DERELICTION OF DUTY

How Weak Arms Export Licence Controls in the UK Facilitated Corruption and Exacerbated Instability in the Niger Delta

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Dereliction of Duty
HOW WEAK ARMS EXPORT LICENCE CONTROLS IN THE UK FACILITATED CORRUPTION AND EXACERBATED INSTABILITY IN THE NIGER DELTA

EXECUTIVE SUMMARY

This report tells the story of how decommissioned Norwegian gunships were exported by a UK company, CAS-Global, via the UK and with UK licensing approval, into the hands of a former Nigerian warlord now wanted for corruption.

The CAS-Global story shows how serious gaps in the current UK licensing process allowed weapons to be exported to a company that is now alleged to have been involved in extensive looting of state resources in Nigeria and which was run by a former warlord who was and remains at the heart of serious regional instability in the Niger Delta region. As a result of the exports, the former Niger Delta warlord was able to develop one of the strongest naval power bases in Nigeria shortly before landmark elections, seriously endangering the regional and national security of an already war-ravaged country.¹

While the export was the subject of extensive public scrutiny in Norway, including a lengthy parliamentary inquiry and corollary recommendations for arms export reforms, there has been little debate within the UK about the UK’s role in the matter. This report comprises the first account of the UK’s role in granting the licences. It raises serious questions about whether or not the UK’s export licensing regime is fit for purpose and provides a set of recommendations for how these gaps can be closed. It is clear that if UK authorities had undertaken sufficient due diligence on the contract for which the boats were exported and on the end-user company, it could have played a vital role in preventing an episode of egregious corruption which is intricately connected to Nigeria’s ongoing security.

Boats from Norway

In February 2012, the UK company CAS-Global purchased 6 Hauk Missile Torpedo Boats (MTBs) for £2.7m from the Norwegian Defence Logistics Organisation (known in Norway by its acronym FLO). Six months later, in October 2012, CAS-Global bought a second, larger boat for $7.75m - the KNM Horten, an 87-metre long naval vessel that weighs 2530 tons and can house 225 crew members.

In the summer of 2014, CAS-Global’s purchases became front-page news in Norway. Investigative journalists at the Norwegian newspaper Dagbladet revealed that the boats had turned up in Nigeria, as part of the fleet of Nigerian company Global West Vessel Specialist (GWVS). Global West was controlled by, amongst others, the former Niger Delta warlord, Government Ekpemupolo, also known as Tompolo, who was a close ally of former Nigerian President Goodluck Jonathan.

Dagbladet’s exposure of the scandal led to an in-depth parliamentary investigation in Norway that detailed major failures in Norway’s export control regime, and made extensive recommendations for reform. The report illustrated that, in order to secure the purchases, CAS-Global had misrepresented the ultimate destination and end-use of the boats, and Norwegian officials knew about this misrepresentation. Not only
were the MTBs and the Horten visited in Norway by Nigerian bankers and officials connected to Tompolo and the Nigerian government, but Norwegian authorities had been alerted by UK customs authorities that CAS-Global had close links to Nigeria and to Tompolo in particular. Norwegian Defence Chief, Haakon Bruun Hansen, apologized to the Norwegian parliamentary enquiry for the “breakdown in our systems” that allowed the export to happen.²

Norway’s anti-corruption unit, Økokrim, has also conducted its own investigation. In January 2015, Økokrim indicted Bjorn Stavrum, the official at FLO overseeing the sale of the MTBs and the Horten. According to the indictment, Stavrum helped CAS-Global disguise the real destination of the MTBs and the Horten from Norway’s Foreign Ministry. In return, Stavrum was alleged to have received over $150 000 from CAS-Global in three separate tranches between March and October 2014. In the same month of Stavrum’s indictment, two British nationals were arrested by British police for being party to the scheme. A third British man was arrested a year later in January 2016. No charges have yet been laid, although the City of London Police have confirmed that it is anticipated that a ‘charging advice file’ will be sent to the Crown Prosecution Service some time in 2017.³

Importantly, the City of London Police confirmed to the OECD Working Group on Bribery that CAS Global was being investigated for potential bribery in Nigeria, although no details were provided. The City of London Police further confirmed that the HMRC had also initiated a ‘separate investigation into the export license applications, which they are progressing with the Crown Prosecution Service.’⁴

The UK’s role

While the story of how the boats were exported from Norway is now well-known, much less has been reported on about how the boats transited via the UK – and received export approval for onward transfer to Nigeria despite UK Customs authorities’ warnings to Norwegian authorities about the security and corruption risks involved in the export. Through extensive Freedom of Information (FOI) Requests, Corruption Watch can now shed light on how this happened – and the weaknesses in UK arms export policies and procedures that allowed it.

The first re-export undertaken was that of the six MTB vessels. Documents released under FOI show that approval for the re-export of the MTBs took place a mere three days after CAS-Global applied. The documents suggest that the export of the MTBs was not analysed or reviewed by the Arms Export Policy Team at the Foreign and Commonwealth Office (FCO), which assesses arms export applications. Correspondence from the Export Control Organisation (ECO - now part of the Department of International Trade but formerly located in the Department for Business, Innovation and Skills) raises the possibility that the MTBs were treated – erroneously – as goods in transit, and thus not subject to a detailed licence assessment.

Approval for the Horten took considerably longer, and the boat ended up being held in UK waters for an extended period of time. When the ship arrived in the UK in March 2014, it was detained by the Marine and Coastguard Agency for having insufficient documentation. It took close to a year for CAS-Global to arrange the correct documentation for the ship, during which time the Horten was registered on the shipping registries of first Nigeria and then the tiny state of Togo – in clear violation of their undertaking to Norwegian authorities that the Horten would operate under a UK flag.

The export licence application for the Horten was filed by CAS-Global in April 2014 and approved by BIS on the 1st of July 2014, after prior approval from the FCO, Ministry of Defence (MoD) and Department for
International Development (DfID). The licence application stated that the ship was to be operated by Global West in Nigeria as part of a contract with the Nigerian Maritime and Safety Agency (NIMASA) - a clear confirmation that CAS had misled Norwegian authorities. The approval was granted at the same time as the Dagbladet stories broke in Norway, which were circulated by FCO and BIS staff.

Documents released by the FCO and BIS indicate that there was some angst about the application. A week after the 1st of July approval, the Africa Desk at the FCO and the UK High Commission in Nigeria requested that the approval be paused so they could assess the export, as they had not been asked for their views yet. As it turned out, their input did not lead to a revocation of the export licence. The licence was approved by the then Secretary of State for the former Department of Business, Innovation and Skills (BIS), Vince Cable.5

Failure to apply arms control criteria appropriately to prevent instability and corruption

There are good grounds for believing that the approval of the export licence should have been blocked in the UK according to at least three of the Consolidated Criteria on arms control.

Firstly, the Horten’s application should have been denied on Criterion Three, which prevents exports that ‘could provoke armed conflicts or aggravate existing tensions or conflicts.’ At the time of the licence’s approval there was publicly available material confirming that former warlord, Tompolo, was behind Global West, and that Tompolo, along with many former warlords, had threatened violence in event that President Goodluck Jonathan lost the 2015 Nigerian presidential election. While officials in the FCO considered the possibility of Criterion Three being engaged, it was given a cursory assessment and discounted.

Secondly, Criterion Seven, which stops exports if there is a threat of diversion or dispersion (especially into the hands of terrorists or organized crime), should also have come into effect, not least because the ships were transferred to a company controlled by a former warlord who had threatened to re-engage in violence if political developments did not meet his liking.

Finally, corruption risks should have been properly assessed whether under Criterion Seven or Criterion Eight, which prevents exports that threaten or undermine the economy or stability of the recipient country. The contract that Global West entered into with NIMASA – the state Marine agency - for which the boats were to be used, has turned out to be tainted by potential criminality. The ten-year contract, which had been personally pre-approved by former President Jonathan in January 2011 and was not subject to normal tendering provisions, was highly controversial in Nigeria for outsourcing protection of the Nigerian coast to a company controlled by a former warlord.

In 2015, shortly after current President Buhari came to power, the NIMASA-Global West contract was suspended.7 In January 2016 the former Director-General of NIMASA, Patrick Akpobolokemi, Global West and Tompolo were charged by Nigeria’s anti-corruption agency, the Economic and Financial Crimes Commission (EFCC) on 14 counts of illegally converting just over $314 m from NIMASA for personal use between 2012 and 2015. Media reports suggested that Akpobolokemi, who had helped select Global West for the contract, also controlled Global West and was a signatory to one of its accounts.8 Both Akpobolokemi and Tompolo face numerous other corruption related charges.

In the UK, the export licence was granted despite the fact that British Customs officials had already raised concerns with Norwegian authorities about corruption risks in relation to the export of the boats to Nigeria. Questions were also being asked in Nigeria at the time the licence was approved, including in the House of
Representatives, about the suspicious nature of the contract between the company, Global West, and NIMASA and the high level of payments being made.\(^9\)

It does not appear that UK officials gave any real consideration to the risk that the export could have been part of a potentially corrupt contract at a time that assisting Nigeria to fight corruption was a key policy priority of the UK’s Department for International Development (DFID).\(^1\) Importantly, it appears that neither the FCO, the ECO or DFID conducted any due diligence on the contract which the export licence related to, or on the company, Global West, that was listed as the end-user. If they had conducted proper due diligence on Global West, they would have found that ownership of the company included a special advisor to former President Goodluck Jonathan on marine affairs, Leke Oyewole, raising serious conflict of interest issues. Oyewole was among those who visited and assessed the Norwegian boats on behalf of the Nigerian government prior to their purchase by CAS-Global and publically defended the government’s contract with Global West when it was made.\(^1\)

Shortly after Tompolo and Global West were charged by the EFCC, the MTBs and the Horten were seized by Nigerian authorities. Media reports show that Nigeria’s government feared that leaving Global West’s fleet in the hands of Tompolo and his colleagues could lead to security breaches in the Niger Delta.\(^1\) Just eighteen months after UK authorities had determined that the ships could safely be exported to Nigeria, the end-users had been charged with looting state assets and the ships had been impounded.

**Key Recommendations and the Government’s Response:**

Corruption Watch UK urges the government to review its export licence policies in light of this case. In particular, we recommend that:

1. The government review existing anti-corruption measures in the arms export licensing regime to strengthen the mechanisms to prevent the export of arms where there is a tangible risk that the export either assists in the fulfillment of a corrupt contract or was otherwise awarded corruptly. This could be achieved by:
   a. Introducing a new criterion in the consolidated criteria that specifically addresses corruption risk or specifying within existing criteria that corruption risks must be assessed and how they should be assessed;
   b. Introducing ‘know-your-client’ requirements that would require licencees to disclose the beneficial ownership of the exporters, recipients and ultimate end-users;
   c. requiring those applying for a licence to make a declaration that the export contract has not been obtained through bribery or corruption and provide for sanctions if the declaration has been signed despite evidence of corruption;
   d. ensuring that exporters convicted of corruption in relation to an export contract can have their licences revoked; and
   e. ensuring that conviction for corruption by an exporter can be grounds for refusing an export licence.

2. To ensure consistency in licence applications and to prevent companies exploiting differences in national exporting regimes, the government should introduce measures that require those applying for licences to provide a detailed documentary trail of related export licenses granted by other countries, including end-user statements and any other undertakings by the entity applying for a licence.

3. The government should investigate the possibility of implementing regular post-export reviews to ensure that items exported from the UK are used in accordance with the end-use statement submitted
by entities granted exported licences. Where it is found that companies have made material inaccuracies in applications and end-user statements, they should face appropriate sanctions. Such checks could be undertaken, for example, through overseas defence attaches with support from the FCO’s Arms Export Policy Unit.

4. In line with the recommendations published by Norway’s Parliamentary inquiry and those made by the UK’s Committee on Arms Export Control, the UK government should seek to provide maximum transparency in arms exports by publishing on an annual basis a full list of end-users and country of destination for approved export licences.

In February 2017, Roger Godsiff MP, forwarded an embargoed copy of this report to relevant UK government departments for comment. In April 2017, Mark Garnier MP, Under Secretary of State at the Department for International Trade, responded to the report and recommendations. In short, the government rejected the recommendations and denied that this case indicated that the arms export regime had been improperly applied. Corruption Watch UK believes that this response is wholly inadequate reflecting an alarming indifference to both corruption and the security implications of the transaction. We will continue to press the government to introduce meaningful anti-corruption due diligence in its export licence process. Until the UK government takes corruption seriously when granting export licences, it will be open to charges of hypocrisy for calling on developing nations to combat corruption while taking too little action to prevent its own export licence system from being used to exacerbate corruption.
TIMELINE OF KEY EVENTS

2009

January
Disposal Order for the six Hauk-class Missile Torpedo Boats (MTBs) is granted in Norway. The Norwegian military considers demilitarising the vehicles to allow for easier sale.

August
CAS-Global Limited is registered in the UK; the business entity was previously named RCI (Nigeria) Ltd, RCI (Group) Ltd and Critical Asset Security.

4 October
Government Ekpemupolo (better known as Tompolo) is granted amnesty in Nigeria for his role as the head of the militant group MEND.

2011

January
KMN Horten is marketed for sale. Some offers to purchase the craft are denied on the basis that the destination would violate regulations that prevent export to countries at war or under an arms embargo.

March
Fabian Ajogwu, a Nigerian lawyer - who during 2011 starts to act as defence counsel to Nigerian President Goodluck Jonathan - becomes a shareholder in CAS-Global UK.

10 May
Global West Vessel Specialists Specialist in Nigeria enters into its first contract with the Nigerian Maritime Administration and Safety Agency (NIMASA). The initial contract is to supply five vessels to NIMASA for 49.7m naira [roughly £207 000] per month.

