

**EXPORT GUARANTEES ADVISORY COUNCIL
MINUTES OF MEETING HELD ON 9 DECEMBER 2013**

- Present:** Mr Andrew Wiseman (Chair)
Ms Gillian Arthur
Mr Chris Fitzpatrick
Mr Neil Holt
Mr John Newgas
- Apologies:** Mr Alastair Clark
Ms Alexandra Elson
Ms Anna Soulsby
- In attendance:** Mr David Godfrey
Mr Pat Cauthery
Ms Helen Meekings
Mr Simon Phillips Items 4-5
Mr Tim Palmer Items 4-5
- Secretary:** Mr Laurence Lily

1 APOLOGIES FOR ABSENCE

- 1.1 Apologies were received from Mr Clark, Ms Elson and Ms Soulsby.

2 MINUTES OF 9 SEPTEMBER 2013 MEETING AND MATTERS ARISING

- 2.1 The draft minutes were approved with minor amendments and would be published on the UKEF website.

3 MEETING WITH TRANSPARENCY INTERNATIONAL

- 3.1 The Chairman said that the Council had met privately with Transparency International and would report on its discussions at the next Council meeting in February.

4 CHIEF EXECUTIVE'S UPDATE

- 4.1 Mr Godfrey introduced himself to the Council. He explained that prior to his appointment as Chief Executive, he had been a Non-Executive Director on UKEF's Management Board for eight years and, therefore, had some familiarity with the operations of the Department.

Business

- 4.2 Mr Godfrey told the Council that the Chancellor of the Exchequer had announced in the recent Autumn Statement an increase in the limit of the amount of business UKEF could support from £25 billion to £50 billion. He explained that the increase in risk capacity would mean that UKEF should not be constrained in supporting higher levels of exports, taking account of the Government's efforts to improve the UK's export performance including winning high value overseas projects, where UKEF support may be required to help facilitate contracts.
- 4.3 Mr Godfrey told the Council that UKEF had recently issued a guarantee to HSBC in respect of a US\$300 million loan to finance exports to the Jamnagar Refinery Project in India, operated by Reliance Industries. The Council noted that this was the first Category A project, as defined under the OECD Common Approaches, which UKEF had supported in India. Mr Godfrey explained that UKEF had undertaken two sites visits before approving support to be assured the project would meet international environmental, social and human rights (ESHR) standards as required by the OECD Common Approaches. He added that Reliance Industries had agreed that UKEF could conduct visits during the construction and operations phases of the project. The Council requested a detailed presentation of the ESHR due diligence carried out, possibly after the first post-issue monitoring site visit had taken place.

- 4.4 Mr Godfrey told the Council that UKEF was expected to provide support for the Nghi Son Refinery in Vietnam in the early New Year, also a Category A project. He explained that extensive ESHR due diligence had been carried out alongside other Export Credit Agencies (ECAs) and the International Finance Corporation, the private sector lending arm of the World Bank Group.
- 4.5 Mr Godfrey told the Council that a number of other major projects were under consideration including in Brazil, Kazakhstan and Russia. UKEF was also working alongside UK Trade & Investment in its efforts to help secure major project business to the UK through its High Value Opportunities programme.
- 4.6 The Council reminded UKEF of its request to consider at its next meeting the ESHR assessment undertaken in respect of UKEF's support for the Sadara petrochemical project being constructed in Saudi Arabia.

ACTION: Secretary to arrange for presentations on the Sadara and Jamnagar Projects

- 4.7 Mr Godfrey updated the Council on other developments, including the renaming of UKEF's operations responsible for its Short-Term products to 'Trade Finance and Insurance Solutions' and the plans to undertake a direct marketing campaign to raise awareness of UKEF's products and services amongst a target segment of UK companies. Mr Godfrey said that following the launch of the Direct Lending Scheme at the beginning of September, demand had been muted although it was early days given the typical lead times to provide support for export contracts involving the supply of capital/semi capital goods and services on medium/long terms of credit. He told the Council that UKEF was awaiting the outcome of an approach to the European Commission in regards to the proposed Export Refinancing Facility and its compliance with State Aids rules; it was expected that this would be forthcoming early in the New Year.

Environmental Audit Committee

- 4.8 Mr Godfrey told the Council that he had attended an oral evidence session of the Environmental Audit Committee of the House of Commons in relation its inquiry into fossil fuel subsidies. He reported that the Committee's questions on UKEF had focussed on the implementation of the Coalition Government's commitment that UKEF, along with UKTI, would become champions for British companies that develop and export innovative green technologies around the world, instead of supporting investment in dirty fossil-fuel energy production. Mr Godfrey said the Committee had since published a report which recommended that UKEF should carry out an analysis that weighed-up the need for providing export finance support against the need to eliminate fossil fuel subsidies in overseas countries. He said the Government would be responding in due course. The Council asked to see a copy of the Government's Response when it was made public.

