

Anti-bribery policy Export Credit Insurance (ECI), Dutch Good Growth Fund (DGGF), Dutch Trade and Investment Fund (DTIF)

General Policy

In the Netherlands, all forms of bribery are prohibited and punishable. The Dutch State and Atradius DSB do not under any circumstances wish to become involved in transactions in which bribery has occurred or is about to occur by applicants, third parties on behalf of the applicant, debtors and/or their principals. The anti-bribery policy and the associated proceedings are designed to actively discourage bribery by a Dutch exporter. This policy enables the Dutch State and Atradius DSB to make informed decisions and to be fully and timely politically and publicly accountable.

The Dutch State's anti-bribery policy is based on the regulations laid down in the Convention (1997)¹, Recommendation (2009)² en Recommendation (2019)³ supplemented by several national regulations. The policy applies not only to those directly involved in a transaction (exporter/applicant/third parties on behalf of the exporter/applicant/debtor), but also to those indirectly involved (e.g., the principal of a debtor or sponsors of a project of which the transaction forms a part of). The policy applies to all applications, promises

of cover, advices of cover, policies and guarantees.

In this Policy, bribery is defined as the offer, promise or granting, whether direct or through intermediaries, of an improper financial or other advantage to a (foreign) government official or to a third party to induce the official to do, or refrain from doing, anything in relation to the performance of his official duties, for the purpose of obtaining or retaining business or other improper advantage in international business transactions.

Process

a. Due Diligence

ADSB provides its (prospective) policyholders with information in the application form, in the general conditions, in brochures and on its website, and requests from its clients all the information prescribed in the Recommendation (2019). Furthermore, an anti-bribery statement must be signed by the applicant before the policy is issued. The anti-bribery statement is part of the Insurance Contract.

ADSB will investigate the identity and activities of the (prospective) insured to avoid unacceptable risks, including the risk of negative publicity as a result of involvement (or alleged involvement) of the Dutch State in activities that do not comply with applicable legislation or are otherwise sensitive in the political or public arena. As part of the risk assessment, we look at the position of the country of the debtor/supplier on Transparency International's 'The Corruption Perceptions Index'. Another important factor is whether the debtor is public or private, and whether the transaction is awarded through international competitive bidding or preferential direct award.

Transactions involving an agent can be particularly vulnerable to potential bribery. If the exporter/applicant uses an agent who is acting on his behalf in either obtaining or carrying out the transaction, information is sought or requested on:

- the identity of the agent(s) working for the exporter/applicant;
- the agent's Ultimate Beneficiary Owner (UBO);
- the relationship between the exporter, agent/third party and buyer;
- the address of the agent;
- the amount of commission paid;
- the nature of the work carried out;
- the country in which the commission is paid.

ADSB will assess whether the commission is a reasonable fee in relation to the nature and scope of the work, and will evaluate the agent's moral standards, expertise and experience and the way in which the exporter/applicant engaged the agent.

If, from the answers to the questions in the application form or from information otherwise obtained by ADSB, there is an increased risk of bribery in the transaction insured or to be insured or in the project of which the transaction forms a part, this will prompt an *Enhanced Due Diligence* by ADSB.

b. Enhanced due diligence

Upon suspicion or credible indication of bribery, an *Enhanced Due Diligence* could be conducted. This applies in at least to the following cases:

1. The exporter/applicant or third parties on behalf of the exporter/applicant appears on the *debarment lists* for the World Bank Group, African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development and/or the Inter-American Development Bank;
2. The exporter/applicant or third parties on behalf of the exporter/applicant have been charged with bribery in a Dutch or foreign court or have been involved in an investigation into possible bribery in the five years preceding the application, have been convicted by a Dutch or foreign court or have been in proceedings on account of possible bribery;
3. The suspicion or credible indication that bribery has taken place or is about to take place in respect of the transaction to be insured or the project to which the transaction belongs.

An *Enhanced Due Diligence* will defer the processing of an application. The Dutch State may give instructions on the details of the *Enhanced Due Diligence* as it deems appropriate. ADSB will advise the Dutch State on the further processing of the application.

c. Proven bribery or reasonable suspicion of bribery

If there is bribery by the exporter/applicant or third parties on behalf of the exporter/applicant or there is a reasonable suspicion of bribery in obtaining or carrying out a transaction submitted for insurance, the application will be rejected. This may also lead to a (renewed) *Enhanced Due Diligence* on the exporter/applicant's other pending cases.

In case of proven bribery or reasonable suspicion of bribery by others than those directly involved in a transaction submitted for insurance or the project to which the transaction belongs, an *Enhanced Due Diligence* will be carried out. If the *Enhanced Due Diligence* determines that the reputational risk is unacceptable, the application will be rejected.

If it is established that bribery has taken place in an already insured transaction, the right to indemnification will lapse and any claim payment(s) already made will be reclaimed pursuant to the relevant clause of the General Conditions applicable to the insurance. This will also be grounds for a (renewed) *Enhanced Due Diligence*.

If there are tangible indications of bribery involved in the procurement or execution of the transaction to be insured or one that is already insured, ADSB will provide the Ministry of Finance (Head of Export Credit Insurance and Investment Guarantee) with the information available to it.

The Dutch State has a duty to inform the competent investigating authority, in so far as it is aware, of any tangible indications of involvement in bribery as described in the Dutch Code of Criminal Procedure (Art. 162). Furthermore, the Dutch state has the option to report to the competent investigative authority pursuant to art. 177, 178 and 178a and 328 of the Criminal Code, which also renders involvement in bribery abroad punishable.

d. Obligations

Assessment of the risk of bribery and corruption includes the necessity that (prospective) insured parties comply with the duty of disclosure that forms part of the insurance contract. There is also a right to access of information inspection that can be invoked to verify that the insured complies with all its obligations under the Insurance Contract. Failure to comply with these obligations may result in sanctions such as the loss of the right to indemnification or a temporary suspension of processing any applications. These obligations and possible sanctions are described in the General Conditions of the Insurance contract.

¹ OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (adopted on 21.11.1997). https://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf

² OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions (adopted on 26.11.2009) <https://www.oecd.org/corruption/anti-bribery/OECD-Anti-Bribery-Recommendation-ENG.pdf>

³ OECD Recommendation of the Council On Bribery and Officially Supported Export Credits (adopted on 13.03.2019); [https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/ECC\(2019\)2&docLanguage=En](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/ECC(2019)2&docLanguage=En)

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