20 December
CAS-Global submits end-user statement in support of their bid for the six MTB Hauks, claiming the ships will be used for fisheries protection in the ECOWAS region; registered and operated under a UK flag; crewed by European crews; and that the ships would be bound by UK export law if sold.

2012

January
Global West enters into a 10 year Supply, Operate and Transfer agreement with NIMASA after approval of the Nigerian Ministry of Transport. Global West promises to invest over $100m in purchasing and operating ship platforms, to be used by NIMASA and the Nigerian Navy. In return, Global West would receive a share of maritime taxes and other levies. The contract has an option for renewal for 2 further five year periods and stipulates that after twenty years, if the contract was unbroken, the ships become the property of NIMASA.

13 February
CAS-Global signs a contract with the Norwegian Defence Logistics Organisation – Disposals (known by its acronym FLO in Norway) for the purchase of the 6 MTBs. The ships are sold for £450 000 each, or £2.7m in total.

4 May
A meeting takes place at the Haakonsvern shipyard in Norway for ‘buyers viewing the MTBs.’ The attendees include: Patrick Akpobolokemi (the head of NIMASA), Leke Olubenga Oyewole (a Global West director and shareholder in 2012, and special advisor to former President Goodluck Jonathan on Maritime Affairs since January 2011), Romeo Itima (Managing Director of Global West until his death in August 2012) and Dismas Adoon Alu (Akpobolokemi’s PA).
The meeting is referred to in a later Norwegian Parliamentary inquiry as showing that Norwegian officials must have known that the 6 MTB Hauks were ultimately destined for Nigeria and that Global West were the ‘real’ owners.

August

British Customs warn Norwegian Customs and Excise that there was potential corruption involved in the Nigerian Coastguard. They also warned Norway about CAS-Global’s connection to Nigeria and Tompolo in particular. Attached to the email was an article in the Nigerian Standard, indicating corruption and other allegations against Tompolo. The article is forwarded to CAS-Global for comment, who reply: ‘we have read the article and it is not affiliated with CAS-Global or Hauk class ships (missile torpedo boats) in any way.’

7 September

The Norwegian Foreign Ministry receives an inquiry from FLO (Disposals), which is forwarding an inquiry from the Nigerian Embassy in Stockholm. The inquiry relates to a request for Nigerian nationals to be able to view the KMN Horten. The request is granted three days later by the Foreign Ministry. However, they warn FLO that a sale to Nigeria would be subject to review under ‘catch-all’ criteria in Norwegian export law.

8 October

Norway’s FLO signs a sales contract with CAS-Global for the purchase of the Horten. The total value of the contract is $7.75m.

11 October

Norway’s FLO writes to the Norwegian Ministry of Foreign Affairs about the Horten purchase. FLO states that the ship was sold to CAS-Global, that the transaction involved no intermediaries, and that the ship would be crewed by CAS-Global crews and registered under the British flag. This is incorrect.

2013

Feb/March

The first three MTBs are collected from Norway by CAS-Global. They sail away on their own steam.

20 March

Bjorn Stavrum, the FLO official overseeing the MTB and Horten sales, allegedly receives $79,969 directly from CAS-Global into his private account.

April

FLO receive correspondence regarding payment for the Horten between Skye Bank in Nigeria, Global West and CAS-Global. The correspondence provided proof to FLO that there were direct and material links between Global West and CAS-Global, and that Nigeria was the ultimate destination of the Horten.

April

According to a later Norwegian Parliamentary Inquiry, the first three MTBs, which transited via the UK, were detained at the port of Felixstowe, where they were subject to customs checks. They were approved for export.

1 May

The first three MTBs arrive in Lagos. They are presented as gunships.

May

Two Nigerian bankers are allowed by FLO to inspect the Horten and finalise the sale of the ship. The invitation, sent via the visa section at the Norwegian embassy in Abuja confirms that the bankers represented Skye Bank and that they were acting on behalf of Global West. This is further proof that FLO officials would have known that Nigeria was the ultimate destination of Horten and that Global West were to be the real owners.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>1 August</td>
<td>The Horten is declared for export to Norwegian customs.</td>
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<tr>
<td>20 August</td>
<td>Bjorn Stavrum allegedly receives £55,620 from a salvage yard relating to the sale of scrap steel from the upgrading of the Hauks. The scrap steel was owned by CAS-Global; this was a way of allegedly laundering funds into Stavrum’s account.</td>
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<tr>
<td>26 September</td>
<td>CAS-Global applies for British registration for the Horten. They try to register the ship as a pleasure vessel.</td>
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<tr>
<td>2 October</td>
<td>Bjorn Stavrum receives $74,884 directly into his account from CAS-Global.¹³</td>
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<tr>
<td>November</td>
<td>The final three Hauk ships are collected by a cargo ship and transported directly to Nigeria.</td>
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<tr>
<td>25 December</td>
<td>The final three Hauk ships start work as patrol boats in Nigeria.</td>
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<tr>
<td>2014</td>
<td></td>
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<tr>
<td>26 February</td>
<td>The Horten is collected by CAS-Global’s crew and sailed to Ramsgate.</td>
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<tr>
<td>12 March</td>
<td>The Horten arrives in the UK but is detained by the Marine and Coastguard agency on account of having insufficient/incorrect documentation. The detention notice from MCA notes that ‘statutory surveys have not been conducted or are expired’ and that the ‘qualifications of seafarers on board do not meet mandatory requirements.’</td>
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<tr>
<td>20 March</td>
<td>CAS-Global re-registers Horten’s flag to Nigeria, receives a provisional registry with the Nigerian Maritime Administration, and changes Horten’s name to the MV Nimasa MPS I. This contradicts promises they made to Norway that the Horten would be registered under a British flag and operate under UK jurisdiction.</td>
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<tr>
<td>4 April</td>
<td>Global West appear as new registered owners of Horten.</td>
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<tr>
<td>15 April</td>
<td>CAS-Global’s application for an export licence is filed with BIS via the SPIRE system. CAS states that the ship is a ‘refuelling and accommodation vessel.’ They also list the consignee as Global West Vessel Specialist (at its Lagos address) and the End-User as ‘Global West Vessel Specialist on behalf of NIMASA.’¹⁴ The application also confirms that the ship will be operated in Nigerian waters.</td>
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<td>16 June</td>
<td>Dagbladet contacts FCO/UK government and asks for comment regarding the export of the ships from Norway. The query sets off a flurry of correspondence about the right ‘line’ to take in response.</td>
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<tr>
<td>24 June</td>
<td>The Arms Export Policy Team (AEPT) within the FCO writes a recommendation to approve the licence for the Horten. The approval is granted because the AEPT feels that export would not violate Criteria 2 or 3 of the UK’s consolidated arms export regulations. Criteria 2 prevents exports to countries or groups responsible for gross human rights abuses, while Criteria 3 prevents exports to groups or countries where there is a chance of conflict or escalating tension.</td>
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<tr>
<td>1 July</td>
<td>BIS approves the export licence for the Horten to Nigeria.</td>
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8 July  The Africa Desk at the FCO and the UK High Commission in Nigeria ask whether it is possible to ‘pause’ the Horten licence application so that they can review the situation. It emerges from correspondence that AEPT did not consult with them. After discussion, ‘Post’ [the British Embassy in Nigeria] is given the go-ahead to re-review the application.

23 July  ‘Post’ sends its consolidated views regarding the export of the Horten. It presumably supports the export as the licence is not revoked.

14 August  The Horten is registered under a Togolese flag, and renamed again the Horten and not NIMASA MPS I.

September  Based on the exposure of the Norwegian boats story, the Ministry of Foreign Affairs decides to change and improve Norway’s export control regulations – it requires that any military item that was previously covered by arms control regulations would require an export licence, regardless of whether or not it had been demilitarized.

14 October  First Norwegian Parliamentary Committee hearing on the vessel export scandals. The Committee resolves to begin the investigation by sending multiple letters to relevant parties.

14 November  The anticipated date on which the Maritime and Coastguard Agency (MCA) is set to inspect the Horten after receiving the requisite statutory documents. It appears that the inspection approves the release of the Horten as it departs shortly thereafter.

20 November  The Horten finally leaves the UK.

2015

20 January  Two British nationals are arrested on suspicion of bribing a Norwegian official. A business address in Surrey is also searched.

July  Two months after his electoral victory, the new Nigerian President Muhammudu Buhari sacks the head of NIMASA, Patrick Akpobolokemi and halts payments to Global West.

2016

January  Tompolo, Global West and Akpobolokemi are charged by Nigeria’s Economic and Financial Crimes Commission on two sets of charges. The first charge sheet alleges that Tompolo, using Global West and with the connivance of Akpobolokemi, used Global West to illegally extract $286m from NIMASA from 2012 onwards. The second charge sheet alleges that Tompolo and Akpobolokemi, along with a host of collaborators, ‘converted’ $110,043,814.23 from NIMASA, as well as $41,362,355.97 of federal government funds, in violation of Nigerian money laundering laws.

12 January  A fourth man in his 30s was arrested in connection with the investigation at an address in Hounslow, west London.

16 March  NIMASA seizes the ships forming the fleet operated and owned by Global West Vessel Specialist. The ships are seized, according to a NIMASA source, ‘so that they will not be used to cause any breach of security in the Niger Delta region.’
26 May  The Norwegian Parliamentary inquiry into the Hauk and Horten sales presents its final report to Parliament. It makes a number of findings and recommendation, including that FLO officials knew that Nigeria was the ultimate destination of the Hauks and Horten, and that Norway should introduce full transparency in its second hand defence sales by publishing all details of items sold, sale price, buyer and intended destination. The inquiry also finds that ‘everyone except members of the Conservative and Progress Party believes Norwegian authorities could have been more active against British authorities to prevent the export of the ship to Nigeria.’

1 July  Bjorn Stavrum, the FLO official overseeing the Horten and Hauk sales, is indicted in Norway for corruptly receiving funds from CAS-Global to help them secure the purchase of the ships from Norway. The indictment states that Stavrum committed an offence by hiding from the Norwegian Foreign Ministry that the real end user of the ships was Global West Vessel Specialist and not CAS-Global.
Dereliction of Duty

HOW WEAK ARMS EXPORT LICENCE CONTROLS IN THE UK FACILITATED CORRUPTION AND EXACERBATED INSTABILITY IN THE NIGER DELTA

INTRODUCTION

Come and buy a ‘bargain’, Commander Bjorn Stavrum, an official from Norway’s defence disposals unit, exhorted readers of the small local Norwegian newspaper Gjengangeren in March 2010. The ‘bargain’: an 87 metre long ex-Navy vessel that weighs 2530 tons, could house 225 crew members and had space for a helicopter landing strip. Its name: the KMN Horten. The boat, at times the temporary home of Norwegian royalty, was on sale for between 40 and 50 million Norwegian kroner (roughly €5m) - a steal since the cost of a new boat of the same type and size would be around 1 billion kroner (roughly €125m). The ‘bargain’ even came with spare parts worth between 15 and 20 million kroner (roughly €1.5m).

Fast forward to the present and the jolly irreverence of the newspaper’s puff piece is scarcely believable. In January 2015, Commander Stavrum was indicted for corruption in Norway. His trial starts in February 2017. He stands accused of receiving over $150,000 from a UK-based company, CAS-Global, to help them buy both the Horten and a set of six smaller Hauk-class Missile Torpedo Boats (MTBs) and hide their ultimate destination from Norwegian authorities.

But CAS-Global’s alleged bribe to Stavrum is the least of it. The boats ended up in Nigeria, as part of the fleet belonging to Nigerian company Global West Vessel Specialist. The company has long been alleged to be controlled by one of Nigeria’s most notorious former warlords, Government Ekpemupolo, or Tompolo. The company also happens to be owned by a special advisor to former Nigerian President Goodluck Jonathan and a special advisor to the Governor of Bayelsa State, Seriake Dickson. One of the shareholders of CAS-Global itself, meanwhile, has acted on various occasions as senior counsel for President Jonathan.

There are two questions at the heart of this scandal. First, whether CAS-Global was in fact part of a wider scheme that resulted in the looting of the Nigerian treasury and that weaknesses in the UK export licence regime meant that the UK turned a blind eye while this was done. Second, whether the UK’s decision to approve CAS-Global’s export of the Horten to a former Nigerian warlord with a disturbing track record of threatening violence in the event that President Jonathan was deposed, was made despite clear evidence that it could potentially have violated a number of criteria in the UK’s arms export regulations – especially the criterion that prohibited exports that could inflame local or regional military tensions.

In 2012, Global West was granted a highly controversial 10-year public private partnership contract with the Nigerian Maritime Administration and Safety Agency (NIMASA). A year later, in October 2013, a Nigerian House of Representatives Committee was raising questions about why NIMASA had paid Global West $326 million and why NIMASA paid 50% of its revenue to Global West in contravention of government regulations. Within eight months of new Nigerian President Muhammadu Buhari coming to power on an anti-corruption ticket, NIMASA’s Director General under Goodluck Jonathan, Patrick Akpobolokemi, was charged alongside Global West and Tompolo by Nigeria’s Economic and Financial Crimes Commission in two separate charge sheets with offences related to money laundering.
At the same time, Global West’s fleet, including the Horten and the MTBs, were seized by Nigerian authorities, lest they be used to breach security. Thus, the boats were taken away from Global West less than two years after the UK government had decided that their export did not risk creating regional or national instability.

Within Norway, the sale of the boats, and their appearance as part of Tompolo’s fleet, was front page news as the result of a dogged investigation by the Norwegian newspaper Dagbladet. It led to an excoriating parliamentary inquiry that uncovered major problems with Norway’s arms export licensing and military disposals regime, forced an apology from the Norwegian Minister of Defence and led to important reforms being introduced into the disposals process and export licensing process.