ACTION: Secretary to send the Government's Response to the EAC report to the Council.

Human Rights

- 4.9 UKEF told the Council that it had recently met with Amnesty International (AI) following a report by AI on UKEF. Ms Meekings explained the discussions had centred on human rights issues including UKEF's approach to, and the due diligence it carried out on, human rights issues in relation to projects it is asked to support. UKEF had also described the role it was performing amongst the Environmental Practitioners Group within the OECD Export Credit Group to obtain a uniform approach by member ECAs in the assessment of human rights issues. Ms Meekings said the meeting had helped to improve the understanding of each others' positions on human rights. She added that UKEF had informed AI it would be publishing in the New Year a flow chart on the operation of the OECD Common Approaches and a note on human rights, which had previously be seen by the Council in draft. The Council confirmed it had no further comments on the draft documents which would be published on the UKEF website.

4.10 The Council welcomed the dialogue with AI and encouraged its continuation.

5 REPORT ON THE IMPLEMENTATION OF ANTI-BRIBERY AND CORRUPTION POLICIES

5.1 Mr Palmer introduced a report on the operation of the OECD Recommendation on Bribery and Officially Supported Export Credits. A key feature had been the significant increase in the number of applications for support received over the 12 month period of the report, largely the result of the expansion of UKEF's product range and applications made in respect of exports sold on short terms of credit. Mr Palmer explained that anti-bribery due diligence was undertaken for all applications irrespective of the product for which support was sought, excluding the Letter of Credit Guarantee scheme where separate arrangements applied. He remarked that the due diligence carried out on applications under the new Short-Term products were more challenging to process largely because of the shorter timescales under which it had to be undertaken.

5.2 The Council noted that no applicant had refused to provide UKEF with information required to carry out due diligence. The Council also noted that applicants were required to make anti-bribery declarations and undertakings. The Council was informed that consideration was being given to reviewing the language of the declarations to make them clearer so that exporters, particularly SMEs, properly understood the representations they were required to make.

5.3 The Council noted that that the proportion of applicants who disclosed the existence of an anti-bribery code of practice was down from 60% to 48%. Mr Palmer explained that this primarily appeared to be because many SMEs did not operate formal anti-bribery policies. The Council asked how UKEF addressed this. Mr Palmer explained that companies were not compelled to operate codes or policies but UKEF signposted companies to sources of advice, for example, the Ministry of Justice. Mr Palmer said UKEF reminded companies of the need to comply with the Bribery Act.

- 5.4 The Council asked about links across government departments with anti-bribery responsibilities. Mr Godfrey said UKEF was working with UKTI to make sure its Trade Advisers understood UKEF's requirements on a range of issues and would ensure this included the need for exporters to understand the requirement to disclose information for anti-bribery purposes and their obligations to comply with anti-bribery legislation.
- 5.5 The Council asked whether it remained UKEF's policy to require exporters to disclose the use of agents in all cases. Mr Palmer explained that while the OECD Bribery Recommendation required applicants to disclose "on demand" the use of agents, which implied that ECAs were not compelled to routinely require disclosure on the use of Agents, it was UKEF's policy to always require such information including the services being performed by the Agent, the amount of commissions and how and where they were being paid.
- 5.6 The Council observed that three exporters had requested the use of Special Handling Arrangements, whereby the details of agents used are only revealed to a small number of UKEF officials (although all other requirements are the same). Mr Palmer reminded the Council that the due diligence process for cases processed under the Special Handling Arrangement, were the same as for all other applications.
- 5.7 The Council noted that UKEF had provided support for the supply of bridges to Sri Lanka by Mabey Bridge, part of the Mabey family of companies. In the light of the conviction of Mabey & Johnson for bribery offences, the Council requested a briefing at its next meeting on the anti-bribery due diligence undertaken by UKEF on this latest export contract.
- 5.8 The Council asked that the report should be published on UKEF's website in line with previous practice.

Action: Secretary to arrange a briefing on Mabey & Johnson and to publish the anti-bribery report on UKEF's website.

