

Should war memorials be built with money from the arms industry?

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Two new war memorials are to be built in Canberra, provided final regulatory approvals are obtained and the memorials' proponents, the Memorial(s) Development Committee (MDC), can raise \$A25 million.

The memorials will commemorate the dead from World Wars I and II. They will each be 20 metres high, in two-tone grey granite, separated by 100 metres of paving, etched with commemorative inscriptions. They will sit on the shore of Lake Burley Griffin, at the foot of Anzac Parade, straddling Burley Griffin's "land axis", a key component of Canberra's landscape plan.

The MDC argue that the new memorials are necessary because there are no existing memorials in Canberra to these two great conflicts. The Australian War Memorial, the Committee argue, commemorates all wars but not specifically the two world wars.¹

The MDC are on record (in Ken Inglis's book, *Sacred places*, published in 2008) that their fundraising will target the defence industry, as well as other companies.² (This information does not currently appear on the MDC's website.) The defence industry has plenty of money to spare if the MDC come knocking. In Australia, combined revenue in calendar 2010 for the top 40 defence contractors, plus the top 20 small and medium-sized defence enterprises, was \$A7.257 billion.³

Donations may be made for the purest of motives. The defence industry worldwide, however, is renowned for its corruption, defined by Transparency International as "the abuse of entrusted power for private gains".⁴ A 2005 study quoted by the Stockholm International Peace Research Institute estimated that corruption in the arms trade amounts to roughly 40 per cent of all corruption in global trade. The security attaching to defence contracts and the numbers of commission-seeking middlemen in the industry provide many opportunities for covert payments.⁵

A case study is in order. In 2009, BAE Systems had the second highest global revenue of all defence suppliers, \$US33.419 billion.⁶ BAE Systems Australia, a subsidiary of the UK-based parent company, is Australia's leading defence contractor, with revenue in calendar 2010 of approximately \$A1.5 billion.⁷ Currently, BAE has more than 50 major defence contracts in Australia and is bidding for some twenty more.⁸

Among BAE's hundreds of products and services are aircraft armour, ammunition and munitions of all sorts, an artillery orienting system, communications networks and related items, fighter aeroplanes, a laser aiming system, various missiles, naval gun systems, unmanned aerial vehicles and, until quite recently, cluster bombs and land mines.⁹

BAE's corruption record is as spectacular as its revenues and its range of products. In 2004, the UK Serious Fraud Office began investigating claims of corruption regarding BAE deals with Chile, the Czech Republic, Qatar, Romania, Saudi Arabia, South Africa and Tanzania. In 2007, BAE, concerned

by the fallout from this investigation, commissioned Lord Woolf to investigate the company's ethics. BAE executives admitted to Woolf that "the Company did not in the past pay sufficient attention to ethical standards and avoid activities that had the potential to give rise to reputational damage".¹⁰

The United States also investigated. In February 2010, BAE agreed to pay £257 million (\$US400 million) in criminal fines to the US Department of Justice (DoJ). US district court judge John Bates said that BAE's conduct involved "deception, duplicity and knowing violations of law, I think it's fair to say, on an enormous scale".¹¹ The DoJ said that BAE "consistently failed to identify commissions paid to third parties to assist in securing the sales of defense articles". BAE "was aware that some or part of those payments would be passed on to others to influence government procurement processes" for the benefit of BAE. "The undisclosed payments were pervasive across the Company, covered numerous markets, and lasted for decades."¹²

BAE never admitted to bribery. (The US charges referred, not to bribery as such, but to conspiring to make false statements to the US government about BAE's anti-bribery arrangements – the falsity of the statements was proved by the fact that bribery had taken place – and failing to keep proper accounting records about BAE's operations in Tanzania.) Senior personnel were replaced and internal systems improved. The new chairman, Dick Olver, said the company had "put a really hard line separating the past from the future" and it realised the "need to be a transparent, modern, clean company".¹³ BAE also tried to be a model corporate citizen. Its global code of conduct, issued in 2009, has a section on "company giving".

