>, p. 26. Stephen Fidler, “US steps up pressure over power project” Financial Times 8 March 2000.

¹²⁹This is another of those extravagant infrastructure projects which seem to be gigantic precisely so they can include a large number of firms from a variety of wealthy countries, thus reducing the risk that any one of them will squeal on the others about corruption. It reduces risk by being all-inclusive. The managing consortium comprised of a firm from Saudi Arabia, from the US, from the UK, from Japan, from Italy, and from France. The “private” financing, underwritten by the publicly financed World Bank, came from a syndicate of banks from Japan, the US, and France (its bankrupt then state-owned Crédit Lyonnais, infamous for financing dubious deals) and Switzerland (UBS, no stranger to corruption). The IMF, for its part, made a \$1.2 billion structural adjustment loan to Pakistan contingent on settlement of the dispute. The loan was “the only thing standing between the country and outright default on its debts”. Anon., “Why Pakistan opted for BOO rather than BOT at Hab River” FT Energy Newsletters 17 June 1991; Anon., “World Bank gives Hab River a resounding ECO” FT Energy Newsletters 2 Dec. 1991; no author, “Losing Control” FT Energy Newsletters 23 Oct. 1998; Hawley, Turning a Blind Eye, p. 9.

contracts that had all the hallmarks of Suharto's corruption.¹³⁰

Second, despite efforts of the Taiwanese and French investigating judges to cooperate in their work on bribes paid in the sale of French destroyers and fighters to Taiwan, and on the deaths of a number of men involved in the negotiations, the French Justice and Foreign Affairs ministries ended all cooperation with the Taiwanese investigators in 2002, claiming that Taiwan was not recognized as a state.¹³¹

Third, in a case of possible bribery in arms sales by a Swedish firm, Bofors, to India, the Swedish government refused to cooperate with the Indian investigators, saying "It can not [sic] be seen as common international practice for a country's government to approach another country's government with a request to get documents that concern this country's dealings with a former government."¹³² The (previous) Swedish government had been accused by Bofors executives of tacitly condoning bribery, as well as illegal arms sales to banned countries, in order to support the Swedish weapons industry, and in order to avoid public knowledge of where Swedish weapons were being used.¹³³ Bofors was on trial in Sweden for a short time, for allegedly having paid \$50 million in bribes for a \$1.3 billion weapons sale to India. The bribe

¹³⁰Hawley, Turning a Blind Eye, p. 9. This time it was the export credit agencies of Germany, Japan, Switzerland and the US which applied pressure.

¹³¹Armelle Thoraval, "Ces morts qui hantent les fregates" Liberation 20 June 2002.

¹³²Astri Ghosh, "India: New Swedish Government's Help Sought in Gun Scandal Probe" Inter Press Service 17 Sept. 1991.

¹³³Johann Rapp, "Weapons Maker Struggles to Regain Image Against Corruption Charges" BC Cycle 30 Nov. 1989

was allegedly necessary “to counter stiff international competition.”¹³⁴ Once again, competition spurs, rather than reduces, corruption, and once again, Western states block investigations. As the Indian Supreme Court said in 1992 of India’s Central Bureau of Investigation [CBI],” it had been hindered at “every stage” and it had been “forced to spend most of its energy in court proceedings rather than in investigating the payoffs.”¹³⁵

Western states, with their cynical emphasis on the rule of law, seem to have no problem colluding to pressure LDCs to honor contracts signed under dubious conditions. “In July 1999, the ECAs of Japan, Germany, Switzerland and the US took another approach and put considerable pressure on the new post-Suharto government in Indonesia to honour contracts awarded to Western companies to supply power to Indonesia during Suharto’s regime. The total cost of these contracts had been inflated by as much as 37% on average, the contracts had not been won through competitive tender, and there were strong suspicions that they were infused

¹³⁴Anon. “Supreme Court strikes down order quashing Bofors gun deal probe.” Agence France Presse, 17 Dec. 1992.