The scandal, however, has barely registered, in the UK. Two UK employees of CAS-Global were arrested in January 2015, along with a third in 2016, although no charges have yet been laid. The fact that the UK issued export licences to CAS-Global for the sale of the boats to Nigeria, despite ample contemporaneous evidence that there were serious potential financial irregularities relating to the contract between the end-user and a government agency, and that the export of boats could inflame unrest in the Niger Delta region, raises serious questions as to whether the UK’s export licence regime is fit for purpose.

THE NORWEGIAN SALES: EVERYTHING MUST GO!

In 2008, the government of Norway decided to phase out a range of Navy vessels that had been in service since the late 1970s. As the boats had been modernized in 2002 at a cost of a billion krone, Norwegian authorities decided the vessels should be sold rather than scrapped to recoup some of the cost. The first vessel put up for sale was the KNM Horten in 2008. In 2009, six ‘Hauk’ class Missile Torpedo Boats (MTBs) – small and fast vessels with a range of potential uses – were added to the list.

The MTBs soon received a number of bids, according to a later Norwegian Parliamentary inquiry. However, as the boats were still classed as military vehicles, it appears that potential buyers were turned down by the Norwegian Ministry of Foreign Affairs, presumably because they could not meet strict Norwegian export controls that arms exports should not violate arms embargos or be used in active or imminent conflict situations.

Norwegian authorities hit on the idea of ‘demilitarizing’ the boats. This was done largely by filing off gun emplacements. On 23rd January 2012, the Norwegian Foreign Ministry confirmed that the vessels were no longer considered military vehicles, and thus fell outside of country’s arms export control regime.

The announcement was undoubtedly good news for the UK-registered company CAS-Global Ltd, which was involved in active negotiations to purchase the MTBs by the end of 2011.
CAS-Global: More than a Shell Company?

In 2014, when the Norwegian boats scandal was broken by Dagbladet, the newspaper made much of the fact that CAS-Global appeared to be nothing more than a shell company occupying the same address as hundreds of other companies out of a field in rural England. Our investigations, however, suggest that CAS-Global was more than simply a cardboard cut-out. Indeed, CAS-Global and its various shareholders and directors shared a long history, and were part of a heavily networked set of companies working in the world of private military security, staffed by former security and intelligence officers drawn from around the globe.

CAS-Global Ltd came into being in the UK in August 2009. It had previously been registered under three different names: RCI (Nigeria) Ltd between 4 April 2008 and 3 July 2008, RCI (Group) Ltd between 3 July 2008 and 30 June 2009, and Critical Asset Security Ltd between 30 June 2009 and 12 August 2009. The three longest-standing directors of CAS-Global Ltd were Stuart Robert MacGregor, Benjamin Rory MacGregor and Jackie MacGregor.

RCI – or Risk Consultants International Limited- was established in the UK in 2002. It shared a number of directors and shareholders with CAS-Global. One such person was Mike McMenamin, who held shares in CAS-Global until 2011, and who was one of the founding directors of RCI Ltd. McMenamin, on his LinkedIn profile, claims to have been a member of the South African apartheid regime’s national intelligence services. Indeed, he boasts of being part of the security detail of both Pik Botha, the last foreign minister of the apartheid government, and King Goodwill Zwelithini, a controversial Zulu monarch.

It appears that the links between RCI and the future directors and shareholders in CAS-Global were first formalised in 2007, when Stuart and Ben MacGregor were appointed as directors of RCI. According to Companies House, Stuart MacGregor remains a director of the company. In the same year, two further RCI entities were established: RCI Holdings, featuring Ben and Stuart MacGregor as directors, and RCI Guardnet, which listed both MacGregors, one Paul McMenanim and a fourth individual, Robin Harris, as directors. Public reports confirm that RCI has held a number of security contracts, largely in Nigeria: they have done work for, amongst others, Exxon, the Nigerian Navy and Ascot, the last of which was the oil company owned by James Ibori, the hugely controversial former Delta State Governor.

Our investigations suggest that RCI, and thus the future directors of CAS-Global, had a history of buying second hand naval vessels from Scandinavian countries. Sweden’s Defence Material Administration confirmed to us that RCI Holdings purchased 6 Hugin and Kaparen class patrol boats: P166 Tirfing, P163 Strybjorn, P159 Kaparen, P164 Starkodder, P162 Spejaren and P165 Tordon. The contract was signed in June 2008, and the boats collected the following month. The price: 1 764 000 Swedish krone, equal to roughly £150 000 in 2008. It is not clear where the ships ended up, and the UK authorities have no record of any export licence applications made by the company.

Most importantly for this story, however, are the links between CAS-Global and Nigeria, where both the MTBs and the Horten eventually sold to. On the 16th of October 2002, long before CAS-Global Ltd was registered in the UK, CAS-Global Solutions was incorporated in Nigeria. Another CAS company, CAS Nautico West Africa, was incorporated three years later on the 13th of December 2005, also in Nigeria. CAS-Global’s website, set up in 2009 but now defunct, tortures language to confirm that ‘CAS Nautico is the operator of a strategic alliance between itself and CAS-Global.’

On 13 December 2005, long before CAS-Global was registered in the UK, CAS-Nautico West Africa Limited, was registered under then-name Windham Limited. Another company, CAS Nautico Logistics
Limited, was incorporated on 11th September 2009. In total the MacGregor family has held stakes in at least five Nigerian entities.\textsuperscript{32}

The Nigerian connections are even more extensive than this suggests. In March 2011, three of the shareholders of CAS-Global Ltd in the UK transferred their shares to one Fabian Ajogwu. Ajogwu is a Nigerian barrister who acted as a member of the defence team of the former Nigerian President Goodluck Jonathan in litigation in 2011, and has represented the President in subsequent cases.\textsuperscript{33} Ajogwu was also a shareholder in CAS Nautico in Nigeria, along with Stuart MacGregor, CAS-Global Ltd (UK) and another Nigerian national, Kenneth Dan Anyiam.

Anyiam is listed as the CEO of the Nigerian company Nexus Alliance E+P on its website\textsuperscript{34}, which describes the company as a ‘full cycle independent oil & gas company with onshore and offshore assets in Nigeria.’\textsuperscript{35} Anyiam’s directorship of CAS Nautico is confirmed on the Nexus website.\textsuperscript{36} CAS-Global’s now defunct website also listed Nexus Alliance as a partner company.\textsuperscript{37} Members of the MacGregor family held shares in at least four Nigerian companies: CAS Nautico Logistics, CAS Nautico West Africa, RCI Critical Asset and Personnel Protection and Concource TSG.

CAS-Global’s website also listed two further partner companies of interest, both of which illustrated CAS-Global’s claimed links to the world of former military operatives. The first was Phase-LM, which was described as ‘a member of the CAS-Nautico Alliance’ and the ‘provider of support and training in all aspects of health, safety and medical requirements.’ The company was managed by ‘a former chief medic with Britain’s Special Force’s Maritime Counter Terrorism Team.’ The second partner company listed on the CAS-Global website was Secopex, one of France’s largest private security companies. The company hit the headlines in 2011 when one of its co-founders, the paratrooper Pierre Marziali, was killed in Libya in reportedly suspicious circumstances.\textsuperscript{38}

End-user fabrication

On 13th February, following a few months of negotiation, CAS-Global signed a contract with the Norwegian Defence Logistics Organisation (also referred to in Norway by its acronym FLO), for the purchase of 6 ‘demilitarised MTB’s Hauk Class.’ The price for each ship was £450 000, for a total cost of £2.7m, which included spare parts. Stuart MacGregor, CAS-Global’s longest serving director, signed on behalf of the company, while Robin Harris, the director of RCI Guardnet (see above), was listed as the primary contact point. CAS was required to make a 10% down payment, and to pay the remaining 90% upon handover of the vessels.\textsuperscript{39}

But perhaps the most important piece of paperwork for this story was the letter submitted in January 2012 by CAS-Global, a month before signing the contract for the boats, informing Norwegian authorities of the intended use and destination of the MTBs. The letter, which served as an End-User statement, stated that:

- ‘CAS-Global mainly operates in West Africa and has presented a comprehensive fisheries protection package for the ECOWAS region.
- Pursuant to this presented ECOWAS fishery protection proposal the vessels would be operated within the ECOWAS offshore region to combat the illegal fishing activities that severely damage these regional nations.
- CAS-Global Limited as a wholly owned UK company would be the vessels owners and as such these vessels would be registered under the UK flag and be operated under UK jurisdiction whilst conducting the fishery protection operations.'
Whilst in international and ECOWAS waters the vessels will comply with all IMO regulations. Further the vessels would be commanded and operated by experienced European crews. In the unlikely event of vessel sale in part or in total CAS-Global Limited will be bound by the UK export control regulations.\textsuperscript{40}

These statements were clearly misleading, and masked the real intended destination of the ships and their eventual end-use. Far from being used across the ECOWAS region, and crewed by European crews, the ships were to be sent to Nigeria to become part of the flotilla of Global West Vessel Specialists. Global West was a maritime security company connected to Nigerian warlord, Tompolo, whose employees would crew the boats, and would become the owners of the ships.

\textbf{Global West Vessel Specialist}

Since its incorporation in 2008, Global West Vessel Specialist has secured lucrative government contracts and acquired a fleet of more than seven ex-military vessels. The company was controlled by the notorious ex-militant Tompolo, who allegedly used the company to extract $286m from the government (as we discuss later), with the connivance of public officials.

The company was first incorporated in the names of brothers Captain Romeo and William Itima. Romeo Itima had spent most of his life in Houston, Texas, where he had run a ship-to-ship transfer company, Mike Lely Marine.\textsuperscript{41} His brother, William, was a leader within various Ijaw political groups, including the Federated Niger Delta Ijaw Communities (FNDIC)\textsuperscript{42} whose membership had “close and overlapping relationship with MEND”, according to US intelligence reports.\textsuperscript{43}

By the time of its second annual report in 2009, the company listed a number of new shareholders in addition to the Itima brothers: Leke Oyewole, Emmanuel Diffa and Admiral Godwill Ombo, who held 20%, 15% and 5% respectively. Another 10% was listed as being held under a “floating charge”.\textsuperscript{44}

On January 26 2011 the largest of the new shareholders, Leke Oyewole, was appointed as former President Goodluck Jonathan’s Senior Advisor on Maritime Affairs, despite having no professional maritime experience.\textsuperscript{45}

In May 2011, less than four months after Oyewole was appointed as a Presidential aide, the company received its first government contract, to supply five vessels to the Nigerian Maritime Administration and Safety Agency, NIMASA. This first NIMASA contract was worth N49.7m naira (around £195,000) a month for the provision of five vessels.\textsuperscript{46,47}

The first newspaper articles alleging links between Global West and Tompolo appeared in August 2011, when the Nigerian Standard newspaper reported disagreements within NIMASA over alleged unapproved withdrawals of $30m from the agency’s accounts.\textsuperscript{48} Disputes had also emerged regarding the lack of qualification of NIMASA Director, Patrick Akpobolokemi, also appointed by the President.

It has since been reported that Akpobolokemi and Oyewole were signatories to one of the Global West bank accounts, with Tompolo the signatory of the other.\textsuperscript{49}

This did not prevent the signing of the much more lucrative second contract to Global West, which was set to last 10 years with the option to have it extended by two five year terms. The contract was approved by the Transport Ministry in January 2012 after having been pre-approved by the President in November 2011.\textsuperscript{50}
According to the contract, Global West would supply and operate marine platforms for “Tracking Ships, Cargoes, Enforcement of Regulatory Compliance and Surveillance of the Entire Nigerian Maritime Domain for Ministry of Transport/Nigerian Maritime Administration and Safety Agency”.

The contract also stipulated that Global West would receive a share of the maritime taxes and other levies that it helped to collect. The contract contained an option for renewal for 2 further five year periods and stipulated that after twenty years, if the contract was unbroken, the ships become the property of NIMASA. By March 2012, the Nigerian press widely referred to Global West as either belonging to, or controlled by, Tompolo. That summer, Director and Majority shareholder Romeo Itima was declared to have been killed by pirates whilst on operation at sea; however the cause of death has been called into question by many people, including Itima’s family. Shortly after, it was reported that Emmanuel Diffa, who was already a shareholder, would assume position as Chairman of the company.

In August 2013 Diffa - himself a former Senator of Bayelsa State- was appointed as Special Advisor on Marine Affairs to the incumbent Governor, Henry Seriak Dickson.

In October 2013, the Nigerian House of Representatives raised questions about NIMASA’s relationship with Global West: it questioned the $326 million paid to the company, and asked why NIMASA had paid 50% of its revenue to Global West in contravention of government regulations.

The most recent corporate documents on file in Nigeria, dated January 2015, name Bebenimibio Paul Ebifide, media officer to Tompolo, as a Director.

Politically Exposed Persons Ahoy: The Nigerian connection

That Nigeria was the ultimate destination of the ships, and Tompolo the potential beneficiary, should have been obvious to Norwegian officials for three reasons.

On 4th May 2012, six people came to view the MTBs at the Norwegian shipyard where the boats were being demilitarized. The records of the shipyard’s registry show that the individuals were representing CAS-Global, FLO and the Horten shipyard. They included Thomas Sorgjerde (from the Horten Shipyard), and Nigerian nationals Patrick Ziakede Akpobolokemi, Leke Olugbenga Oyewole, Romeo Itima and Dismas Adoon Alu.

These were not any ordinary Nigerians civilians with a sailing fetish. Patrick Akpobolokemi was the head of the Nigerian Maritime Administration and Safety Agency (NIMASA). Akpobolokemi was fired from this position following the electoral defeat of former President Goodluck Jonathan, and currently faces a raft of money laundering charges related to NIMASA’s contracts with Global West and others. Romeo Itima was the Managing Director of Global West Vessel Specialist (until his death at the hands of pirates in late 2012). And Oyewole served as the ‘Senior Special Advisor to the President [Goodluck Jonathan] on Maritime.’ He was also a Global West shareholder, according to the Nigerian company registry.

