

# CORRUPTION WATCH

## DERELICTION OF DUTY

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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.<sup>1</sup>

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 Hawk 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.<sup>2</sup>

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.<sup>3</sup>

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.’<sup>4</sup>

#### *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 1<sup>st</sup> 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 1<sup>st</sup> 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.<sup>5</sup>

*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<sup>6</sup>, 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.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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).<sup>10</sup> 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.<sup>11</sup>

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<sup>12</sup>. 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 Hawk-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.

- 1 August The Horten is declared for export to Norwegian customs.
- 20 August 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.
- 26 September CAS-Global applies for British registration for the Horten. They try to register the ship as a pleasure vessel.
- 2 October Bjorn Stavrum receives \$74,884 directly into his account from CAS-Global.<sup>13</sup>
- November The final three Hawk ships are collected by a cargo ship and transported directly to Nigeria.
- 25 December The final three Hawk ships start work as patrol boats in Nigeria.

## 2014

- 26 February The Horten is collected by CAS-Global's crew and sailed to Ramsgate.
- 12 March 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.'*
- 20 March 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.
- 4 April Global West appear as new registered owners of Horten.
- 15 April 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.'*<sup>14</sup> The application also confirms that the ship will be operated in Nigerian waters.
- 16 June 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.
- 24 June 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.
- 1 July BIS approves the export licence for the Horten to Nigeria

- 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 Muhammadu 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.