We will support, sponsor and contribute to the activities of other organisations where the activities are aligned with our own business objectives, values and ethical principles and will enhance the reputation of the company.

The company had a "particular focus ... on those organisations which support the Armed Forces and their families".¹⁴

According to the BAE Systems plc website, "[s]upport for charities and community organisations helps foster good relationships with the communities near our sites in the countries in which we work". Globally in 2009, the company's investment in the community amounted, in time, cash and in-kind, to 13.8 million somethings – either \$A or £; different company websites report the same figure but in different currencies.¹⁵

Many such payments – by BAE or any other company – will be unexceptionable. Some will be difficult to categorise, like BAE's sponsorship deal with the Australian War Memorial, which includes naming rights to the "BAE Systems Theatre". The Memorial's director, retired Major General Steve Gower, has said that BAE is an "integral part" of the Memorial, where many aircraft built by BAE and its predecessors are on display.¹⁶

It may seem incongruous or worse that defence suppliers should put money into war memorials, particularly new ones. It would be natural, however, for the MDC, composed entirely of retired military officers, to consider tapping the defence industry. Industry contacts made in uniform will still be strong.

For example, MDC member and retired Air Marshal Doug Riding went from senior RAAF positions in materiel and aerospace systems acquisitions, and a final posting as Vice Chief of the Defence Force (July 1998 to 5 June 2000), to a directorship with BAE Systems Australia Holdings Limited (3 August 2000 to 16 July 2002). Air Marshal Riding is now (June 2011) a senior defence adviser to BAE Systems Australia.¹⁷ MDC chair, retired Lieutenant Colonel Mike Buick, was, in late 2010, National Project Manager, Barcoding Project, for BAE Systems Australia Logistics.¹⁸

We have no evidence that corruption associated with defence industry corporate giving has happened or will happen in Canberra. On the other hand, Transparency International has recently included “Charitable Contributions and Sponsorship” in a list of “key corruption issues” facing defence suppliers globally.¹⁹

Actual instances of charitable-giving corruption in the defence sector overseas seem to be rare, perhaps because they are well concealed within the complex financing of defence purchasing. In a 1990s South African case, again involving BAE Systems (then British Aerospace or BAe), the defence minister intervened on BAe’s behalf after the company had donated five million rand (\$US1 million) to a war veterans’ association, of which the minister was a trustee. BAe said the donation had been made “to demonstrate that we wish to be good corporate citizens doing business in South Africa”.²⁰

Transparency International’s warning acknowledges that corporate giving could serve the same purpose as payments to third parties have served in the past for companies like BAE. Any project that is financed by the defence industry risks being tainted with the whiff of corruption surrounding the sector. That is the potential problem facing the proponents of Canberra’s lakeside memorials.

The risk grows with secrecy. Transparency International says every enterprise, defence and otherwise, “should ensure that charitable contributions and sponsorships are not used as a subterfuge for bribery [and] ... should publicly disclose all its charitable contributions and sponsorships”.²¹ It is unfortunate, then, that the MDC offer secrecy to their donors. The MDC’s website says: “The Committee will not disclose any details of Memorial(s) Development Committee Members, Donors or Supporters without the consent of said Members, Donors or Supporters”.²² That is the sort of provision that would be attractive to tobacco companies funding lung cancer wards or to breweries donating to road trauma units.

Colonel Buick said on television in October 2010:

We have not had any discussion whatsoever with any company which will be providing money from overseas or anywhere else. We are seeking funding support from wealthy and philanthropic Australians. That’s where we’ve gone, *at the moment* (emphasis added).²³

The italicised words leave the way open for a change of fundraising strategy in the future, especially as global financial circumstances constrain alternative sources.²⁴ The MDC’s website still says, “Priority # 1 [for fund-raising]: Australian and international companies interested in making significant financial contributions ...” Philanthropists are only the second priority target, according to the website.²⁵

Would our war dead like to be memorialised with the profits from making the weapons that killed them? The MDC need to do two things: first, announce that they will never solicit or accept donations from the defence industry; secondly, undertake to disclose the source and amount of every donation received. Once these things are done, we can focus on the many other reasons why this ill-conceived project should not proceed.

