

**EXPORT GUARANTEES ADVISORY COUNCIL
MINUTES OF MEETING HELD ON 8 DECEMBER 2014**

Present: Mr Andrew Wiseman (Chair)
Ms Gillian Arthur
Mr Chris Fitzpatrick
Mr John Newgas

Apologies: Mr Alastair Clark
Ms Alexandra Elson
Mr Neil Holt
Ms Anna Soulsby

In attendance: Mr David Godfrey
Mr Pat Cauthery
Ms Helen Meekings
Ms Lucy Wylde
Ms Denise Rowley (item 4)
Mr Frank Gough (item 5)
Mr Simon Phillips (item 6)
Ms Carol Gradwell (item 7)
Mr Mark Hopkins (item 7)

Secretary: Mr Laurence Lily

APOLOGIES FOR ABSENCE

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

2 MINUTES OF 17 FEBRUARY 2014 MEETING AND MATTERS ARISING

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

2.2 The Council recalled the briefing it received at an earlier meeting on the operations of the UK National Contact Point (NCP), the body which oversees the OECD Guidelines for Multinational Enterprises in the UK. The Council observed that the NCP was a useful and important avenue for the resolution of

disputes when there was an appetite for parties to understand, mediate and resolve differences. However, the Council considered that where disputes were entrenched and had become adversarial, engagement with the NCP might be of limited value due to its reliance on voluntary participation. The Council commented that parties which had grievances against ECA-supported projects would probably consider a voluntary process unsatisfactory given that the NCP had no powers of enforcement. Legal redress, for example, through Judicial Review, could be an alternative option.

3 CHIEF EXECUTIVE'S UPDATE

- 3.1 Mr Godfrey provided the Council with an update on business volumes. He commented that the number of exporters being directly supported had increased and the majority were small companies. He said UKEF continued to raise awareness of its offering through marketing campaigns and was currently streamlining its application processes.
- 3.2 Mr Godfrey remarked that the volume of support for Airbus aircraft had declined following a quicker and stronger than expected recovery in bank liquidity for this asset class. He commented that the pipeline for civil project business remained strong. He informed the Council that UKEF had supported the first project under the Direct Lending Facility in October involving the partial funding of a US\$110 million buyer credit loan to finance a contract involving the construction by Carillion of the Dubai World Trade Centre in Dubai.
- 3.3 Mr Godfrey reported that the Small Business, Enterprise and Employment Bill which included clauses to change UKEF's Act had passed through the House of Commons and would be considered by the House of Lords in the New Year. He explained that two amendments had been raised in the clauses relating to UKEF's powers: one from the Labour Party that would require an independent assessment of UKEF's function and powers to be carried out, and another from the Green Party that would place a duty on the Secretary of State when exercising powers under the EIGA to have regard to the government's human rights commitments and to report annually on the moral and ethical standards

of those receiving UKEF support. The Council noted that both amendments were defeated. It asked to be kept informed of developments as the Bill progressed through Parliament.

Action: Secretary

- 3.4 Mr Godfrey informed the Council that the Labour Party had invited Graham Cole, Chairman of AgustaWestland UK, to chair an independent review of government support for exports that would focus on UKTI and UKEF. It was expected that an interim report would be produced before the General Election, to be followed by a full report published after the General Election. He told the Council that the Government's position was that UKEF (and UKTI) would not participate in the review other than provide information that could be made publicly available.
- 3.5 Mr Godfrey told the Council that a review of governance arrangements for UKTI and UKEF had resulted in the creation of a single Trade and Investment Board, chaired by the Minister for Trade and Investment. He explained that its membership included the Accounting Officers from UKEF and UKTI and non-executives appointed by the Minister. The new Board would advise on trade and investment strategy and, additionally, serve as UKTI's Management Board. It would meet four times a year. Mr Godfrey said that due to the nature of UKEF's business, particularly the assumption and management of large contingent financial liabilities, it would retain its own Board, chaired by a non-Executive Director, to support the Accounting Officer.
- 3.6 Mr Godfrey reported on talks in the OECD to agree limits on support for high carbon intensity power plants by member export credit agencies. He reminded the Council that the US and the UK had jointly promoted the introduction of an emissions performance standard. He said that so far no agreement had been reached and that other countries had made alternative proposals which would be considered in due course.

- 3.7 Mr Godfrey informed the Council he had met the newly appointed Chief Financial Officer of Rolls-Royce. No new information in relation to the SFO investigation into Rolls-Royce had emerged since the Council's last meeting.

4 BRITISH BANKERS ASSOCIATION

- 4.1 The Council reported on a meeting it had held with the British Bankers Association (BBA). The BBA had welcomed the progress being made by UKEF, particularly the introduction of new products, such as the Bond Support and Export Working Capital products, which had renewed confidence that the Department was being equipped to meet the needs of exporters. The Council noted that BBA wished to encourage UKEF to continue to simplify its documentation and processes and to become better at promoting its products including reaching out to overseas buyers on the availability of funding in order to facilitate the procurement of supplies from UK exporters. The Council said it would report further on its discussion at its next meeting.

Action: Secretary

5 EXPORT INSURANCE POLICY APPLICATION FORM

- 5.1 Ms Rowley told the Council that UKEF was undertaking a programme of work to modernise its product documentation. This included making revisions to the application form for an Export Insurance Policy (EXIP) and the policy document itself. She explained this was in response to customer feedback which considered the existing documentation to be too complex and long and a potential barrier to the uptake of the product. The proposed new documents would use plainer English and the application form could, potentially be reduced from thirteen to eight pages.