¹³⁵The case’s prosecution in India was complicated by the fact that the alleged bribes intermediaries, Srichand, Gopichand and Prakash Hinduja, had citizenship in the UK and Switzerland, respectively (Gopichand obtained UK citizenship in 1997), and that Srichand Hinduja appeared to have obtained British citizenship after his family made a £1 million donation to the Labour government’s Millenium Dome project (leading to the resignation of Minister Peter Mandelson, who had contacted the Immigration Minister about Sirchand’s application). An Italian businessman, Ottavio Quattrocchi, is also involved, but avoiding extradition from Malaysia. Anon. “Supreme Court strikes down order quashing Bofors gun deal probe.” Agence France Presse, 17 Dec. 1992. Bofors went bankrupt in 1991. Astri Ghosh, “India: New Swedish Government’s Help Sought in Gun Scandal Probe” Inter Press Service 17 Sept. 1991. Beth Lewallen, Research Notes on the Hinduja Brothers, mss. ASU, 2004. At the time of writing, the Indian middlemen and a major Indian politician, the late Rajiv Gandhi, were cleared of bribery charges, but the CBI was considering appealing the case. The Indian court has ordered that the charges be re-framed to include conspiracy to lie to the government. Anon. “Bofors Case: Framing of Charges on March 15” The Hindu 24 Feb. 2004.

with corruption.”¹³⁶ Labour’s Foreign Minister in 1997, Robin Cook, had previously campaigned for ethics in arms sales. But in 1997, when the export licenses for a dubious weapons deal with Indonesia, agreed to by the Conservative government, came across his desk, he signed the papers. His defense was that “he received legal advice that he would place British firms in breach of contract if he refused to sign the licences.”¹³⁷ Politicians and firms have reached the Holy Grail of corruption: the state itself enforces contracts reached as a result of corruption.

CONCLUSION

Fierce competition by firms and their home states for export markets has given rise to markets which economists might say are characterized by “market failure,” particularly in the realm of infrastructure projects, arms and oil. I suggest that corruption is not in opposition to the export market, it is a feature, a tool, of it. The more profitable the market, the more demand there will be to participate in it, to gain a large share of it. As demand goes up (when, for instance, there are more competitors in the international construction industry and when traditional markets saturate), the price of getting into the market goes up. This includes legally permitted “offsets”, and also illegal bribes. In essence, export-led corruption exhibits market logic.

Export-led corruption thrives on a collective action problem: firms and governments

¹³⁶Susan Hawley, “Turning a Blind Eye: Corruption and the UK Export Credits Guarantee Department” Dorset: The Corner House, 2003.
<http://www.thecornerhouse.org.uk/document/correcgd.html>, 9.

¹³⁷Will Self, “Addicted to Arms” The Independent 26 April 2002.

might prefer not to pay bribes, so as to reap higher profits, but can't trust others to also not bribe. OECD Convention a case in point: 35 countries had signed and ratified it by 2004, a number too large for easy monitoring. Furthermore, within each state there are thousands of exporting firms, too many for effective monitoring by the group of each group member's adherence to the agreement. As Transparency International notes, "there are more than 60,000 multinational corporations operating around the world with more than 600,000 foreign affiliates."¹³⁸ The Convention's failure is evident in statistics on bribe paying. Italy has ratified the Convention, but on a scale of 10-0, in which 10 is *least likely to bribe*, Italy's firms are ranked 4.1; France's 5.5 (the US, the Foreign Corrupt Practices Act notwithstanding, 5.3); Germany 6.3. Of the countries most frequently discussed in this book, Belgian firms are least likely to bribe (ranked 7.8).¹³⁹ Construction and public works contracts were the sector in which bribery was most likely to take place, followed closely by the arms and oil and gas sectors (these same sectors were judged, in that same order, to be those where the biggest bribes were made). The Western EU countries have ratified the OECD Convention and all agreed to an EU statement (with no force of law) about being opposed to corruption. International organizations are inherently bad at policing their members; enforcement is largely left to the individual, highly self-interested states' authorities, who often find bribery for export market access an acceptable evil).

¹³⁸Transparency International, "Transparency International Bribe Payers Index 2002"; Berlin. <http://www.transparency.org/cpi/2002/bpi2002.en.html>. From PDF version, p. 7.