- *David Stephens is a member of the Lake War Memorials Forum, which opposes the building of the new memorials. The article does not intend to imply or impute that BAE Systems Australia or individuals mentioned in the piece have been associated with the activities of BAE Systems which have led to legal action overseas.*

¹ For arguments on both sides, see: Lake War Memorials Forum, <http://http://lakewarmemorialsforum.org/index.html> ; Memorials Development Committee (MDC), <http://www.mdc.org.au> .

² The MDC's first priority for fundraising was to be contributions from "appropriate Australian and multinational companies, particularly those related to Defence industry": K.S. Inglis, *Sacred places: War memorials in the Australian landscape*, Melbourne University Press, 3rd edition, 2008, pp. 494-95. Professor Inglis was quoting from documents made available to him by the MDC. See also: MDC, <http://www.mdc.org.au> under "Fundraising".

³ Judy Hinz & Katherine Ziesing, "ADM's top 40 defence contractors: Strong performance sees revenue top \$7 billion", *Australian Defence Magazine* (December 2010-January 2011), p. 26.

⁴ Andrew Feinstein, Paul Holden & Barnaby Pace, "Corruption and the arms trade: Sins of commission", *SIPRI yearbook 2011: Armaments, disarmament and international security*, SIPRI, Stockholm, [June] 2011, p. 14 (referred to hereafter as "full version"). "Transparency International (TI) provides a rigorous definition of corruption as 'the abuse of entrusted power for private gains'. It further differentiates between corruption 'according to rule' and corruption 'against the rule'. 'Facilitation payments, where a bribe is paid to receive preferential treatment for something the bribe receiver is required to do by law', constitute corruption according to rule, whereas corruption against the rule is 'a bribe paid to obtain services the bribe receiver is prohibited from providing'. This chapter uses TI's definition but expands it to include the act of corrupting, defined as offering or giving any inducement that may or does result in undue advantage. This highlights both the need for successful conspiracies of corruption to involve two or more willing participants and that all parties, whether purveyors or recipients of such inducements, should thus be considered corrupt." The reference is to 'Frequently asked questions [n.d.]', Transparency International, http://www.transparency.org/news_room/faq/corruption_faq .

⁵ Andrew Feinstein, Paul Holden & Barnaby Pace, "Corruption and the arms trade: Sins of commission", *SIPRI yearbook 2011: Armaments, disarmament and international security: Summary*, Stockholm International Peace Research Institute (SIPRI), Stockholm, [June] 2011, <http://www.sipri.org/yearbook/2011/files/SIPRIYB11summary.pdf> , p. 3. See also: "Arms trade", Transparency International, http://www.transparency.org/global_priorities/public_contracting/key_sectors/arms_trade ; Feinstein, Holden & Pace (full version), p. 13; "In focus: Corruption in the defence sector (16 July 2006)", Transparency International, http://www.transparency.org/news_room/in_focus/2006/defence_sector .

⁶ "Defense News top 100 for 2009", *Defense News* (28 June 2010), http://www.defensenews.com/static/features/top100/charts/rank_2009.php?c=FEA&s=T1C. Lockheed Martin was first with \$US42.026 billion.

⁷ Hinz & Ziesing, pp. 26, 30.

⁸ Hinz & Ziesing, pp. 30, 32. BAE Systems appears 328 times in the 2010 listing of all contracts (large and small) with the Defence Materiel Organisation, which manages projects and acquires equipment for the Australian Defence Force: *Defence Materiel Organisation contracts listing for 1/1/2010 to 31/12/2010: Senate order on departmental and agency contracts*, Defence Materiel Organisation,

http://www.defence.gov.au/dmo/id/cic_contracts/DMO_Contract_Listing_CY10.pdf.

