

**EXPORT GUARANTEES ADVISORY COUNCIL  
MINUTES OF MEETING HELD ON 3 December 2012**

**Present:** Mr Andrew Wiseman  
Ms Gillian Arthur  
Mr Alastair Clark  
Mr Chris Fitzpatrick  
Mr Neil Holt  
Mr John Newgas  
Ms Anna Soulsby

**Apologies:** Ms Alexandra Elson

**In attendance:** Mr David Havelock  
Mr Steve Dodgson  
Dr Helen Meekings  
Mr David Craig           Item 3  
Mr Miles Hitchcock       Item 3  
Ms Rebecca Schade       Item 3  
Mr Harris                 Item 9  
Mr Foister                 Items 10, 11

**Secretary:** Mr Laurence Lily

**1 PRE-MEETING**

1.1 The Council met in closed session without UK Export Finance (UKEF) officials present. The discussion was not minuted.

**2 APOLOGIES FOR ABSENCE**

2.1 Apologies were received from Ms Elson.

**3 MINUTES OF 17 SEPTEMBER 2012 MEETING AND MATTERS ARISING**

- 3.1 The draft minutes were approved and would be published on the UKEF website.

**4 CEO UPDATE**

Business Supported

- 4.1 Mr Havelock updated the Council on business supported. He said there was a growing pipeline of prospective business and that UKEF expected to meet its forecasts of business supported for the 2012-13 financial year. The Council noted the number of exporters and value of exports supported under the new Short-Term products since they had been introduced in 2011. Mr Havelock told the Council there was increasing interest in the Export Insurance Policy and Bond Support Scheme but less demand for support under the Export Working Capital Scheme.

Awareness Raising

- 4.2 Mr Havelock said that there was increasing awareness of UKEF's new products, particularly following the recruitment of Export Finance Advisers who had been deployed across the UK. The Council said that its members had experienced UKEF's increasing outreach through its presence at exporter events. The Chairman said the Council would be interested in hearing feedback from the Export Finance Advisers.

**Action: EGAC Secretary**

Business Bank

- 4.3 Mr Havelock reported that the Government had announced plans to establish a Business Bank to address the needs of SMEs, which was expected to be endowed with circa £1 billion of capital. Mr Havelock explained that the operational parameters of the bank were still to be decided. Officials in the

Department of Business, Innovation and Skills who were tasked with setting-up the bank would be considering any potential for UKEF involvement.

Direct Lending

- 4.4 Mr Havelock told the Council that the Chancellor of the Exchequer announced a direct lending scheme in the Autumn Statement. Under this scheme, UKEF would provide the funding for export credit loans issued for small and medium sized export transactions of up to £50 million. It was intended that the scheme would complement the Export Refinancing Facility which had been announced in the summer. Both schemes should help ensure the supply of funding for export credit loans to overseas buyers who used them to purchase goods and services from British exporters where the loans are repayable over two years or longer. The schemes were being designed by UKEF officials in collaboration with HM Treasury and the British Bankers' Association.

South Pars, Iran

- 4.5 Mr Havelock told the Council that the guaranteed export credit loans to the South Pars Gas Field project in Iran had been pre-paid. As a result, UKEF's involvement in the project had ceased which meant that the environmental due diligence that had been the subject of review by the Council at an earlier meeting would also cease.

Parliamentary Report of UKEF

- 4.6 Mr Havelock drew the Council's attention to the recently published report by the All-Party Parliamentary Group on International Corporate Responsibility. He told the Council that Ministers would consider the findings of the report and the recommendations made in the New Year. The Chairman said that the Council would consider the report at its next meeting.

**Action: EGAC Secretary**

Sovereign Debts

- 4.7 Mr Havelock told the Council that information on the complexion of sovereign debts owed to UKEF, which had been provided to the Council at its previous

meeting, had been published in the House of Commons library and on UKEF's website. It had generated interest in the form of parliamentary questions, freedom of information requests and media comment.