¹³⁹It tied with the Netherlands. Transparency International, "Transparency International Bribe Payers Index 2002"; Berlin. <http://www.transparency.org/cpi/2002/bpi2002.en.html>. The 1999 version (which was TI's first such survey) shows very similar scores for countries. Transparency International, "Transparency International's Bribe Payers Survey 1999". Berlin: <http://www.transparency.org/cpi/1999/bps.html>

There has been a trend for states, in the name of the free market, prosperity and national defense, to promote their industries' exports. This has two effects related to corruption: first, supply starts to push demand. Markets have to be created artificially, demand cannot be allowed to develop "naturally", so states are tempted to bribe or condone bribes for the sake of their firms' international market share. The corrupt practices of Elf, the French oil firm, the alleged corruption and the British government's quashing all efforts to investigate and make public findings about major arms sales to Saudi Arabia, the huge infrastructure projects in less developing countries promoted by Western states and their construction industries, all illustrate this phenomenon of supply pushing demand, and an accompanying willingness to overlook corruption for the sake of market share. Second, it establishes institutions which facilitate networks between potential buyers and sellers. These networks form part of the structure necessary for corrupt exchanges to occur. The networks don't create the corruption, but are a tool which can be used, and re-used, that way.

The efforts to promote exports in competitive sectors leads to a search for individuals with access to those in less developed countries who have power of decision. Those individuals, in turn, have an interest in increasing the amount of such business they do, so they too start pushing demand. Individuals as different as Karlheinz Schreiber, Andrew Wang, and Adnan Kashoggi thrive on making themselves useful in corrupt contracts and so show up in multiple cases. The same two men, Nasir Abid and Nadhmi Auchy, who are wanted in connection with their alleged roles as middlemen and collectors of large "commissions" in various Elf affairs, are wanted in connection to their similar role in illegal weapons sales to Angola. Once the intermediary structures are in place, that infrastructure lowers the costs of corrupt transactions.

Arms embargoes to lucrative (oil) markets do nothing but force the (already prone-to-corruption) arms market underground, making corruption inevitable. Virtually all major arms exporting countries violated the UN arms embargo against Iraq; Iran benefitted from an extraordinarily complicated evasion of weapons sale bans (courtesy not just of the US and Britain, but France, Germany, Saudi Arabia and Israel). Illegal arms sales to Iran between 1982-1986 if not 1987, helped save the fortunes of nearly bankrupt French weapons manufacturers Luchaire and SNPE (Société Nationale de Poudres et Explosifs). There were also credible allegations that the weapons sales also resulted in retro-commissions which helped to finance election campaigns of the French Socialist party in 1986. Luchaire, taking advantage of the Common Market, used its Italian subsidiaries to move the weapons (which, when they left Europe, were declared to be going to Latin American destinations but in reality landed in Iran). The case was signaled to the ministry of defense, reports “filed,” and magistrates were blocked from investigating.¹⁴⁰ French politicians appear to have financed electoral campaigns from kickbacks on illegal weapons sales to African countries, but further investigations into those matters have been stymied.¹⁴¹

There is room for action: if public outcry is strong, and if penalties are real, there may be a slight change for the better. Studies by the OECD are finding that when laws and procedures

¹⁴⁰Pierre Marion, Le Pouvoir sans Visage. Le complexe militaro-industriel Paris: Calmann-Lévy, 1990, p.117-118.

¹⁴¹This paper has focused on large scale business and government projects, not on “petty” corruption such as bribing customs officials. Clearly, as competition gets keener, access to markets becomes more significant, so customs officials can charge more for access to that market. Firms will be willing to pay, up to the point where the cost (including nearly negligible risks of prosecution) matches the profits.

require business managers and program heads to be liable for the legitimacy of foreign business transactions, firms at least voice an inclination to become more circumspect about bribing to land contracts.¹⁴² Public standards also matter. This is illustrated in the Lockheed case, which had repercussions in the Netherlands and in Italy. Its legacy also includes the US Foreign Corrupt Practices Act of 1977 (outlawing bribery by US firms of foreign officials). It was the typical case of a foreign firm apparently bribing government officials (in this case, in Italy, the Netherlands, Japan, Turkey, Mexico, Columbia and possibly Germany) in order to beat out the competition for a major weapons sale.¹⁴³

The European responses are telling, and offer some lessons on how to reduce corruption. A French official in the Defense Ministry merely wondered at the naivete of the Americans, first for investigating the case, second for publishing the committee's findings, third for being outraged at the fact that a major corporation paid bribes to win contracts. His conclusion: "They are really crazy".¹⁴⁴ The Lockheed scandal changed nothing in France; indeed, Lockheed had

¹⁴²The drawback is that these OECD inspired programs only apply to the bribing of "foreign public officials." The intermediaries, who are key in corrupt international transactions, are seldom "public officials." On effects on French businesses, see OECD, Directorate for Financial, Fiscal and Enterprise Affairs, France: Phase 2. Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions Paris: OECD, Feb. 2004, pp.. 9-11.