⁹ “BAE Systems”, Wikipedia, http://en.wikipedia.org/wiki/BAE_Systems; “CR panel (n.d. 2008?)”, BAE Systems plc,

http://www.baesystems.com/BAEProd/groups/public/documents/bae_publication/bae_pdf_cro8_cr_panel.pdf; “Products & services”, BAE Systems Australia,

<http://www.baesystems.com/Businesses/BAESystemsAustralia/ProductsServices/index.htm>

; “Products and services”, BAE Systems plc,

<http://www.baesystems.com/ProductsServices/index.htm>.

¹⁰ Woolf Committee, *Business ethics, global companies and the defence industry: Ethical business conduct in BAE Systems plc – the way forward, May 2008*, BBC News,

http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/06_05_08_woolf_report.pdf, para. 1.9.

¹¹ “BAE Systems”, Campaign against Arms Trade, <http://www.caat.org.uk/issues/bae>; “BAE Systems”, Wikipedia; “BAE Systems plc pleads guilty and ordered to pay \$400 million criminal fine (US DoJ media release,

1 March 2010)”, Department of Justice (DoJ),

<http://www.justice.gov/opa/pr/2010/March/10-crm-209.html>. BAE’s US fine was one of the largest fines in the history of the DoJ. It took account of the “gain” for BAE deriving from the payments it made to third parties to influence government decisions. This gain was estimated as at least \$US200 million: *United States District Court for the District of Columbia: United States of America v BAE Systems plc: United States’ sentencing memorandum* (22 February 2010), DoJ,

<http://www.justice.gov/criminal/pr/documents/03-01-10%20bae-sentencing-memo.pdf>, pp.10-11.

¹² DoJ, *Sentencing memorandum*, pp. 4, 14-15. For similar in UK litigation, see: *Settlement agreement between the Serious Fraud Office and BAE Systems plc dated February 2010*,

SFO, <http://www.sfo.gov.uk/media/133535/bae%20-%20settlement%20agreement%20and%20basis%20of%20plea.pdf>, para. 4.5.

¹³ “BAE chief looking to the future (5 February 2010)”, BBC News,

<http://news.bbc.co.uk/2/hi/business/8501603.stm>.

¹⁴ *Being a responsible company: What it means to us: Code of conduct* (January 2009), BAE Systems plc,

http://www.baesystems.com/BAEProd/groups/public/documents/bae_publication/bae_pdf_759of003_001.pdf, p. 54.

¹⁵ “Community”, BAE Systems plc,

<http://www.baesystems.com/CorporateResponsibility/Community/index.htm>;

“Community”, BAE Systems plc, <http://bae-systems-corporate-responsibility-report-2009.production.investis.com/community.aspx> (measured in £); “Community relations”,

BAE Systems Australia,

<http://www.baesystems.com/Businesses/BAESystemsAustralia/CommunityRelations/index.htm> (measured in \$A). The fact that BAE cannot even pin down the currency in which it is measuring its generosity makes one wonder how firmly embedded company giving is in BAE’s culture.

¹⁶ “BAE Systems sponsors memorial’s theatre (n.d. 2009?)”, Australian War Memorial, http://www.awm.gov.au/support/sponsor_bae.asp. BAE appears on the Memorial’s list of “benefactors over \$250,000”, along with other defence suppliers, the Australian Submarine Corporation and Tenix Pty Ltd (acquired by BAE in 2008). Other defence firms have donated smaller amounts to the Memorial: “Corporate sponsorship”, Australian War Memorial, <http://www.awm.gov.au/support>.