Some basic web-searching at the time would have revealed that in March 2012, NIMASA entered into a long-term contract with Global West Vessel Specialist, under the terms of which Global West would provide ships to patrol Nigerian waters. It was, at the time, a highly controversial award not least because it was widely speculated in the Nigerian and international media that Tompolo was the true owner and guiding hand behind Global West. The Nigerian newspaper Daily Trust editorialised that ‘it is alarming that the patrol and control of Nigeria’s coastal borders is being handed to a private concern, run by a known warlord, even [if] he is a rehabilitated rebel.’
The second reason why it would have been clear that the ships were headed to Nigerian waters was the fact that the ships, while being demilitarized, were being adapted for their new owners. According to sources interviewed by Dagbladet, this included a reduction in the height of the ships radar masts, to allow them to pass under bridges on the Niger delta, and a fancy new lick of paint – in white and blue, the exact same colours of the fleet allegedly under Tompolo’s control.60

Who is Tompolo?

Tompolo, born Chief Government Ekpemupolo, was one of the founding commanders of militant group, Movement for the Emancipation of the Niger Delta (MEND).

Between 2006 and 2009, MEND’s attacks on oil infrastructure reduced Nigeria’s oil output by a third.61 More than 350 foreign oil workers were taken hostage and dozens were killed62, and the deadly response from Nigeria’s armed forces led to the deaths of hundreds of innocent Nigerians and the displacement of thousands.63

Tompolo rose to fame in the late 1990s when his group, the Federated Niger Delta Ijaw Communities, fought rival militias over control of government patronage in a five-year war.64 Following the conflict Tompolo became a prominent figure in Nigeria’s multimillion-dollar oil theft industry.65 His FNDIC militia morphed into a notorious MEND faction based at “Camp Five” in Oporoza, Delta State. The Nigerian armed forces’ attack on the camp in May 2009 destroyed Oporoza and displaced hundreds of residents, though the number of citizens killed remains unknown.66 Five months after the attack, Tompolo accepted the offer of amnesty on the part of the Nigerian government in return for laying down his arms. The amnesty program has been criticised for paying off militants to achieve peace, which it was feared would only last as long as the payments continued. Within three years of Tompolo’s amnesty, he had secured GWVS’ lucrative government contract.

Seller beware: UK warnings to the Norwegians

There was a third and even more obvious reason why Norwegian officials should have been concerned about the sale of the ships. In June 2012, prior to the MTBs leaving Norwegian ports and a month after the visit described above, UK customs authorities sent an alert to Norway’s Custom and Excise. The UK authorities raised concerns about whether CAS-Global had bought ships, and warned that they were possibly destined for Nigeria and, ultimately, Tompolo. The note also raised concerns about corruption.67 Norwegian Customs authorities forwarded on the concern to the Norwegian Foreign Ministry, which, in turn, alerted FLO (the Norwegian disposals unit).68

According to the Norwegian paper Dagbladet, UK customs attached a newspaper article from the Nigerian Standard, raising allegations of fraud and abuse of state resources at NIMASA. In particular the article alleged that $30 million had been withdrawn from NIMASA’s account without proper Ministry approval or the knowledge of the rest of the NIMASA board. At the same time, the article also confirmed that NIMASA had signed an agreement with Global West Vessel Specialist that paid the company 49 million naira (roughly £207 000) a month for the provision of five vessel ‘platforms’ to be used in maritime protection. This was despite the fact that the contract with Global West stipulated that the company was meant to recoup the costs of its investment in the ‘platforms’ by collecting revenue from enforcing Nigeria’s ship registration or ‘cabotage’69 laws. The note sent to Nigeria’s Federal Executive Council for approval of the contract
specifically said that the contract would not require any “government appropriation” but would in fact bring in revenue for the government. The then Director General of NIMASA publically stated that the contract was awarded on a ‘no-cure-no-pay’ basis, and that NIMASA would only pay Global West once it started bringing in revenue for the government. A Minister of Transport was reported to have been redeployed to the Ministry of Sports after raising concerns about the payments to Global West.

Of Global West, the article stated that ‘this company, going by information from Corporate Affairs Commission (CAC) is allegedly owned by Tompolo, repentant leader of the Movement for the Emancipation of Niger Delta.’ CAS-Global were sent the article by Norwegian defence authorities and asked to comment. They replied that ‘we’ve read the article and it is not affiliated with CAS-Global or Hauk-class ships in any way.”

Apparently that disavowal was enough to assuage Norwegian concerns, and the sale was concluded shortly thereafter. In August 2012, Norway’s FLO issued a Bill of Sale for the MTBs. In February, the first three MTBs were collected by CAS-Global and sailed away on their own steam. The final three departed a few months later, transported on a larger vessel. By 22nd April, all six MTBs had been declared for export to Norwegian customs – and all were supposed to be sailing via England. By 1st May 2013, the first three MTBs arrived in Lagos, where they were presented to Global West Vessel Specialists with newly installed armament mounts: as gunships. On 25th December 2013, the three remaining MTBs were inducted into Global West’s Nigerian flotilla, also as warships. And they were soon to be joined by another vessel that CAS-Global had successfully purchased from Norway: the KMN Horten.

And another, please: the KMN Horten saga

In February 2012, an official from FLO wrote to CAS-Global to ask for assistance in selling the Horten. ‘There is one thing I wanted to ask you about,’ the email to CAS from FLO noted. ‘How realistic is it that we manage to sell the Horten through your contacts? The reason I’m asking is that the MoD [is] discussing donation of the vessel to Kenya!’ Although no record of an answer has been reported, the answer would eventually be: extremely realistic.

Six months later, on 8th October 2012, CAS-Global signed a sales contract for ‘the supply vessel Horten.’ Like the contract for the MTBs, the Horten contract required CAS-Global to pay 10% deposit upfront (which CAS had already paid on signature of the contract) and the final 90% on handover of the ship. The total cost: $7.75m excluding VAT. As with the MTBs contract, Stuart MacGregor, the long-time director of CAS-Global, signed for the company. Matt Ward, an English citizen and CAS employee, is listed as the main contact point. It took 18 months for the ship to be collected from Norway by CAS-Global’s crew and sailed to the UK, on 26th February 2014.

As with the MTB sales, much effort was put into disguising the ultimate destination and owners (Global West in Nigeria) from the Norwegian Foreign Ministry. This was necessary due to Norway’s ‘catch-all’ determinations, even though the Horten had been ‘demilitarised’. These ‘catch-all’ determinations are rules applied to all Norwegian exports, whether military or not, and are designed to prevent dual-use items from entering into zones of conflict. This was not an idle concern. On 7th September 2012, Norway’s FLO forwarded a request to Norway’s Foreign Ministry, originally from the Nigerian embassy in Stockholm. The request asked for permission for ‘Nigerian nationals’ to be granted access to view the Horten. Three days later, on 10th September 2012, the Foreign Ministry replied that it did not oppose the requested visit, but warned FLO that a sale to Nigeria would be subject to review under ‘catch-all’ provisions. In particular, a sale to Nigeria
would be scrutinised against Paragraph F of the catch-all provisions, which blocked sales to countries at war or involved in civil war, or where there was the threat of either.\(^\text{80}\)

**The MK Horten at Sea  Photo: Philip Gabrielsen**

**More lies: how Horten got through the gaps in the Norwegian export process**

That Norway’s FLO effectively misled its own Ministry of Foreign Affairs is confirmed by a damning set of correspondence. On 11\(^{\text{th}}\) October 2012, FLO wrote to the Norwegian Foreign Ministry giving a summary of the Horten sale and its destination. FLO wrote that ‘the vessel is sold to the British company CAS-Global Ltd., headquartered in London, England. The vessel shall form part of the firm’s portfolio of ships. CAS-Global Ltd is retail, there will be no intermediaries. CAS-Global will man the vessels with their own crews... The vessel will be registered under the British flag, and for that reason fall under British jurisdiction.’\(^\text{81}\)

As with the MTBs, a serious enquiry by any of the relevant officials within the different Norwegian ministries would have flagged the risk that the Horten would be sold to Global West in Nigeria, and that Global West was intimately involved in making the financial arrangements to buy the ship.

The first indication of this came in late 2012, a month after the original sales contract was signed. The sales contract stipulated that the final payment on the Horten should be made by the 16\(^{\text{th}}\) of November 2012,
which CAS failed to do. FLO inquired from CAS about the missing payment. CAS responded by email, explaining the delay. Attached to CAS-Global’s email was a letter of credit from a bank in West Africa, which explicitly mentioned Global West. This was explained away by CAS as a simple administrative necessity. CAS claimed that ‘local content laws’ in Nigeria required a local partner in order for a company to win contracts there: ‘so we have to use Global West to win contracts,’ the email confirmed. At this point, even if it was believed that Global West was simply a convenient administrative partner, it would have been abundantly clear that the Horten was destined for Nigeria, where CAS-Global was winning contracts.

A few months later, and the involvement of West African banks in the transaction was further revealed. On 5th March 2013, FLO sent an email to the Norwegian embassy in Abuja, confirming that representatives from Skye Bank in Nigeria had been invited to view the Horten. Two months later, in May 2013, two Skye Bank bankers undertook the trip, ostensibly viewing the ship at the Karljohansvern shipyard and finalising the transaction. Most importantly, a letter from FLO to the Norwegian embassy in Abuja that facilitated the issuing of the visa, confirmed that Skye Bank, who would be facilitating the purchase, were not acting on behalf of CAS-Global but Global West. ‘Mr XX and YY are both representatives of Skye Bank PLC, a financial institution in Nigeria,’ the email from FLO confirmed. ‘They act on behalf of Global West Vessel Specialist Ltd, a company involved in the aforementioned trade.’

In addition, FLO knew about the relationship between Skye Bank, Global West and CAS-Global due to correspondence it received from CAS-Global the month before the visit of Skye’s bankers. It is unclear why CAS sent the email, which included detail of correspondence between Global West and Skye Bank. In the correspondence, Global West were asked to approve the letter of credit from Skye Bank, which would be
used to purchase the ship. Clearer proof of a direct relationship between CAS-Global and Global West would be hard to find.

**The Norway Sales: One Man’s Crime or Systemic Failure?**

Looking at the manner in which the six MTBs and the KMN Horten were sold, one is forced to ask: how did this happen? Or, more to the point: was it the result of the actions of a single bad apple, or was it the inevitable consequence of a poorly run export control regime? The short answer - it was both.

The bad apple role was allegedly played by Commander Bjorn Stavrum, acting in concert with CAS-Global. Stavrum, as noted above, was a FLO official, and was intimately involved in the sale of the MTBs and the Hortens. In doing, he worked closely with CAS-Global. The end-user statement submitted by CAS-Global for the MTBs, for example, ended with the heart-warming message that ‘as CEO of CAS-Global Limited I would like to thank the Norwegian Navy and particularly Commander Bjorn Stavrum for the opportunity to operate these vessels.’ Following a detailed investigation of the sales, prompted by their exposure in Dagbladet, Stavrum was formally indicted by Norway’s anti-corruption agency, Økokrim, in January 2015. At the same time two British nationals were arrested in England for being party to the scheme uncovered by Økokrim. A third British national was arrested in January 2016 in west London.

Stavrum’s indictment alleges that he received three payments from CAS-Global to help secure the sales of the MTBs and the Horten. The first payment of US$79,696 was made on the 20th of March 2013, and was transferred directly from CAS-Global into Stavrum’s personal account. That payment was made two months after the departure of the first MTBs, and in the middle of the then-ongoing Horten transaction. Stavrum received a second payment on the 20th of August, this time for £55,620. The source of the payment, according to Stavrum’s indictment, was a salvage yard and was paid for by the sale of scrap steel. The steel had come from the demilitarized MTBs and was owned by CAS-Global. The final payment was made on the 2nd of October 2014. Like the first, it was made directly into Stavrum’s account from CAS-Global, and totalled $74,884.

For these payments, Stavrum’s indictment alleges, he performed an important function: disguising the real owners and destination of the MTBs and the Horten from Norway’s Foreign Ministry. The indictment alleges that Stavrum had submitted false information to Norway’s Ministry of Foreign Affairs, which prevented that department from properly assessing the export licence. The reality that was disguised, according to the indictment, was clear: ‘the real end user of the vessel was not the British company CAS-Global Ltd, as stated, but the Nigerian company Global West Vessel Specialist.’

However, while Stavrum’s role was undoubtedly important, he was only able to perform these tasks because of a conducive environment, as shown by an impressive Norwegian Parliamentary inquiry undertaken by its arms control committee. The inquiry had been initiated shortly after the publication of the Dagbladet articles and published its findings in May 2016 – a laudable move that stands in stark contrast to the total lack of attention the boats scandal has received in the UK.

**The Norwegian Parliament’s verdict**

The findings of the Parliamentary inquiry identified a number of issues within Norway’s military sales and disposals regime that permitted the export to happen. The first was an endemic cultural problem:
'The majority points out that this matter has revealed a culture in which disposal of materials had a higher priority than responsible disposal and ensuring control over who the recipient is. The matter is very serious.'

A second problem that was identified during the hearings by the Norwegian Foreign Ministry centred on the issue of demilitarisation and how this impacted on the export licensing regime. Indeed, in September 2014, in response to the breaking of the scandal and relayed to the Parliamentary inquiry, the Foreign Ministry scrapped the concept of demilitarization as a factor that may remove items from the export licence process. The new regime requires that any item that was previously covered by arms control regulation would continue to be covered by it, regardless of whether or not it had been demilitarized.