Environmental Advisory Unit Resources

- 4.8 Mr Dodgson told the Council that the head of the Environmental Advisory Unit (EAU) would be taking maternity leave for a period of 6 months and explained the arrangements for resourcing the Environmental Advisory Unit during this time. He reminded the Council that if demand exceeded the availability of EAU resource to carry out due diligence on projects, this would be met by procuring the services of the three external environmental consultancy firms that could be deployed under call-off contracts. The Chairman said the Council should consider this further when it received the annual EAU report at its next meeting.

**5 REPEAL OF STATUTORY REQUIREMENT TO CONSULT EGAC ON REINSURANCE**

- 5.1 Mr Dodgson told the Council that the Government was planning to introduce new legislation to abolish or revise excessive or unnecessary statutory consultation requirements. Mr Dodgson said that it would be considering repealing the statutory requirement in the Export and Investment Guarantees Act whereby UKEF's Secretary of State must consult the Export Guarantees Advisory Council (EGAC) on matters related to the provision of reinsurance to the private sector.
- 5.2 Mr Dodgson explained that this requirement had become redundant. He reminded the Council that it had come about at the time of the privatisation of ECGD's short term trade credit insurance operations in 1991; reinsurance arrangements were put in place to help smooth the transition of the provision of short term credit insurance from the public to the private sector. No reinsurance had been provided by UKEF since 1999. As a result, it had not been necessary to consult EGAC under this statutory duty for many years.

5.3 The Council noted the proposal and asked to be kept informed of the Government's intentions.

## **6 AMNESTY INTERNATIONAL: DISCUSSION OF 17 SEPTEMBER MEETING**

6.1 The Chairman said that the Council had met with Amnesty International at its previous meeting. A note of the meeting had been produced which recorded the content of the discussions.

6.2 The Council advised that the three significant points of interest to Amnesty were that (i) UKEF should carry out human rights due diligence beyond that required by the OECD Common Approaches i.e. by applying it all export transactions where its support was being sought, (ii) there should be greater transparency in the operations of UKEF and export credit agencies in general and (iii) an ombudsman function should be created which could hear and investigate grievances brought by those impacted by activities supported by UKEF.

6.3 The Council discussed the suggestion made by Amnesty of including questions on human rights matters in applications forms. Ms Meekings told the Council that some product application forms covered such issues and were also included in UKEF's impact questionnaire for Category B transactions. For other products, such questions were not included in the application forms as the transactions supported under them fell outside the ambit of the OECD Common Approaches.

6.4 In regards to an ombudsman function, the Council noted that Amnesty had cited, as an example, the Office of the Compliance Advisor Ombudsman of the World Bank Group. The Council also noted that there that the EBRD had a compliance function which reported directly to the bank's President. The Council was interested to know whether any export credit agencies had ombudsman functions. It was agreed that UKEF would research and report back to the Council.

6.5 The Council considered that the role played by UKEF on developing multilateral environmental, social and human rights standards within the OECD was not sufficiently recognised. For example, it noted that UKEF was playing a leading role within the Environmental Practitioner's Group to fulfil a commitment made by the OECD when the new OECD Common Approaches were adopted in 2012 to consider how Export Credit Agencies could better address human rights issues in their due diligence in projects. The Council asked to be kept up-to-date with the work of this group.

**Action: EGAC Secretary**

6.6 The Council considered that meeting Amnesty had given it a clearer understanding of Amnesty's views on the way Export Credit Agencies should address human rights. The Council noted that the areas of concern to Amnesty had also been recommended by the All Party Parliamentary Group (APPG) on International Corporate Social Responsibility in its recent report on UKEF. The Chairman said that the Council would discuss these issues further at its next meeting when it considered the APPG report. The Council also noted that the development of the Government's strategy on business and human rights, which was expected to be published in the New Year, could be relevant to the issues raised by Amnesty. The Council asked to be kept inform of the progress on the strategy.

**Action: EGAC Secretary**

6.7 The Council considered that its meetings with individual NGOs were beneficial to help obtain a fuller understanding of their particular areas of interest in UKEF. The Council expressed a desire to meet with Transparency International in 2013.