6 KNOW YOUR CUSTOMER AND ADVERSE HISTORY DUE DILIGENCE

- 6.1 The Council recalled that during a previous discussion about the application of the OECD Common Approaches, it had requested information on how UKEF conducted 'know your customer' (KYC) and adverse history due diligence.
- 6.2 Mr Philips explained that the purpose of KYC and Adverse History checks was to identify any issues which may give cause for concern, e.g. evidence of fraud, money laundering; to consider if any issues that came to light could impact upon the financial risks UKEF was being asked to bear; and whether there could be potential reputational damage and/or political embarrassment if support was provided. He emphasised that these checks were performed on all applications regardless of the contract size, contract tenor and/or product type and whether or not the application fell within the scope of the OECD Common Approaches.
- 6.3 The Council remarked that at a meeting with AI earlier in the year, AI had expressed concern about the lack of due diligence carried out on applications outside the scope of the OECD Common Approaches. The Council noted the KYC and Adverse History checks which were routinely carried out and that if concerns emerged about ESHR issues through this process they would be referred to UKEF's Environmental Advisory Unit for further investigation and consideration. The Council also noted that if evidence of wrong-doing and unethical/unlawful behaviour was discovered, this would be taken into account in the decision on whether or not to provide support.
- 6.4 The Council asked whether UKEF made use of the Specially Designated Nationals List maintained by the Office of Foreign Assets in the US Department of the Treasury. Mr Palmer said UKEF consulted FIN-NET, the cross-government fraud and financial crime network.

7 EGAC TRIENNIAL REVIEW

- 7.1 The Council noted the draft report of the EGAC Triennial Review. The Council said it would not comment on the recommendations which were for the Government to decide, but would wish to receive feedback from Ministers on its work.
- 7.2 The Council noted that an Internal Audit review of EGAC's governance had made a number of recommendations that were reflected in the draft report. The Chairman confirmed that these recommendations would be adopted in 2014, following publication of the final Triennial Review report.
- 7.3 The Council said it would consider how it should engage with outside Interested Parties in 2014, noting it would be most interested in meeting those that could provide tangible evidence to support their concerns.

8 REQUESTS FOR INFORMATION

- 8.1 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.
- 8.2 The Council suggested that some requests for information on export transactions supported by UKEF could be avoided if UKEF also disclosed information about the product under which the exports has been supported e.g. Bond Support, at the time transactions are listed in the Annual Report.

Action: Secretary to arrange for consideration to be given to including the product type under which exports were supported when UKEF publishes business information in its Annual Report.

9 EGAC SCORECARD

- 9.1 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.

10 BUSINESS SUPPORTED

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

11 ANY OTHER BUSINESS

11.1 None.

Larry Lily
Secretary



EXPERIENCE OF UK EXPORT FINANCE IN OPERATING ITS ANTI-BRIBERY & CORRUPTION PROCEDURES UNDER ITS REVISED APPLICATION FORMS IN PLACE SINCE 1 JULY 2006

ANNUAL BRIEFING FOR EXPORT GUARANTEES ADVISORY COUNCIL

FOR PERIOD: 1 JULY 2012 to 30 JUNE 2013

A. APPLICATIONS RECEIVED AND CASES SUPPORTED

1. APPLICATIONS

A. Total number of Applications received	B. Number of Applications disclosing the existence of an Agent	C. Number of Applications disclosing the existence of Joint Venture/ Consortium Partners	D. Number of Applications involving SMEs ¹	E. Number of Loan Contracts not governed by English law
269	69	4	197	2²
F. Number of occasions where UK Export Finance as reinsurer relied on due diligence by the lead ECA on the head contract under reinsurance arrangements ³		G. Number of occasions where anti-bribery procedures were not applied by UK Export Finance due to the low value of a sub-contract under reinsurance arrangements		
1	0			

¹ An SME is defined as an enterprise with fewer than 250 staff and turnover of less than €50m and does not have a parent that falls outside of these criteria.

² New Zealand law. These relate to Supplier Credit Finance facilities under which UK Export Finance does not take the documentation risk.

³ COFACE, France.



2. USE OF SPECIAL HANDLING ARRANGEMENTS (SHAs) FOR AGENTS

A. Number of Applicants requesting use of SHAs	3
B. Number of Applications on which an Applicant's consent was sought for the making of inquiries by UK Export Finance	6
C. Number of Applications on which an Applicant refused consent for the making of inquiries by UK Export Finance	Nil
D. Number of Applications where cover was refused by UK Export Finance because (i) the Applicant refused its consent for inquiries by UK Export Finance, or (ii) UK Export Finance was not satisfied, following its enquiries, concerning the Agent	Nil
E. Number of cases supported by UK Export Finance on which the Applicant refused consent for UK Export Finance to make inquiries concerning its agent	Nil

3. JOINT VENTURES/CONSORTIUM PARTNERS (JVs)

A. What proportion of Applicants, who were party to a JV, disclosed all the parties to that JV?	100%
B. What proportion of Applicants, who were party to a JV, refused to disclose any of its JV partners?	0%
C. What proportion of Applicants, who were party to a JV, disclosed the names of all agents acting on their JV's behalf?	N/A ⁴

⁴ Of the four applicants who were party to a JV, none used an agent.