The third problem related to the use and simple acceptance of CAS-Global's end-user certificate – a concern that attaches to end-user certificates as a whole. The Parliamentary inquiry was deeply disturbed that the only piece of paperwork needed about the destination of the export was a simple statement of intended use, which could be accepted without any further scrutiny. This credulity was exacerbated by the fact that no background check was done on CAS-Global by either Customs or the Ministry of Foreign Affairs. During one particularly biting period of questioning, the Conservative Party MP commented that ‘in reality anyone, they only need to sign a declaration, and they can buy weapons that can be used for military purposes, including terrorist groups and others. It is a fact that these boats are in the hands of a paramilitary organization that has ties to Boko Haram… [sic].’ It’s completely unacceptable.

In their final conclusions, the committee found that:

‘… this End User Statement is in reality a very simply designed declaration [and] is an easy way to bypass regulations virtually risk-free.’

After assessing the totality of the MTB and Horten cases (in conjunction with a number of similar cases), the Parliamentary Committee made a number of important recommendations. Many of these recommendations are equally applicable to the UK. The first recommendation was the introduction of full and complete transparency regarding defence disposals and sales to private entities:

‘Parliament requests the government introduce full transparency around Defence sales processes and sales of discarded defence equipment to private operators by publishing what is sold, buyer, sales price and the intended use after the sale is completed.’

The second recommendation was that government consider whether it was appropriate for defence disposal sales to be made to private entities at all. The Committee commented that ‘disposals of defence is of such a nature that it is time to consider whether private foreign actors should be excluded.’ It thus recommended that ‘Parliament requests that the government consider further regulation of the sales of discarded Norwegian defence items to private agencies abroad.’

The final recommendation related to the Foreign Ministry’s decision to require that all items once on the arms export control list be subject to arms export checks, regardless of whether they had been demilitarized. While the Committee applauded the change, it found that, in reality, this change was insufficient in and of itself to prevent sales like this: largely because these situations could only be prevented if there was a meaningful and in-depth risk assessment of the buying party and its bona fides. Thus the Committee recommended that ‘the government evaluate methods for control and the documentation of the sale and export of discarded military equipment abroad, and whether it possesses sufficient information on the foreign buyers.’
These were undoubtedly powerful recommendations - ones that, in light of the UK’s role in the affair, the UK government should seriously consider adopting.

DERELICTION OF DUTY: THE RE-EXPORT OF THE NORWEGIAN BOATS FROM THE UK

While the Norwegian government, and its Ministries of Defence and Foreign Affairs in particular, must take a good portion of the blame for warships landing up in Nigeria, the UK government played an equally vital role – approving the ships for re-export to Nigeria and into the hands of Global West Vessel Specialist. Indeed if the UK had not let the export of the MTB ships through the gaps or approved the licence for Horten, it is likely that the export of goods which were part of a potentially corrupt contract, and which created risks to the future stability of the Niger Delta region, could have been averted.

Goods in transit? The Mystery of the missing export licence for the MTBs

According to the Norwegian Parliamentary Report quoted above, three of the MTBs were picked up by a CAS-Global Crew in Norway and sailed under their own steam to the UK. The MTBs were subsequently detained in the port of Felixstowe as they were considered military vehicles needing a licence. The licence was duly granted after an ‘extensive’ assessment by UK customs, according to the Norwegian inquiry.97

However, the exact nature of the detention, and whether a detailed assessment was completed remains unclear. On 15th April 2014, CAS-Global submitted an application for its export licence for the Horten via a system called SPIRE (the online export licensing system through which users apply for export licences for defence related goods.)98 CAS-Global’s application noted previous applications had been made which included that ‘we exported boats direct from Norway to Nigeria – we are now exporting a further vessel from Norway to Nigeria.’99

This was almost certainly a reference to the MTB export, as correspondence shows. On 24th June 2014, during the Horten application and a year after the first three MTBs had passed through the UK on their way to Nigeria, a CAS employee wrote to BIS via SPIRE to complain ‘as to why this is taking so long, the last three vessels that we exported using SPIRE took only three days [a reference to the MTBs]. They were from the same country and went to the same company for the same duties so we did not expect this to take anywhere near this long.’100

Despite this, it is unclear whether an export license was actually granted in this case. While CAS-Global could point to a reference number from SPIRE, Corruption Watch UK was informed that a reference number could be generated for any one of a number of different applications through SPIRE, including asking via SPIRE whether or not a license was actually required. Indeed, in one email sent on the 17th of June 2014, a member of the Arms Export Policy Team, a unit within the FCO that assesses arms export licence applications, commented that CAS ‘provided a reference number for [redacted.] From what I can see on spire, I do not think that we (AEPT) had any involvement in that case.’101 This raises the possibility that the MTBs’ were allowed to depart from the UK without being assessed by a key unit within the FCO.

In 2016, Corruption Watch was informed under FOI that the only export application by CAS-Global that held by the Department for International Trade’s Export Control Organisation (formerly at the Department for Business, Innovation and Skills – BIS) pertained to the Horten – and that none could be provided with regards
to the MTBs. It is possible that the MTBs were not granted an export licence, but were rather treated as goods in transit. The response from the Export Control Organisation states:

‘We do not have any further record of licence applications submitted by CAS-Global. This is likely explained because the vessels were goods in transit and under Article 17 of the Export Control Order 2008 an export licence is not required for goods in transit, provided:

(a) the goods in question remain on board a vessel or aircraft for the entire period that they remain in the United Kingdom or are goods on a through bill of lading or through air waybill and in any event are exported before the end of the period of 30 days beginning with the date of their importation;

(b) the destination of the goods in question followed exportation from the United Kingdom has been determined in the country from which they were originally exported prior to their original exportation in connection with the transaction which has given rise to transit or transhipment and has not been changed prior to their exportation from the United Kingdom, or the goods are being returned to that country; and

(c) the goods in question were exported from that country in accordance with any laws or regulations relation to the exportation of goods applying there at the time of exportation of the goods.’

While the MV Horten was in transit, this exception did not apply as MV Horten remained in the UK beyond the 30 day period specified in point b above. This triggered the need for a UK export licence. If the MTBs were treated as goods in transit, this was a serious error. While the MTBs remained in the UK for less than 30 days, as stated earlier, CAS-Global had told Norwegian authorities that the ships were to be used in ECOWAS territory, not specifically to Nigeria. Additionally, CAS-Global had made misleading statements in their end-use certificate submitted to Norwegian authorities, specifically by disguising the ultimate destination and intended end-user of the ships. If the UK authorities had contacted Norwegian authorities and compared notes, they would have picked up the clear disjunction between what CAS-Global stated to secure the export from Norway and the reality of their eventual use and destination. This should have led to either the retraction of the original export licence from Norway or, at the very least, the MTBs falling outside of paragraphs (b) and (c) of the ‘goods in transit’ guidelines.

That UK authorities failed to do any checking with Norwegian counterparts is particularly strange considering that, as noted earlier, UK customs had already warned Norwegian authorities about their concerns regarding CAS-Global and the sale of the MTBs a year previously. It is entirely unclear why, if UK Customs had raised serious concerns about the sale of the ships with Norwegian authorities, these concerns weren’t addressed when the ships transited via the UK.

Approving the Export of the MK Horten

Unlike the MTBs, the approval of export of the Horten from the UK took longer and appeared to involve greater scrutiny. The Horten had to clear Maritime and Coastguard Authority (MCA) regulations to get clearance to sail away. It also had to secure the relevant export licence.

It was MCA regulations that provided the largest obstacle to the Horten’s re-export to Nigeria. On 26th September 2013 the company submitted a provisional registration request for the ship with the Maritime and Coastguard Agency (MCA) – not as a military or fisheries boat, but as a pleasure vessel. The Horten was granted certification to this effect until 16th January 2014. Over the following months, CAS-Global and the MCA corresponded regarding an application for full registration and the issuing of what are known as ‘safe Manning documents.’ CAS-Global, however, failed to secure these necessary documents.
As a result, on 13th March 2014, shortly after the Horten arrived in the UK, it was effectively unregistered and was detained by the MCA. On the same day, an MCA official sent a note to CAS-Global summarising the conversation that they had had on-board the Horten which indicates that not only did CAS-Global reveal that it was effectively evading Norwegian export controls but sought to mislead the MCA too. The letter stated:

It was nice to meet you yesterday. I would like to summarise our discussion on board and the situation as follows: You are REDACTED, Engineering Director for CAS-Global.... There are also three other partners involved in the company, one of which is ex military and one who is finance....

Your company recently steamed the vessel to Ramsgate with, mainly British crew, a Portuguese and a New Zealander on board. An ex-naval captain is the master but he was not onboard during our visit. On board, there was a draft MCA safe manning document and a provisional registration on Part 1 of the UK ship register as a pleasure vessel (Applied in September 2013) which was expired on the 16th January 2014.

You are not sure who is going to buy the vessel and you have some interest from Nigeria as mother ship for protection patrol vessels, and also some interest from the Libyan Authority as the coast patrol vessel. You also mentioned that the Norwegian Government will not sell directly to Nigeria because of human rights issues which is why you are intended to change to UK flag which has no trade embargo with Nigeria. [our emphasis] As part of your company’s activities you will (are) also training some nominated personnel from those two Governments.

The ship is currently alongside at Ramsgate and a further six Nigerian crew have joined the ship. Apparently you, CAS-Global Ltd had enquired about lay up and short term berthing at Portland but this was changed to Ramsgate due to the cost of the berth (Portland Harbour didn’t accept that status (pleasure craft) and wanted to charge you as tour tonnage “Cargo” or “superyacht”

I attended the vessel with my colleague REDACTED and two Marine Policemen. We did not conduct a survey, but our inspection has revealed that statutory surveys for the ship have not been conducted or are expired, and the required statutory certificates are not in force for this ship. Also that the owned & Master have not ensured that the condition of the ship conforms in all respects to statutory provisions, and qualification of seafarers on board does not meet the mandatory requirements, contrary to Merchant Shipping Regulation.105

To compound matters for CAS-Global, on 24th March 2014 they were informed by the MCA that their application to have the ship registered in the UK had been denied as ‘the vessel does not meet the statutory requirements as laid out in Merchant Shipping Regulations.’106

Flags of convenience: how Horten was rebranded again and again

Perhaps in anticipation of this, CAS-Global had decided, on 20th March 2014, to rename the ship the MV Nimasa MPSI and register it under the Nigerian flag.107 Thus only a week after the Horten had arrived on UK shores, CAS-Global had violated another one of their undertakings to the Norwegian authorities, namely, that the Horten would be British flagged and operate under British jurisdiction.

Exactly why the Horten was registered under the Nigerian flag is uncertain, and no firm reason is given in the documentation disclosed to us. One explanation could be that this was required by either Global West or
NIMASA, and CAS-Global obliged. The other could be that by registering under a Nigerian flag – on a ship registry run by NIMASA – the Horten would thus escape some of the regulatory scrutiny of the MCA.

On 4th April 2014, two weeks after their registration was changed, CAS-Global were served with another detention notice from the MCA, triggered by the re-registering of the flag, reiterating the problems with its statutory documents. The notice confirmed that the burden of ensuring statutory compliance (such as inspecting the safe manning documents) would fall to Nigeria:

‘the flag state or other recognised organisation acting on its behalf shall be invited by the Master to ensure that all statutory surveys and certificates for the ship, and seafarer qualifications are valid “and,” “or” in force.’

On the same day an email stating that Global West were the new registered owners of the Horten, was sent to the FCO, also providing a link to a Washington Times article about Tompolo’s alleged connection to the company. Despite this, CAS-Global continue to act as the main correspondents with the licensing and maritime authorities. This was in violation of CAS-Global’s undertaking to the Norwegian authorities that it was the real end-user and was not acting as an intermediary.

Four months later, CAS-Global would again break its undertakings to the Norwegian authorities by re-registering the ship under a different flag – this time with the tiny African state of Togo. The company also switched the ship’s name back to MV Horten in doing so. The MCA, nevertheless, refused to release the ship, pointing to a number of problems with new documents provided – stating that the ‘Flag State’s response to this matter continues to be unusual’ and that Togo’s register was run by a private company in Beirut:

‘From what we have observed to date the Togolese International Ship registry appears to be a commercial organisation based in Beirut, Lebanon. Accordingly we have been checking their status and authorisation from the Togolese Republic. To date we have not been successful in confirming their status through normally accepted channels. However, we continue to make further attempts through the FCO and other means, to obtain verification directly from the government they claim to represent.’

UK law firm HBJ Gately complained on Global West’s behalf that while they appreciated the MCA’s ‘cautious approach’ the:

‘...inference seems to be of significant mistrust and/or a suggestion of bad faith. It is far from unusual for international registers to have a separate administrative centre from the country of the flag state, as you are doubtless aware this is the model successfully adopted by the large and well-respected fleets of Liberia, Vanuatu, the Marshall Islands and others. We do not accept that any delays which you may experience in obtaining verification of the issuer of documents which on their face are expressly authorised by the Government of Togo...’

The correspondence between HBJ Gately and the MCA continued for the following weeks, with the MCA requiring documents from Togolese authorities to confirm the veracity and authenticity of the various certificates that Global West had secured from registry. Finally, on 12th November, the MCA agreed to inspect the ship at a convenient date. Presumably the Horten finally passed its inspection: on 20th of November 2014, 6 months after arriving in the UK, the Horten departed from the UK, arriving in Lagos on the 5th of December.
Easy as you go - navigating the UK’s export licence system

The second obstacle – securing an export licence – was navigated with more apparent ease.