**Action: EGAC Secretary**

**7 CATEGORY A CASE: PETROBRAS**

- 7.1 The Council considered the Environmental, Social and Human Rights (ESHR) due diligence carried out in respect of the \$1 billion line of credit guaranteed by UKEF to Petrobras, Brazil, as part of its practice of reviewing 'Category A' cases after support had been agreed by UKEF.
- 7.2 Mr Craig provided background on the facility which had been established to finance the supply of capital goods and services by UK exporters to Petrobras in order to help develop Brazil's off-shore hydrocarbon resources. Mr Craig said that Brazil was a priority market for the Government's trade efforts. Mr Craig told the Council that the facility had been negotiated over a two year period which included extensive environmental due diligence in accordance with the OECD Common Approaches.
- 7.3 Ms Schade provided an overview of the environmental due diligence process. She told the Council that the project met the definition of a Category A (potential high impacts) project as defined in the OECD Common Approaches, due to the industry sector and the type of activity to be undertaken by the project (oil exploration and extraction). The classification had been straightforward.
- 7.4 Ms Schade explained that the due diligence had focused on three likely off-shore project locations identified by Petrobras, each roughly 200 km off the coast of Brazil, which the EAU considered were an expansion of existing operations. She explained that the due diligence had assessed the environmental management standards operated by Petrobras against the relevant IFC standards and environmental, health and safety guidelines. She said the process had also considered local requirements. Ms Schade said the due diligence had taken account of past incidents involving Petrobras and the Macondo incident in the Gulf of Mexico which had involved deep water drilling that had occurred during the review process. Ms Schade also explained the arrangements Petrobras had in place to carry out supplier screening. Ms Schade said suppliers were subject to mandatory checks by Petrobras to ensure its standards were met.

7.5 The Council noted that Petrobras had fully co-operated with UKEF throughout the diligence process, including access to its environmental management system and an extensive range of documentation. Ms Schade told the Council that the company had been open about incidents in its history and was keen to demonstrate the progress and leadership it had made in the promulgation of stronger standards.

7.6 The Council noted the EAU's assessment concluded that Petrobras was materially compliant with all the relevant international standards. The Council asked whether the scope of the EAU's due diligence was limited to offshore development and exploration. Ms Schade confirmed it was. The Council asked whether local media or NGO communication had been monitored to pick-up any potential issues; Dr Meekings confirmed that it was. The Council noted that the start of expansion work in the project locations may prompt the need for supplementary due diligence on any potential location-specific impacts. The Council asked what further due diligence would be carried out. Ms Schade said that as and when individual export contracts were financed under the line of credit, further due diligence would be carried out and, in addition, the EAU would undertake post-issue monitoring to be satisfied that Petrobras continued to operate in compliance with international standards.

7.7 The Council thanked the Environmental Advisory Unit for the presentation and for sight of its report. The Council considered it was thorough and comprehensive. Mr Dodgson reminded the Council that UKEF had publicly reported its support for Petrobras in line with the Government's acceptance of a recommendation made by the Parliamentary Environmental Audit Committee in 2008 that all Category A cases supported by UKEF should be disclosed with an explanation of the applicable international standards.