¹⁴³Details are accessible in Tweede Kamer der Staten-Generaal, zitting 1975-1976, Rapport van de Commissie van Drie. Onderzoek naar de juistheid van verklaringen over betalingen door een Amerikaanse vliegtuigfabriek, 13787 nr. 3-5. Amsterdam: Staatsuitgeverij, 's-Gravenhage, 1976; Guido Campopiano, Memoria di accusa contro l'onorevole Giovanni Leone Milano: SugarCo, 1978; Maurizio De Luca, Paolo Gambescia, Fabio Isman, Tutti Gli Uomini dell' Antilope Milano: Mondadori, 1977; David Boulton, The Grease Machine New York: Harper & Row, 1978.

¹⁴⁴Larry Martz "Payoffs: The Growing Scandal" Newsweek 23 Feb. 1976, p. 26.

complained that when it refused to pay a bribe in Indonesia, the French won the contract, presumably because the French were willing to pay.¹⁴⁵ Most thought that “Lockheed had spilled too many beans and embarrassed too many old friends when it got caught.” Ironically, for having done so, Lockheed was no longer seen as an honorable corporation in the eyes of foreign multi-nationals – it had violated the unspoken code.¹⁴⁶

In Italy, there was a public outcry, the government fell a bit sooner than the average (lasting only 79 days instead of the usual 270), and elections actually were called, but the Christian Democrats, whose top politicians were among the main beneficiaries of the Lockheed bribes, weren't unseated and instead retained control of the new governing coalition. They were able to do so because at the time, the Communist Party was their major rival, yet was seen by the majority of Italians as an unacceptable party in government. The Cold War sheltered the Christian Democrats from voter retribution. As one victorious Christian Democrat said, “we won this one on fear.”¹⁴⁷ Other parties were likewise spared. The Social Democrats re-nominated their former leader to head their party, despite his having resigned earlier for having accepted a Lockheed bribe while he was Defense Minister.¹⁴⁸ Perhaps as significant, Italy passed a law outlawing all corporate donations to political parties. Since Italy had no public financing

¹⁴⁵Stewart Toy, “Dollar Diplomacy: the moral dilemma” Business Week 4 June 1979, p. 10.

¹⁴⁶Larry Martz “Payoffs: The Growing Scandal” Newsweek 23 Feb. 1976, p. 26.

¹⁴⁷Umberto Agnelli, quoted in Richard Steele with Loren Jenkins, “Winner Take Nothing” Newsweek 4 July 1976, p. 86.

¹⁴⁸Raymond Carroll with Loren Jenkins, “Italy’s Fateful Election” Newsweek 10 May 1976, p. 49; Richard Steele with Loren Jenkins, “Italy: Running Scared” Newsweek 17 May 1976, p. 53.

of parties, but high election and party expenses, this merely drove the search for funding underground.

The Dutch reaction was public outrage, a Parliamentary inquiry, and full disclosure of its report, including parts unfavorable to the Dutch Prince (since he was married to the Head of State, this was no small disclosure). The report was even available for purchase in bookstores. While the Dutch Prince Bernhard escaped prosecution, due to concern that this might unhinge the current Dutch government, he was forced to resign from all business and military posts. In contrast to outcomes in many corruption cases, he was not allowed to be reinstated to them.¹⁴⁹

State-sponsored secrecy facilitates and protects what seems to be state-sponsored corruption of exports. Most European states have blocked investigations into illegal arms sales and their accompanying bribes on the grounds of national security. In contrast, the effect of transparency is telling. The Swedish government, after the bribery scandal on the sale of \$1.3 billion in weapons to India, began regularly providing its parliament with information on weapons sales, and also including members of the opposition parties in the “information flow”.¹⁵⁰ Sweden is one of the countries whose firms are judged to be least likely to bribe to land

¹⁴⁹In the Netherlands, Lockheed appears to have bribed Prince Bernhard (husband of then Queen XX), in 1959 or 1960, first with the offer of an airplane, then with an offer of cash. While Bernhard claims he never received the money, Lockheed did pay \$1 million into the Swiss account of a friend of his mother. The US Senate report stated, “It... had to be assumed by Lockheed that the money had indeed got to [the Prince]”. Bernhard evidently took other payments, or at least was open to being offered them, in exchange for facilitating Lockheed sales to the Dutch military. Mark Stevens with Anthony Collings and Friso Endt, “The Prince pays the Piper” Newsweek 6 Sept. 1976, p. 21.