¹⁷ “Air Marshals”, RAAF Air Power Development Centre,

<http://airpower.airforce.gov.au/Contents/About-APDC/About-APDC/Office-of-Air-Force-History/Air-Marshals-of-the-RAAF/134/Air-Marshals.aspx>; ASIC database extract; Australia. Department of Defence, *Defence annual report 1999-2000*, Canberra, 2000, pp. 56-57;

“Douglas Riding”, Wikipedia, http://en.wikipedia.org/wiki/Douglas_Riding#cite_note-Media-2;

MDC, <http://www.mdc.org.au> under “Committee”; “Vice Chief of the Defence Force (Australia)”, [http://en.wikipedia.org/wiki/Vice_Chief_of_the_Defence_Force_\(Australia\)](http://en.wikipedia.org/wiki/Vice_Chief_of_the_Defence_Force_(Australia)).

Various dates are given for Air Marshal Riding's retirement as VCDF: July 2000 in the VCDF *Wikipedia* entry; 5 June 2000 in the *Defence annual report* (which I have accepted as authoritative because it is based on salary records); "the summer of 2000" in the Douglas Riding *Wikipedia* entry. Air Marshal Riding's senior RAAF positions were: Assistant Chief of the Air Staff (Materiel), 1995-97; Head, Systems Acquisition (Aerospace), 1997-98; Vice Chief of the Defence Force, July 1998-5 June 2000.

¹⁸ Private correspondence.

¹⁹ *Defence offsets: Addressing the risks of corruption and raising transparency*, Transparency International-UK, London, 2010, http://media.transparency.org/fbooks/reports/defence_offsets, p. 51. Australia scores 8.7 out of 10 as one of the "cleanest" countries in Transparency International's index of corruption perceptions in all sectors globally: "Corruption perceptions index 2010 results", Transparency International, http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results.

²⁰ Andrew Feinstein, *After the party: Corruption, the ANC and South Africa's uncertain future*, Verso, London & New York, 2009, p. 206; Feinstein, Holden & Pace (full version), pp. 20-27; Susan Hawley, "Underwriting bribery: Export credit agencies and corruption (December 2003)", The Corner House, <http://www.thecornerhouse.org.uk/sites/thecornerhouse.org.uk/files/30ecabribre.pdf>, p. 18; Patrick Laurence, "Corruption: A fine balance of forces [2003]", Helen Suzman Foundation, <http://www.hsf.org.za/resource-centre/focus/issues-31-40/issue-31-third-quarter-2003/corruption-a-fine-balance-of-forces>; Joy Russel, "BAE denies it paid for Modise's cars", *Mail and Guardian Online* (Johannesburg, 3 July 2003), quoted in Marianne Camerer, "Corruption – a reality to be managed", After apartheid conference: Yale Center for International and Area Studies, Cape Town, South Africa, August 11-12, 2006: Panel 5: Legal order, http://www.yale.edu/macmillan/apartheid/apartheid_part1/M.Camerer.pdf, p. 31.

²¹ *Business principles for countering bribery: A multi-stakeholder initiative led by Transparency International*, Transparency International, Berlin, 2nd edition, 2009, http://www.transparency.org/global_priorities/private_sector/business_principles, p. 8.

²² MDC, <http://www.mdc.org.au> under "Disclaimer".

²³ ABC Stateline (ACT) program, 15 October 2010, <http://www.abc.net.au/news/2010-10-15/memorials-war/2300082>.

²⁴ Sam Perlo-Freeman of SIPRI has suggested that financial downturns, such as the global financial crisis of 2008-09, affect the arms industry in different ways to other sectors. Among other factors, long lead times and increasing defence budgets make revenue more predictable and, presumably, may leave spare revenue for donations that would not be available in other sectors: Sam Perlo-Freeman, "Arms production", *SIPRI Yearbook 2009: Armaments, disarmament and international security*, SIPRI, Stockholm, 2009, pp. 270-273.

²⁵ MDC, <http://www.mdc.org.au> under "Fundraising".

All websites accessed 1-16 June 2011.