The ultimate authority for approving arms export applications is the Export Control Organisation (ECO) located in the Department for International Trade (formerly BIS), which runs the SPIRE system. However, other departments, namely the FCO, MoD and DFID, assist in the assessment of export requests. Licences are ultimately approved by the Secretary of State of the ministry under which the ECO sits, in this case Vince Cable who was Secretary of State for the BIS at the time.\textsuperscript{113}

CAS-Global submitted the export application licence for the Horten, via SPIRE, on 15th April 2014. The application form, provided to us under FOI, states that Nigeria is the ultimate destination, and Global West Vessel Specialist Agency Ltd the recipient company. Two Global West Vessel Specialists entities (one registered in Nigeria and the other in the United States) were listed as third parties and as ‘end-users other’, while NIMASA was listed as the ‘ultimate end user.’\textsuperscript{114} In the application CAS-Global also indicated that ‘the vessel was purchased direct from the Norwegian Navy by Global West Nigeria, via CAS-Global [sic] Ltd (acting as the agent) and to be used within Nigerian waters as a coastguard vessel on contract with the Nigerian government.’\textsuperscript{115}

This application was economical with the truth on at least one count. It was simply not true that the ship was bought directly from Norway by Global West: it was CAS-Global, not Global West, who was party to the sales contract with the FLO, and who actually paid the FLO for the purchase of the Horten.\textsuperscript{116} CAS-Global’s application directly contradicts the official documents submitted to the Norwegian authorities in which CAS-Global was listed as the owner and end-user. This is, potentially, a serious offence under UK law. Section 37 of a statutory instrument called the Export Control Order, which legislates customs enforcement, makes it an offence subject to imprisonment and/or a fine if the applicant:

(a) makes a statement or furnishes a document or information which to the applicant’s knowledge is false in a material particular; or
(b) recklessly makes a statement or furnishes a document or information which is false in a material particular

Equally important is the fact that a licence granted where the applicant has lied about a ‘material particular’ becomes immediately void: ‘any licence that has been granted in connection with the application for which the false statement was made or the false document or information was furnished is void from the time it was granted.’\textsuperscript{117} If the ECO or the FCO had done a simple check with their Norwegian counterparts at any point in the licensing process (including after it had been approved) the fact that CAS-Global had made false statements to the Norwegians could have acted as the grounds for denying the licence. It may also have given Norwegian authorities the grounds to revoke the license or institute some other form of sanction.

The Foreign Office prevaricates

In the two months following the licence application, there was considerable correspondence between the MCA, the Foreign and Commonwealth Office and the ECO, including at least one email that indicates that the MCA had alerted the FCO to the status of the Horten. That email, sent on 4th April 2014, included a link to an article appearing in the \textit{Washington Times}\textsuperscript{118} headlined ‘Nigerian ex-militant forges security contract’. The article focused on the links between Tompolo and Global West Vessel Specialist, and mentioned local Nigerian concerns regarding the award of the NIMASA contract to a company with links to a former warlord.
On 24th June 2014, two employees, one of whom was from the FCO’s Arms Export Control Team (AEPT) exchanged emails regarding the export application. In the first email, the correspondent asked their colleague to read through the draft of the assessment, and whether or not the FCO had registered any ‘C2’ concerns with regards to the Nigerian Navy (the ultimate end-user of the Horten, according to the email).119

‘C2’ refers to Criterion Two of the Consolidated Criteria for arms exports, which stipulates that arms exports should not be exported where there is a chance of the arms being used in internal repression, or where there is a ‘clear risk that the items might be used in the commission of a serious violation of international humanitarian law.’120 The person asked for comment responded with a cursory analysis twenty minutes later that there were no C2 concerns with the Nigerian Navy:

‘Previously we’ve had no concerns with the Nigerian Navy and there haven’t been any incidents which have occurred recently (that I’m aware of) that would change this view.

Happy to take a more in-depth look at this one if you want to send it to me on Spire [redacted], but I’ll leave that up to your judgment. On the face of it, I would say that this one looks like an approval from the C2 point of view.’121

A few hours later on the same day, a member of the Arms Export Policy Team within the FCO asked a colleague to review the application and the anticipated approval who also found that there were no C2 or C3 concerns. ‘C3’ concerns referred to Criterion 3 of the Consolidated Criteria, which forbids exports ‘which could provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination.’122 The email stated:

‘This has been an interesting application!

[Redacted]

I’d be grateful if you could look it over and see what you think. I’ve approved it based on the fact that [redacted] will be manned by Nigerian Naval personnel and by Agents from their Maritime Safety Agency, for whom we have no C2 concerns (I don’t think it will cause any C3 concerns either, at least not in respect of what’s going on over there with Boko Haram). [redacted]

[redacted] you’re aware of the other issues related to the case, so I would welcome your comments. As discussed earlier, [redacted] advised me to simply process the application as per usual. I feel I’ve done this, but if you think I’ve arrived at the wrong conclusion, please let me know.’123

An employee from the ECO confirmed later that he had approved the export licence request, and had uploaded his recommendation on SPIRE on 25th June 2014:

‘I’ve assessed the export application for the Horten and, when measured against the consolidated Criteria and taking into consideration available open sources and advice from our colleagues in the Human Rights Directorate, I am content to recommend approval.’124

An email from 8th July from the UK High Commission in Abuja makes clear that the approval had been granted in haste and that the relevant diplomatic and in-country officers (Desk and Post) were only consulted at the last minute:
‘Thanks for sending this on. I agree with you that earlier consultation with Post and Desk would have been better in this case, but it’s good to see that looks set to change for future cases. In any events I’m not sure that we’d come to a different decision than AEPT have done. Views from here:

[redacted]

The assessment is right on Criteria 2, but criterion 3 is worth a little more thought. The AEPT reporting that criterion concerns are related to Boko Haram activities in the North East is correct, but there is also a dormant militancy and tense environment in the Delta. It might be possible to argue that acquiring this vessel could aggravate existing tensions, although I think it’s unlikely as I don’t really see how possession of a vessel of this nature would either spark a militant uprising or lead to political violence.¹²⁵

Fifteen minutes after that email was sent, however, the correspondent from the Africa Directorate at the FCO asked for the licence application to be paused, in conjunction with Post:

‘As you can see both we and post would like this ELA to be “paused” for the moment until we have had a bit of time to give this some further consideration.’¹²⁶

Another 15 minutes later, and an FCO official confirmed that the application could not be paused, only revoked.¹²⁷ However, both Desk and Post were given the chance to review the application against the Consolidated Criteria and give their views, as an email on 15th July from the AEPT confirmed:

Thanks again for your time this afternoon. As discussed, the licence application for the export of an ex-Norwegian naval vessel was approved by AEPT without consultation with Desk and Post. The licence has been issued by BIS, but the vessel remains in port owing to yet-to-be resolved issues between the exporter and the MCA. You and Post have subsequently raised concerns and asked what our options are in terms of mitigating risk should the ship subsequently sail.

We would be grateful if you could discuss the case in more detail with Post. We need you to assess the risks against the consolidated EU and National Criteria. I’ve attached my original assessment for ease of reference. You will see that I focused on Criterion 2 (internal repression) but you have told us that there may be Criterion 3 (internal stability) issues that were not fully considered. Please let me know the outcome of your discussions with Post, whereupon we can take one of two courses of action as follows:

[Redacted]¹²⁸

It appears that the situation was reviewed over the next week, and on 23rd July 2014, the review of the situation by Post under Criterion 2 and 3 was circulated. Unfortunately, the guidance has been redacted. It would appear, however, that the Post’s assessment found no reason to revoke the licence but realised some of the potential risks involved, as an email on 27th July 2014 reads:

‘To note posts [sic] views. I am therefore content we have carried out the required due diligence and not revoke the licence but work up defensive lines.’¹²⁹

Approving the Horten Export: What Were They Thinking!?

Despite the fact that a number of different individuals within the FCO assessed the Horten application and approved it, there are strong grounds for believing that this was not the right decision.
First, it is hard to understand why the export licence was granted from the UK when the documentary trail indicates that CAS-Global and Global West Vessel Specialist acquired the boats from Norway under clearly false pretences. If either the ECO or the FCO had contacted Norwegian authorities to compare the applications, this would have uncovered the duplicity involved in the Norwegian sale – and potentially led to the sale being reversed and boats seized. The misleading information was repeated in CAS-Global's original export licence application via BIS, which could have potentially triggered Section 37 of the Export Control Order – a violation that would have caused the licence to have been denied.

Importantly, the correspondence released under FOI illustrates that the Norwegian controversy had come to the attention of the FCO and the ECO, and the content from at least one, if not more, Dagbladet stories had been circulated for discussion. The correspondence also indicates that the FCO had been approached by Dagbladet to give comment on the Norwegian boats story 9 days before the recommendation to approve was uploaded to SPIRE by the AEPT employee and a few weeks prior to the decision to approve being reviewed. This raises the question as to whether there would have been any attempt to delve deeper into the approval in the absence of media attention from Norway. Either way, if the FCO and the ECO had considered the Dagbladet stories seriously, they would have been made aware of the fact that CAS-Global was alleged to have misled Norwegian authorities to secure the original sales from Norway, which, in turn, should have raised serious concerns about the probity of CAS-Global as the agent in the re-export from the UK.

When the Norwegian Parliamentary Inquiry reviewed the export of the MTBs and the Horten, it was damning about what it saw as a culture that prioritized sales and exports over safety and due diligence. Corruption Watch believes that the correspondence that has been released to us shows that the FCO and the ECO also exhibited a culture in which getting matters signed off quickly (and with minimal controversy) took precedence over safety and due diligence concerns. Throughout the correspondence, for example, there is continued reference to developing ‘defensive lines’ regarding the export rather than applying caution in exporting a gunboat to a company linked to a former warlord for a contract on which corruption allegations had surfaced.

Equally revealing is an email from 20th June 2014 which suggests that there was considerable pressure to approve export licences quickly in order to mitigate the effects of an earlier IT disruption:

‘We’d appreciate if you could take on the press lines on this occasion as we have a number of other urgent priorities to address, including Somalia, Russia and Iraq. We also have a major push on reducing the licensing backlog caused by weeks of IT disruption. Minister and Perm Sec are watching this closely so we need to keep focused on this,’130

Of course, it was not just the Norwegian media that was making noises about the export of the Horten: the Norwegian Parliament was also involved. The first hearing of the arms export committee in the Norwegian Parliament into the export of the MTBs and Horten, was on 14th October 2014 – a full 5 weeks before the Horten eventually sailed from Britain. That Parliamentary inquiry found, in its final report published in 2016, that ‘everyone except members of the Conservative and Progress Party believes Norwegian authorities could have been more active against British authorities to prevent the export of the ship to Nigeria.’131 The reverse is equally true: considering the attention that the Horten export received in the Norwegian media and before the Norwegian Parliament, why were no substantial steps taken to collaborate with the Norwegian authorities and share important and relevant information?
A little local trouble: how the export licence process missed the signs on Criteria 3

The second problem with the export is that the assessment made for the export under Criteria 3 is highly questionable. Criteria 3 prevents the export of arms to countries or to recipients ‘which could provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination.’\textsuperscript{132} The Horten was going to a company with direct links to a former warlord who was part of a group making uncomfortable noises regarding the upcoming presidential election. This is particularly interesting in light of written evidence submitted by the FCO to a currently ongoing Foreign Affairs Committee inquiry into the role of the FCO in the approval of arms export licenses. The written evidence, published in December 2016, noted that the Criteria 3 ‘may be engaged when considering applications for licenses for exports to countries that are experiencing ongoing unrest, as well as countries that have a history of unrest during election periods.’\textsuperscript{133}

Despite the Presidential Amnesty, which had let former militants go free for laying down their weapons, the underlying tension in the Niger Delta was still apparent. At the time of the Horten export, it was common knowledge that a large number of former militants openly supported President Goodluck Jonathan in his Presidential campaign, and were opposing the presidential run of Muhammadu Buhari. Unsurprisingly, considering their backgrounds, the support for Goodluck Jonathan came with a not-so-subtle implication of violence.

One such example of this came in January 2015 at a large meeting of former Niger Delta militants (including Tompolo). Claiming that a defeat for Goodluck Jonathan would be an attack on the Ijaw nation (the ethnicity of Jonathan and many of the Niger Delta militants), they threatened to ‘unleash violence on the country and take back Niger Delta oil should Mr. Jonathan lose re-election.’\textsuperscript{134}

But that threat had been clear long before the 2015 meeting. The support of former militants and political candidates - mainly from President Jonathan’s PDP party - had been extensively documented by the CLEEN Foundation for a number of years, and an International Crisis Group report published November 2014, \textit{Nigeria’s Dangerous Elections, Limiting the Violence,} stated “former Niger Delta militant leaders particularly insist Jonathan be given another term … In the Niger Delta, insecurity also poses threats to the elections. Armed violence related to political activities is on the rise.”\textsuperscript{135}

More specifically, following President Jonathan’s election in 2011, Tompolo had signed an open letter stating that he and his former militant colleagues would defend the President’s mandate ‘with the last drop of our blood.’\textsuperscript{136} In 2013 former Militant Asari Dokubo warned that former militants would return to militancy if the opposition leader won the election, telling the press that ‘the day Goodluck is no longer the President, all of us who are on sabbatical will come back. There will be no peace, not only in the Niger Delta but everywhere. If they say it is an empty boast, let them wait and see.’\textsuperscript{137}

This information was widely publically available. Indeed, the instability and insecurity that plagued the politics of the Niger Delta, and the role of the 2015 election in potentially igniting a new tinderbox of violence, was well rehearsed. In 2013, for example, the UK’s respected think-tank, Chatham House, published a report on oil theft in Nigeria and the Niger Delta in particular. This is what the authors noted about the febrile security environment:

‘The Niger Delta has seen four years of relative calm following a 2009 amnesty for militants. However, there is a significant chance the region could see renewed violent conflict in the next couple of years.'
Predicting future violence is not easy. The local conflict landscape is highly complex and violent outbreaks can occur unexpectedly. Obtaining reliable human intelligence and early warning signals is tough, and flare-ups of violence can have local, state, national and transnational aspects. A more detailed scenario planning, conflict assessment, profiling, mapping or other more structured analytical exercise would be needed to fully weigh risks going forward.

These caveats noted, the 2015 presidential and gubernatorial elections appear to be a major flashpoint for Niger Delta insecurity. It is possible that election season could pass without a major return to violence. But weak leadership on security, the expected end of the amnesty programme in 2015, decreased support for President Goodluck Jonathan’s candidacy and close electoral results could all lead to unrest.”