## **8 REPORT ON THE IMPLEMENTATION OF ANTI-BRIBERY AND CORRUPTION POLICIES**



- 8.1 Mr Phillips introduced the 2011-12 annual report on the operation of UKEF's anti-bribery and corruption procedures. There were no particular issues to draw to the Council's attention but Mr Phillips reminded the Council that during the year refresher anti-bribery training for staff had been carried out which included the participation of Neill Stansbury of the Global Infrastructure Anti-Corruption Centre. With the assistance of Neil Stansbury an anti-bribery toolkit was being developed to aid the anti-bribery due diligence process that was carried out on individual transaction in line with OECD Recommendations on Bribery and Officially Supported Export Credits (the OECD Bribery Recommendation) and UKEF's anti-bribery policies. The toolkit would assist the benchmarking of applicants anti-bribery policies against the new anti-bribery British Standard.
- 8.2 The Council noted that in October 2012 the OECD had published its most recent review of responses to its survey on measures taken to combat bribery in officially supported export credits. Mr Phillips confirmed that UKEF had contributed to the survey. Mr Phillips said that UKEF had also contributed to the OECD's "Phase 3" report on the implementation of the OECD anti-bribery convention in the United Kingdom. The Council asked if the OECD Bribery Recommendations would be reviewed in the future. Mr Dodgson said that UKEF was unaware of any plans by the OECD to do so.
- 8.3 The Council asked about the application of the OECD Bribery Recommendation on applications for support under the new Short-Term products. Mr Dodgson said the OECD Recommendation applied to all business for which support was requested but it recognised that the way in which the due diligence was carried out had to be tailored to the particular form of support being provided. As UKEF provided single transaction support, rather than whole-turnover cover, it carried out due diligence on each application. Mr Dodgson said that the commercial deadlines were shorter for business under the new products as compared to project business which necessarily meant that the due diligence had to be carried out within tight deadlines. Mr Dodgson also remarked that there appeared to be a higher incidence of transactions

involving intermediaries i.e. Agents, where the amount of commissions was greater 5%, although the absolute amounts paid tended to be low given the small size of the contract values involved. The Council noted that UKEF required applicants to always name any agents involved in obtaining contracts, albeit that under the OECD Bribery Recommendation this was at the discretion of individual Export Credit Agencies.

8.4 The Council asked about UKEF support for companies previously convicted of bribery offences. Mr Dodgson said the OECD Bribery Recommendation specifically dealt with such situations and UKEF's own policies also addressed this.

8.5 Mr Harris informed the Council about co-operation arrangements being put in place with the Canadian Export Credit Agency, Export Development Canada (EDC), to jointly support exports of Bombardier C-Series aircraft which would be partly manufactured in the UK. Mr Harris explained the arrangements being made to address anti-bribery and corruption due diligence on individual transactions. Mr Harris explained how UKEF had satisfied itself that it could rely on EDC's anti-bribery practices to undertake due diligence on the main contract in line with the change of policy which had been established in 2010 following a review of UKEF's anti-bribery policies that was the subject of a Public Consultation.

## **9 EUROPEAN PARLIAMENT REPORTING**

9.1 Mr Foister updated the Council on new European Parliament (EP) reporting requirements that applied to all EU Export Credit Agencies from November 2012. He explained that EU Member States were required to "describe how environmental risks, which can carry other relevant risks, are taken into account" by their Export Credit Agencies. Mr Foister said Member States had responded individually to the European Commission; the Commission would be collating responses into a single report for the EP. The Council requested a copy of the final report when published.

**Action: EGAC Secretary**

## **10 EU CONSULTATION ON SHORT-TERM COMMUNICATION**

10.1 Mr Foister updated the Council on the consultation by the European Commission on the future of the Short-Term Communication. He explained that the Short-Term Communication was part of EU State Aid regulation that bans officially backed export credit insurance for exports to other EU Member States (MS) and rich OECD countries where the risk period is under two years. He said the consultation was intended to consider whether any changes were needed to make the regulation regime more responsive and flexible taking into account the experience of the financial crisis in 2008-09 which had resulted in a contraction in the availability of private credit insurance and the need for intervention by Member States. He said that a new Communication would come into force on 1 January 2013, although UKEF did not anticipate any significant changes.

10.2 The Council noted that any changes would have to be mindful of original rationale for the Short-Term Communication, which was to address complaints about market distortion made by large private credit insurers. The Council thanked Mr Foister for the update.

## **11 FREEDOM OF INFORMATION REQUESTS**

11.1 The Council noted the update on information released by UKEF under the Freedom of Information Act 2000 and the Environmental Information Regulations since its last meeting.

## **12 BUSINESS SUPPORTED**

12.1 The Council noted the business supported since its last meeting.

**13 EGAC SCORECARD**

13.1 The Council reviewed the advice it had provided and decisions it had taken, and noted that all actions arising from these were either complete or in hand.

**Larry Lily**

**Secretary**