4. DUE DILIGENCE (*conducted on all processed Applications*)

A. What was the proportion of Applications on which all relevant names were checked by UK Export Finance against the publicly available debarment lists of the International Financial Institutions specified in the OECD Recommendation?	100%
B. What proportion of UK Export Finance checks against the above lists identified any potential problems/issues?	0%
C. What proportion of Applicants disclosed the existence of a corporate Code of Ethical Conduct or the equivalent?	48%
D. What proportion of those Applicants with a Code of Conduct provided a copy of that Code of Conduct to UK Export Finance (where not previously provided)?	100%
E. What proportion of Applicants refused to provide to UK Export Finance any additional information, when requested, relating to a bribery and corruption issue?	0%
F. The number of Applicants that disclosed to UK Export Finance that they, or anyone acting on their behalf, were under charge or, within the last five years, had been convicted of bribery or corruption in a UK court	Nil
G. What proportion of Applicants disclosed that they, or anyone acting on their behalf, had been subject within the last five years to any administrative sanction or measure in the UK for bribery or corruption?	0%
H. What was the proportion of Applicants that were the subject of allegations made to UK Export Finance relating to bribery or corruption in respect of the contract for which UK Export Finance support was requested?	0%
I. The number of Applications rejected by UK Export Finance because of bribery or corruption-related issues?	0
J. What proportion of Applications, in which the existence of an agent was disclosed, were subject to inquiry by UK Export Finance with the relevant UK overseas diplomatic mission on the standing of that agent?	100%



5. CASES SUPPORTED BY UK EXPORT FINANCE

A. Number of cases supported by UK Export Finance ⁵	B. Number of supported cases on which the existence of an Agent was disclosed to UK Export Finance	C. Number of supported cases on which the existence of a JV was disclosed to UK Export Finance	D. Number of supported cases on which the Loan Contract was not governed by English law
231	52	2	2²

B. INTERNATIONAL AND OTHER DEVELOPMENTS

1. OECD/INTERNATIONAL

Brief outline of significant international developments concerning UK Export Finance's anti-bribery and corruption procedures that took place within the OECD or elsewhere

A. Number of OECD anti-bribery and corruption meetings attended by UK Export Finance.	0⁶
B. Number of bilateral meetings with non-OECD official export credit agencies (ECAs) at which UK Export Finance raised the general topic of anti-bribery and corruption	0

June 2013 – Commented on the Phase 3 Recommendations on the United Kingdom by the OECD Working Group on Bribery on Implementing the Anti-Bribery Convention.

June 2013 – OECD Secretariat presented the provisional 2012 peer review of Members' practices and procedures for implementing the 2006 Recommendation.

June 2013 – OECD Secretariat (Anti-Corruption Division) provided an update on recent developments with regard to implementation and monitoring of the OECD Anti-Bribery Convention including the Phase 3 reports relating to export credits.

June 2013 – OECD Secretariat (Office of the Secretariat-General) provided an update on recent developments with regard to the CleanGovBiz initiative.

⁵ Not all applications result in a supported case and those that are supported are not necessarily in respect of applications received during the period of this report.

⁶ No OECD anti-bribery and corruption meetings took place.



2. ALLEGATIONS

UK Export Finance refers all specific allegations of bribery and corruption and money laundering of which it becomes aware to the appropriate authorities

A. Number of specific allegations of corruption received by UK Export Finance

1

B. Number of specific allegations of corruption referred by UK Export Finance to the appropriate UK authorities

1

3. RECOURSE

UK Export Finance has a right under its Premium and Recourse Agreement with an exporter on a transaction which benefits from financing provided under an UK Export Finance guarantee to a funding bank to take financial recourse to that exporter in the event of loss caused by a corrupt act

A. Number of cases in which UK Export Finance sought to enforce its right of recourse against an exporter because of corrupt activity

Nil

4. OTHER DEVELOPMENTS

Brief timeline of other significant developments during the period of this briefing concerning UK Export Finance and the issue of anti-bribery and corruption

November 2012 – Ministers updated by BIS on progress made against the OECD Bribery Working Group recommendations.

February 2013 – Training given to new members of the Short Term Products team.