The Chatham House report also noted, disturbingly, that “rumours abound that local militant leaders and their associates are stockpiling arms ahead of the 2015 polls.”

The NIMASA-Global West contract has to be seen in this context – a context that British diplomatic services in Nigeria must almost certainly have been aware of. In very simple terms, Global West Vessel Specialist were, through the arrangement with NIMASA, provided with the firepower and capacity to rival state powers in the Niger Delta region: despite the fact that its major backer, Tompolo, had historic and abiding links to Nigeria militancy, and continues to be linked to regional instability.

In addition to funding the acquisition of ship platforms, Global West’s contract with NIMASA allowed it to earn huge amounts of money. One of Global West’s functions under the contract was to help with ‘improvement of revenue generation’ from shipping taxes. In May 2013 the Nigerian House of Representatives in Nigeria heard that $525m of levies taken from cabotage schemes was ‘trapped’ in various banks, rather than being used, as they were supposed to be, for developing Nigeria’s indigenous shipping sector. A sub-committee set up to investigate one of the NIMASA funds which held these tax revenues found that Global West had been taking a 50% cut on all payments it elicited from ship-owners during the contract. The sub-committee heard that $326m had been remitted from these funds to Global West.

Considering the instability in the region, and the links between Global West and prior militancy, it was not inconceivable that these funds could be used to fuel further militancy at a later stage. The export of the Horten thus helped Global West fulfill a contract that both effectively gave it the funds and authorisation to build a privatised fleet of military vessels and the ability to generate profits that could be used to pay for future militancy.

Distressingly, the threats of violence appear to have materialised. Soon after the election of Buhari, violence spread throughout the Niger Delta, spearheaded by a militant group called the Niger Delta Avengers (NDA). The NDA attacked a number of oil installations, blowing up oil pipelines and hampering oil production. Although hard information is hard to come by, newspaper reports in Nigeria have suggested that Tompolo has played an active role in the NDA – which Tompolo denies. This same allegation has been levelled at Bayelsa State Governor, Seriake Dickson, whose personal maritime advisor was a shareholder in Global West. Dickson has denied the claims.

Whose boats anyway? Criteria 7 Misapplied

The third problem which assessment under Criterion Seven of the Consolidated Criteria should have triggered is that the assessment of the export appears to have misunderstood the nature of the relationship between
Global West and NIMASA, the crewing of the boats and the nature of their ownership. This much is clear from the email quoted above, in which the author confirmed that the vessel 'will be manned by Nigerian Navy personnel and by Agents from the Maritime Safety Agency, for whom we have no C2 concerns.'

NIMASA were, indeed, listed by CAS-Global in their application as the ultimate end-user. CAS-Global had also attached a letter from NIMASA to their application, proving the relationship between NIMASA and Global West Vessel Specialist. It confirmed that NIMASA had 'a subsisting partnership agreement with Messrs Global West Vessel Specialist Limited (GWVSL) on the basis of a Public-Private partnership concession project.'

However, the letter also confirmed 'this partnership requires Messrs GWVSL to acquire, operate, and manage vessels on behalf of the Agency, and to make such vessels available to the Agency for the deployment in various operations.'

As this indicates, while NIMASA was allowed to use vessels made ‘available’ to it by Global West, it was Global West that was responsible for running and operating the ships. This necessitated Global West crewing the ships, albeit without arms and not performing Navy functions. Furthermore, while NIMASA were the contractual partners of Global West, Global West retained ownership of the boats for a considerable period. Under the terms of Global West's ‘Supply, Operate and Transfer’ agreement with NIMASA, which was published in the Nigerian media in late 2015, Global West would be responsible for supplying and maintaining the boats for an initial period of 10 years, followed by two renewable 5 year periods. Global West made the initial investment of $103.4 million in the creation of the fleet and was then able to recoup its costs (and make a profit) by receiving a portion of the taxes collected by NIMASA using the Global West fleet. However, it is not entirely clear what would happen if the contract was broken prior to the end of this Supply, Operate and Transfer agreement. Certainly, it is possible that Global West may have had grounds to claim that the ships remained their possession as the full terms of the contract had not been met.

If the FCO or BIS had looked carefully at the contract, it would have raised concerns about the risk that the deal would trigger Criterion Seven of the Consolidated Criteria. Criterion Seven requires that an export licence is assessed against ‘the existence of a risk that the items will be diverted within the buyer country or re-exported under undesirable conditions.’ As the above indicates, there was the risk that if the contract had been terminated at any point, it is possible that Global West may have continued to assert ownership over the ships — a diversion away from being used by NIMASA, which was the basis upon which the licence was granted. Moreover, Global West would have been free to sell the ship onwards, bound only by Nigeria’s porous arms export control regime.

Criterion Seven also requires that the FCO consider ‘the risk of diversion to terrorist organisations or to individual terrorists.’ This one should have been obvious. Tompolo was only recently reformed as a militant responsible for domestic militancy in the Niger Delta, and only through an amnesty process that was highly controversial in that it effectively ‘bought off’ former militants and allowed them to grow their military power. An the United States Institute of Peace Report, for example, commented that ‘perhaps the strongest criticism of the amnesty is that its transfers of wealth and political power have turned militant leaders into warlords.’ If the end of amnesty led to renewed violence — the Horten could have reverted to the fleet of a regional warlord who had already promised violence if the political winds did not blow in the direction of his choosing.

“Fantastically corrupt”? – how the UK missed the signs on corruption

The final problem is that no serious consideration of the corruption risks in the export appears to have been made, at either Criterion Seven or Eight. While corruption could be considered under Criterion Eight since
corruption has the potential to seriously undermine the economic and hamper the sustainable development of the recipient country, the government has also indicated that it considers corruption and bribery risk primarily under Criterion Seven, because corruption increases the risk of diversion of the exported goods.\textsuperscript{152}

It is now widely accepted that corruption, money laundering and theft of state resources, destroys good governance and ‘hampers the sustainable development’ of countries around the world. If any of the government departments involved in signing off the export licence had taken the time to look into the contract upon which the export licence was based, it would have picked up that there were serious concerns about potential corruption involved – concerns that had been highlighted by UK Customs to Norwegian counterparts. If they had checked the shareholding of Global West, it would have realized that the contract between NIMASA and Global West was replete with compliance risks – and that the Horten export could have furthered a contract marked by serious potential corruption. This includes the Department for International Development (DFID), who signed off on the export licence, stating “Recommend no c8 concerns,” and was providing technical assistance to the Nigerian government at the time to help combat corruption.\textsuperscript{153}

If the FCO had undertaken a due diligence check on the shareholders, which it appears from FOI material that it did not, it would have revealed that among the Global West shareholders at the time of the transaction was Leke Oyewole – who, though having no known experience in the shipping sector\textsuperscript{154}, was personally appointed by President Jonathan as his Senior Special Advisor on maritime affairs.\textsuperscript{155} Another, Emmanuel Diffa, was the personally appointed advisor on maritime affairs to Seriake Dickson, Governor of oil rich Bayelsa State.\textsuperscript{156} A third was William Itima, a former leader in the Federated Niger Delta Ijaw Communities (FNDIC)\textsuperscript{157} whose membership had “close and overlapping relationship with MEND” according to US intelligence reports.\textsuperscript{158} FNDIC has also frequently been reported as Tompolo’s faction within the Movement for the Emancipation of the Niger Delta (MEND).\textsuperscript{159}

Taken together, these entanglements should have triggered major worries about the risk of corruption. And, indeed, a year after the export licence was granted, the NIMASA contract with Global West was suspended, and eighteen months after, both Tompolo and NIMASA’s director had been charged with money laundering offences and converting state property for personal use (see more below).

Furthermore, it appears that by the time the Horten was exported, CAS-Global was already facing legal claims related to its activities. CAS-Global’s accounts, signed by Stuart MacGregor on the 16\textsuperscript{th} of October 2014, notes that ‘the company has received a legal claim in respect of a $540 000 commission payment.’ This was a full month before the Horten set sail from the UK and well within the timeframe during which the export could have been stopped. Being sued over a contested commission payment is not, of course, evidence that there has definitely been corruption, and Corruption Watch has seen no evidence to link this payment (or the claim for payment) to any wrongdoing. Nevertheless, the payment of large commissions, or conflict over the payment of commissions, can act as a red flag for conscientious officials and could arguably trigger further investigation

CAS-Global remains under investigation by two agencies in the The first agency is the City of London Police, which is looking into CAS-Global’s role in bribery in both Norway and Nigeria. According to the Phase 4 UK Country Report of the OECD’s Working Group on Bribery, it was confirmed that ‘in January 2015, the [City of London Police] commenced an investigation in relation to bribery of officials in Western Europe and West Africa in relation to the sale of naval vessels.’\textsuperscript{160}
The second agency is the HMRC. In a letter from the City of London Police to the Labour MP Roger Godsiff in March 2017, it was confirmed that HMRC had initiated a ‘separate investigation into the export license applications, which they are also progressing with the Crown Prosecution Service.’\textsuperscript{161} It appears that the HMRC may also have provided intelligence on potential bribery to the City of London Police. The Phase 4 OECD Report states that ‘according to HMRC, intelligence and other information has been passed to law enforcement agencies (NCA and COLP) in respect of suspected bribery of foreign officials. These instances related to arms dealing in the Middle East and supply of naval vessels to a West African country.’\textsuperscript{162}

The failure to look seriously at corruption risks originally highlighted by UK Customs raises serious issues about policy coherence by government departments in the export licencing process, and suggests that assessment of corruption risk in the export licence process is seriously inadequate.

Recent Developments – Tompolo on the Run, Global West in the Dock

Since the electoral defeat of Goodluck Jonathan, the fortunes of the Nigerian cast of characters involved in the boats scandal have taken a rather large turn for the worse.

In May 2015, Patrick Akpobolokemi was sacked as the Director-General of NIMASA. His tenure had been dogged by numerous controversies over and above the Global West contract. It was alleged, for example, that he and his colleagues were the guiding hand behind a series of widely distributed television documentaries that attacked Buhari and other Presidential contenders.\textsuperscript{163}

At the same time as Akpobolokemi was fired, President Buhari ordered that all payments to Global West Vessel Specialist be halted. There is contradictory reporting regarding the current status of the contract; some news outlets suggest it has been terminated, while others suggest it is suspended pending further investigation.\textsuperscript{164}

In January 2016, Akpobolokemi, Tompolo and Global West were charged by the Economics and Financial Crimes Commission on 14 counts of converting just over $314 million of funds from NIMASA for personal use between 2012 and 2015. Media reports suggested that Akpobolokemi, who had helped select Global West for the contract, also controlled Global West and was a signatory to one of its accounts.\textsuperscript{165} Akpobolokemi has turned up in court to face his charges, although the hearings have been postponed a number of times. Tompolo has refused to do so, and is effectively on the run. In December 2016, Nigerian courts threw out efforts by Tompolo to have the charges against him dropped and his accounts unfrozen.\textsuperscript{166}

Shortly after Tompolo and Akpobolokemi were charged, Global West’s fleet was seized by NIMASA, to be held in safe keeping. A source at NIMASA stated that ‘these ships have been mounted with guns and those in charge are being investigated. The management thought it was wise to take over the ships so that they will not be used to cause any breach of security in the Niger Delta region.’\textsuperscript{167} Just eighteen months after the Horten arrived in Nigeria with the imprimatur of a UK export licence, the contract of which it was a part had been suspended, its primary architects charged with money laundering and theft on a grand scale and the boats exported seized for fear that they could be a security risk. If the UK’s export licence process had involved proper due diligence on those named on the end user certificate and the contract of which the export was part, perhaps UK officials could have helped to prevent a significant episode of Nigerian corruption which has been so damaging to both the security and economy of that country.

CONCLUSION AND RECOMMENDATIONS
When the story of how Norwegian warships ended up in Nigeria and under the control of a former warlord, the response in Norway was immediate and serious. A Parliamentary Inquiry was quickly established that exposed the various systematic flaws that allowed the export to happen and made a series of powerful and far-reaching recommendations about the ways in which the country’s export control regime could be reformed and tightened.

In the UK, by contrast, the response has been remarkably muted, partially because the full scale of the UK’s complicity in allowing the Horten to be re-exported to Nigeria has not been understood. However, our research shows that UK authorities played an important role in the Norwegian boats scandal by granting an export licence to a company that posed a severe corruption risk and allowed a powerful warship to come under the control of a former warlord – despite considerable contemporary indications that the export could have a profound impact on regional political tensions in the Niger Delta, one of the most febrile political environments on the planet.

More simply: the Norwegian boats scandal indicates that there are serious problems with the UK’s arms export regime, and that major changes need to be made to prevent a reoccurrence of another scandal of this nature. Corruption Watch UK urges the government to review its export licence policies in light of this case. In particular, we recommend that:

1. The government review existing anti-corruption measures in the arms export licensing regime to strengthen the mechanisms to prevent the export of arms where there is a tangible risk that the export either assists in the fulfillment of a corrupt contract or was otherwise awarded corruptly. This could be achieved by:
   a. Introducing a new criterion in the consolidated criteria that specifically addresses corruption risk or specifying within existing criteria that corruption risks must be assessed and how they should be assessed;
   b. Introducing ‘know-your-client’ requirements that would require licencees to disclose the beneficial ownership of the exporters, recipients and ultimate end-users;
   c. requiring those applying for a licence to make a declaration that the export contract has not been obtained through bribery or corruption and provide for sanctions if the declaration has been signed despite evidence of corruption;
   d. ensuring that exporters convicted of corruption in relation to an export contract can have their licences revoked; and
   e. ensuring that conviction for corruption by an exporter can be grounds for refusing an export licence.