¹⁵⁰Davis, Regulation of Arms and Dual-Use Exports, 234.

arms contracts.¹⁵¹

One might be tempted to dismiss the sordid affairs recounted about export-led corruption in Germany, France and the UK as relics of the Kohl, Mitterrand and Thatcher era, destined to fade away as a new generation takes over. The “new generation” has signed international anti-bribery conventions (agreements with no force of law), and has upped penalties for some violations. Yet there is little cause of optimism. The forces of supply and demand remain the same – if anything, competition for export markets and for access to oil and other energy reserves has increased. Politicians still have the same motives to turn the tables on those who elected them, using their power of office to evade transparency, and write new rules making corruption harder to expose, or legalizing it. National defense secrecy is still a viable reason to block investigations into weapons export corruption; diplomacy a reason to block publication of damaging reports on oil or infrastructure projects. Arms and oil are still regarded as strategic goods in which reason of state trumps reason of law.¹⁵² If the choice of whether to investigate and prosecute is a political decision, or can be intervened in by politicians, then, as Germany shows, corruption can continue for decades.

EU membership and ratification of the OECD convention against international bribery have little effect on the propensity of firms to bribe, and their home governments to facilitate such actions or to turn a blind eye. First, these international organizations do not have

¹⁵¹It scores 8.4 out of 10 on least likely to bribe, Transparency International, “Transparency International Bribe Payers Index 2002”; Berlin. <http://www.transparency.org/cpi/2002/bpi2002.en.html>. From PDF version, p. 1.

¹⁵²The classic statement on strategic goods remains David A. Baldwin, Economic Statecraft. Princeton: Princeton University Press, 1985, pp. 214-224.

significant oversight or enforcement powers. Second, they seldom exercise what leverage they do have: Slovakia is joining the EU even though the EU chastised it for failing to meet the EU's requirements about arms exports and even though the country is a major conduit for arms sales to embargoed countries.¹⁵³ Germany has violated arms embargoes and evidence suggests it has bribed its way into defense sales.¹⁵⁴ France and Britain have long had rules against paying bribes for weapons or other export sales and they have long turned a blind eye towards their violation. Italy is routinely in the top five (along with Russian, South Korea, Taiwan and mainland China) of countries most likely to pay bribes to land major contracts, while France, (the US) and Spain are not far behind.¹⁵⁵

Western states tend to blame the countries with which they do business. In justifying bribes and commissions, the view of former Elf CEO Jaffré is not uncommon: “not all countries make the same distinction between public money and private money, between service to the State and serving oneself ... I clearly don't share those values but I can't judge them.”¹⁵⁶ It is the Western countries which continue to feed the demand, despite various anti-corruption conventions and occasional prosecutions. And it is the Western countries which are desperate to win markets and contracts for their multinationals, creating a competitive situation in which

¹⁵³Human Rights Watch, “Ripe for Reform: Stemming Slovakia's Arms Trade with Human Rights Abusers” Feb. 2004, 16/2D. From <http://hrw.org/reports/2004/slovakia0204/slovakia0204.pdf>

¹⁵⁴Davis, Dual Use, p. 164; Anon. “Investigate Mbeki's role in arms deal: De Lille” Financial Times Information 3 Sept. 2003.

¹⁵⁵Transparency International, “Transparency International Bribe Payers Index 2002”; Berlin. <http://www.transparency.org/cpi/2002/bpi2002.en.html>. From PDF version, p. 1.

¹⁵⁶Hervé Gattegno, “Philippe Jaffré assume la responsabilité des commissions versées” Le Monde, 29 Oct. 2002.

corruption becomes an important business tool.¹⁵⁷ It is the Western countries which have tried to block the less developed countries from investigating or re-visiting contracts apparently reached through corruption – in other words, in the pursuit of exports, it is the Western states which have used their own or international legal machinery to enforce corrupt contracts.

¹⁵⁷Some Europeans have complained that due to the huge US defense industry and the giant domestic demand that that industry benefits from, they can hardly compete on the merits with US firms, hence “have to” resort to corruption. FIND CITE