2. To ensure consistency in licence applications and to prevent companies exploiting differences in national exporting regimes, the government should introduce measures that require those applying for licences to provide a detailed documentary trail of related export licenses granted by other countries, including end-user statements and any other undertakings by the entity applying for a licence.

3. The government investigate the possibility of implementing regular post-export reviews to ensure that items exported from the UK are used in accordance with the end-use statement submitted by entities granted export licences. Where it is found that companies have made material inaccuracies in applications and end-user statements, they should face appropriate sanctions. Such checks could be undertaken, for example, through overseas defence attachés with support from the FCO’s Arms Export Policy Unit.
4. In line with the recommendations published by Norway’s Parliamentary inquiry and those made by the UK’s Committee on Arms Export Control, the UK government should seek to provide maximum transparency in arms exports by publishing on an annual basis a full list of end-users and country of destination for approved export licences.

**EPILOGUE: THE GOVERNMENT’S QUESTIONABLE RESPONSE**

In February 2017, in anticipation of the publication of this report, Corruption Watch UK approached a number of Members of Parliament to brief them about the details of this case and its implications for the UK’s arms export regime. In the same month, Roger Godsiff MP, forwarded the report and recommendations to relevant government departments for comment. On the 11th of April 2017, Mark Garnier MP, Under Secretary of State at the Department for International Trade, responded to the report and the recommendations. Corruption Watch UK is of the opinion that the response is wholly inadequate.

The government response is in two sections, the first addressing the CAS-Global case. Here the response fails to address the substantive content of the export of the Horten in any detail. Instead, it asserts that the UK Government is satisfied that the assessment of the Horten export license was done correctly, with no justification for this statement. The letter merely states:

> ‘The government takes its arms export responsibilities very seriously. We rigorously assess each license application on a case-by-case basis against the Consolidated EU and National Arms Exporting Licensing Criteria (the “Consolidated Criteria”). The Criteria, which are based on an EU Common Position, provide a thorough risk assessment framework. They require us to think hard about the impact of providing equipment and its capabilities to overseas end-users. In doing so, we draw on all available information, including reports from non-government organizations and our overseas network. We will not grant a license if to do so would be inconsistent with these criteria and we are satisfied that they were applied correctly in the transaction referred to in your letter, based on all the information available to us at the time.’

What this response avoids is that the export license assessment clearly failed to take into account a number of facts that were widely known at the time. This is dealt with in detail in the body of the report. However, it is important to reiterate some of the key features of the situation that prevailed when the export was granted:

1. CAS-Global’s role in buying boats from Norway and supplying them to Nigeria, under seemingly false pretences, had already made headline news in Norway. These stories, admittedly, focused on the export of the Hauk MTBs. But they clearly should have raised real concerns regarding the probity of CAS-Global’s conduct in its dealings with Norway and Nigeria. Moreover, documents disclosed to Corruption Watch UK indicate that officials in relevant government departments overseeing the application had been alerted to the coverage in the Norwegian press.

2. The Nigerian press had already identified that Global West Vessel Specialist was controlled by Tompolo, and concerns had been raised about the probity of NIMASA awarding a contract to him considering his past as a rebel;

3. Tompolo had, since at least 2011, a long track record of threatening to engage in renewed violence should President Goodluck Jonathan fail to win the 2015 elections. This was widely reported on in the media, while well-known think-tanks and NGOs highlighted the threats to stability that continued to be posed by figures such as Tompolo;
4. If any serious due diligence on corruption had been undertaken, export licence officials would have picked up that UK customs had already warned Norwegian customs authorities of concerns raised in the Nigerian media about financial irregularities in relation to the contract underlying the licence; that there were concerns about corruption in NIMASA, the end user, particularly in the kind of public private partnerships it was entering into of which the contract was a good example; and that shareholders of both CAS Global and Global West, had connections with Nigerian government officials, including the former President of Nigeria, which raised considerable conflict of interest issues.

The government’s defence for granting the export license for the Horten states that this was correctly done ‘based on information available to us at the time.’ This appears to imply that the decision to grant the export license cannot be impugned based on information that emerged subsequent to the license being granted, or that no action should have been taken after it was assessed. This is avoiding the facts. As our report makes clear, the Horten remained in the UK until at least November 2014. This was a full five weeks after Norway’s Parliament held its first combustible hearing into its surplus sales, which had begun to raise real concerns about the probity of the transactions involving CAS-Global. Those hearings were, in addition, preceded by even more detailed coverage of the deal in the Norwegian press, much of which would have legitimately raised suspicions that there were major irregularities in the purchase and re-export of the MTBs and the Horten by CAS-Global. Why the government made no attempt to reconsider the export license against this new information is unclear. But it casts serious doubt on the government’s position that ‘it takes its arms export responsibilities very seriously.’

The second part of the government response, and by far the more substantive, seeks to defend the formulation and application of the existing Consolidated Criteria, as fit for purpose and requiring no improvement. These responses are inadequate.

With regard to the recommendation that the arms export licensing system be reviewed to strengthen the mechanisms to prevent the export of weapons in corrupt contracts, the government responded as follows:

The Criteria under which export licences are assessed rightly focus on the potential risk presented by the export rather than the process by which the contract was won. The Government is convinced that this is the right focus when considering a licence application, although corruption may add to the risk in a given case and this is considered as part of the risk assessment.

As noted in Cm 8079, the Government response to the Committees on Arms Export Control report of 5 April 2011 ”scrutiny of Arms Export Controls (2011): UK Strategic Export Controls Annual Report 2009, Quarterly response for 2010, licensing policy and review of control legislation”, the focus of Government's scrutiny relating to bribery and corruption in the licensing process is the risk that goods might be diverted from their intended use. Criterion 7 requires consideration of "The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions." Corrupt contract awards and corrupt processes further down the chain can increase the risk of diversion and where there is credible evidence of such risks emerging, licence applications will be refused.

If the Government becomes aware of corruption in arms deals, it will take the appropriate action under the provisions of the Bribery Act 2010, which entered into force on 1 July 2011.

The Government does not think that it is appropriate to base an assessment merely on the perception of corruption in the destination country. In order to refuse a licence we would need to have firm evidence
that the contract had been obtained by corrupt means and it is not feasible for the Government to investigate the circumstances of every contract. The Government therefore intends to maintain its focus on assessing the risks presented by the end-user or potential end-use of the goods, and the risks of diversion to undesirable end-use or end-users.

The Bribery Act 2010 modernised the law on bribery and has given the UK some of the toughest anti-corruption laws in the world. Where there is evidence of bribery and corruption, the Government will address this through the provisions of the Act.

This response raises numerous concerns: While prosecuting offenders for alleged bribery, as it is hoped will happen in this case, it does not address the fact that the export of the Horten helped to facilitate an allegedly corrupt contract in Nigeria that, if the EFCC charges are to be believed, has led to the theft and embezzlement of hundreds of millions of dollars from the Nigerian state.

Second, it is concerning that corruption is considered so narrowly and only in reference to Criteria 7, which focuses on the diversion of exports from their stated purpose. Under this formulation, corruption is only a concern when it may lead to exported weapons being diverted from its original stated destination. Taken to its logical conclusion, this would mean that if a contract was known to be profoundly and deeply corrupt, involving large sums of money and to the clear detriment of the integrity of the recipient state’s government, but the weapons were not diverted from their original use, that would be insufficient grounds to deny an export license.

Third, it is clear that considering corruption only under Criteria 7 would actively undermine the aims of Criteria 8. Criteria 8 provides that exports must be considered against the technical and economic capacity of the recipient country, and, most importantly, ‘whether the proposed transfer would seriously undermine the economy or seriously hamper the sustainable development of the recipient country.’ It is now widely acknowledged, including by the UK government, that corruption undermines good governance, hurts national economies and has a deleterious impact on long-term development. Surely, if an arms export is known to be or suspected of being part of a corrupt transaction, it should be prevented on this basis. However, in terms of the government’s response, this is explicitly not considered under the current arms export regime, and corruption is only considered if it leads to the diversion of the arms. In so doing, the arms export regime could, in its current formulation and operation, undermine the goals of Criteria 8.

Assessing corruption on such a narrow basis also undermines the work of other UK government departments. DFID, for example, has focused extensively on supporting anti-corruption initiatives in multiple countries, correctly recognizing the deleterious impact of corruption on sustainable development. In January 2013, DFID published its anti-corruption strategy in Nigeria, which committed DFID to supporting numerous anti-corruption programs in the country. The strategy was to guide DFID’s activities for 3 years. The export of the Horten, and the failure to assess the license it was granted on the basis of corruption, thus took place right in the middle of DFID’s three year program.

Fourth, arguing that licenses cannot be withheld purely because of perceptions of recipient countries, willfully misunderstands the context of the CAS-Global case. We believe that the license should have been denied not because of the perception that Nigeria is corrupt. Rather, we believe that the license should have been denied because considerable information in the public domain at the time of the license application indicated that there were severe corruption risks. It is clear that the government seriously needs to reconsider its anti-corruption due diligence in the export licencing process.
Finally, stating that checking contracts for corruption cannot be done because it is too much hard work has to be rejected. If the government is truly committed to fighting corruption, it would make the necessary resources available. In any event, Corruption Watch does not suggest that every contract be investigated, merely that where there are compelling corruption risks already in the public domain (as was the case in the export of the Horten), the UK government undertake enhanced due diligence, which it currently fails to do.

With regards to the recommendation that the government consider previous convictions on the part of those parties applying for export applications, the government responded bluntly that:

The Government is content that its export licensing policy remains robust. Assessment against the Consolidated Criteria, including due consideration of any evidence of corruption, remain at the heart of the UK’s licensing system and we are not persuaded of the need to bring in any additional measures at this time, including any measures requiring licence applicants to disclose a previous criminal conviction.

The failure to consider the recommendation that would require parties to disclose previous criminal convictions is particularly obtuse. It is difficult to see how requiring applicants to disclose this could add substantively to the administrative burden on the part of the government. The government requires these sorts of disclosures in a multitude of cases, including every applicant for settlement visas of any kind to the UK. It is even more difficult to understand how the government could not consider previous criminal convictions relevant. Surely if the government ‘takes its arms export responsibilities seriously’ it would want to know whether the people to whom it is granting licenses are trustworthy and reputable.

In response to the suggestion that the UK government require those applying for applications to provide a paper trail of previous license approvals for the goods to be exported, the government notes that:

Each application for a Standard Individual Export or Trade Control Licence is considered on its own merits against the Consolidated Criteria taking into account the circumstances and information available at the time of application. Applications must be supported by an end-user undertaking or purchase order/contract if the end-user is a government. We also check whether a licence has been refused for the same goods to the same end-user by another EU Member State. This check is carried out under the EU Member States system of denial notification. However, we do not require, nor do we intend to introduce, any measures to check export licences granted by other countries. This would be costly to implement and disproportionate given the likely number of cases that would be likely to raise concerns.

Corruption Watch UK fails to see how this would be costly or time consuming to implement. Exporters are currently asked to provide supporting documents with their applications, including end-user statements. Asking these exporters to provide their previous export licenses would imply only fractionally more work for the UK government, while checking the details of these licenses against the UK application form would take minutes. The public interest in closing this significant loophole, which, if done, would have easily detected material inaccuracies in the export license application submitted by CAS-Global, appears to clearly outweigh the marginal administrative burden that this would require.

Finally, with regards to the recommendation that the UK government publish the names of all end-users as part of its quarterly and annual reports, the government response states that:

The Government is committed to transparency of export licensing through the publication of the Annual and Quarterly Reports on Strategic Export Controls. These reports contain detailed
information on export licences issued, refused or revoked, by destination, including the overall value, type (e.g. Military, Other) and a summary of the items covered by these licences. They are available to view on GOV.UK at [https://www.gov.uk/government/collections/strategic-export-controls-licensing-data](https://www.gov.uk/government/collections/strategic-export-controls-licensing-data).

A searchable database is provided that enables bespoke searches of published data to be conducted. This database can be accessed at [https://www.exportcontroldb.bis.gov.uk/](https://www.exportcontroldb.bis.gov.uk/). Registration for this facility is free.

There are no plans to publish the names of end-users as part of these annual and quarterly reports. To do so may raise questions of commercial confidentiality in relation to specific transactions.

A blanket concern about commercial confidentiality is not a compelling argument. It is questionable whether the need for commercial confidentiality outweighs both the public’s right to know key information about how weapons are exported from the UK and to whom, and the likelihood that publishing such information would serve as a serious deterrent that would prevent criminals using the UK as a jurisdiction from which to conduct questionable or corrupt arms exports.

There is also nothing to prevent the UK government from informing exporters from the UK, in advance, of the requirement that certain information would be made public, thus avoiding any commercial confidentiality claims. Indeed, the UK’s Parliamentary Arms Export Committee has, in the past, questioned the government’s argument on this basis, and has recommended that full end-use data be published for military and dual-use items. The Second Joint Report of the Committee on Arms Export Controls for 2014-2015 noted that:

"The Committees conclude that the Government’s argument that it cannot provide details of end-users of arms exports from the UK because the Government would be laid open to challenge for breach of confidentiality by the exporters does not have validity because it is open to the Government to advise exporters in advance what information on their licence applications will be made public. (See paragraphs 108 to 120 of Volume II of this Report)"

"The Committees recommend that on both transparency and human rights grounds the Government makes public the end-use, as well as the country of destination, of UK Government approved export licences for both military and dual-use goods."\(^{169}\)

Taken together, we believe that the government’s response to the concerns raised by this report, and the recommendations we suggest, is misplaced and inadequate. Corruption Watch UK will continue to press the UK government to conduct a review of how it conducts anti-corruption due diligence in the export licence process. Until the UK takes corruption risks in export licences seriously, it will be open to charges of hypocrisy for calling on developing nations to fight corruption while taking too little action to prevent its own export licence system from exacerbating corruption.
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