- 5.2 Ms Rowley said that a particular concern had centred around the part of the application form and policy documents which dealt with UKEF's anti-bribery policies, in particular, the Declarations and Undertakings applicants had to make that they had not engaged in corrupt activity in order to win the business

the subject of the request for cover. Ms Rowley said that the Declarations and Undertakings has been produced at a time when UKEF provided support to projects, rather than SMEs engaged in simple supply contracts. She commented that the Declarations and Undertakings were not easy to follow and there was duplication between the Application Form and the policy document. Therefore, the aim was to simplify the language and remove duplication but without diluting the strength of the Declarations and Undertakings. Ms Rowley said the anti-bribery clauses in the policy document would be revised in line with changes being proposed in the application form to align the two documents.

- 5.3 The Council supported the changes. It considered simplification would be likely to make the Declarations and Undertakings more effective, as they would be better understood by applicants. The Council made a number of suggestions for simplification. The Council commented that the application process should always serve as an opportunity for UKEF to encourage companies that did not operate an anti-bribery code of conduct to implement one.
- 5.4 The Council advised that the application of UKEF's anti-bribery and corruption policies was a matter of importance to a number of interested parties, including exporters, trade bodies and NGOs as had been the case when UKEF had consulted on the new Declarations and Undertakings in 2005-06 and when it introduced the Letter of Credit Guarantee Scheme in 2009. The Council considered there would be interest in the changes now being proposed. The Council advised UKEF to consider consulting interested parties before the changes were promulgated so that UKEF could take account of comments and suggestions, albeit that the Declarations and Undertakings would be easier to comprehend but not weakened in their effect.
- 5.5 The Council asked to be kept informed of developments.

Action: Secretary

6 OECD SURVEY ON EXPORT CREDIT AGENCIES' COMPLIANCE WITH THE OECD BRIBERY RECOMMENDATION

- 6.1 Mr Gough presented the Council with the outcome of an OECD survey of member Export Credit Agencies on their compliance with the *OECD Recommendation on Bribery and Officially Supported Export Credits*. Mr Gough reminded the Council that a purpose of the OECD Recommendation was to ensure that member ECAs uniformly operated anti-Bribery policies which helped create a level playing field in approach. The Council noted that although the survey highlighted some minor differences in the application of the Recommendation, it showed ECAs were applying it on a broadly consistent basis. The Council considered that more detailed knowledge of the nuances of how the Recommendation was applied in practice by ECAs might reveal more differences, noting that different legal systems and application processes could allow for variations in how the Recommendation was operated in practice.
- 6.2 The Council commented that the BBA had remarked that the concept of “level playing field” was expressed to banks only by UKEF, and was not espoused by other ECAs in their dealings with the banks.

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

- 7.1 Mr Phillips introduced a report on the operation of the *OECD Recommendation on Bribery and Officially Supported Export Credits*. The Council noted the increase in the number of applications for support received over the 12 month period of the report which had mainly come about from the growing numbers of applications made in respect of exports sold on short terms of credit, often from smaller companies.
- 7.2 The Council noted the use of agents appeared to be more common for export transactions conducted on short terms of payment. The Council recalled it had previously considered why SMEs may be more likely to rely on Agents and pay commissions which although small in absolute terms may be high in terms of

the percentage of the contract value. The Council recognised that small firms performing relatively small contracts would more likely engage agents as they could not sustain overseas operations e.g. representative offices, and fees were probably higher as a proportion of contract values as agents have to earn a minimum threshold of commissions to sufficiently remunerate their costs.

- 7.3 The Council welcomed the fact that more companies had reported operating their own anti-bribery and corruption policies. It noted that UKEF can refer companies who do not operate anti-bribery policies to the Ministry of Justice website which contains guidance to companies on the Bribery Act and the measures companies can take to protect themselves against corrupt activity. The Council advised that all companies not having their own anti-bribery policies should be recommended to have one and be referred to sources of guidance.
- 7.4 The Council noted that the Special Handling Arrangements (SHAs) had been used by two exporters. Mr Phillips reminded the Council that the purpose of the SHAs is to protect knowledge of the Agent's identity which is confined to a limited number of UKEF staff who carried out the due diligence but the inquiries made is no different where the agent's name had been disclosed in the application form.
- 7.5 The Council noted there had been two occasions when UKEF had provided reinsurance to OECD member ECAs. It further noted that UKEF had relied on the anti-bribery due diligence carried out by the reinsured ECA, in line with UKEF's policy agreed in 2010 that when it re-insures another ECA which is a member of the OECD and, therefore, applies the OECD Recommendation, UKEF would no longer undertake its own due diligence on the lead/main sub-contractor but instead rely on the lead ECA's due diligence. On the two occasions when this happened in the last year, the reinsured ECAs were COFACE (France) and Atradius (Netherlands).
- 7.6 The Council noted that no applicants had been the subject of allegations relating to bribery or corruption in respect of the contract for which UK Export

Finance support was requested. However, it noted that three companies who had previously benefitted from UKEF support were currently under investigation or charges by the SFO.

- 7.7 The Council noted that UKEF would be carrying out another round of anti-Bribery training for staff in the New Year.
- 7.8 Mr Phillips informed the Council that UKEF had acquired new software to provide an on-line information source covering sanctions, anti-money laundering, counter terrorist financing, and general financial crime prevention. Mr Phillips told the Council that this would make the due diligence checks which UKEF carried out more comprehensive and efficient.
- 7.9 The Council asked for the report to be published on the UKEF website.

8 INTERNAL AUDIT OF ENVIRONMENTAL ADVISORY UNIT PROCEDURES

- 8.1 Mr Hopkins informed the Council of an internal audit review of the processes and procedures that should be followed in order to comply with the *Recommendation on Common Approaches for Officially Support Export Credits and Environmental and Social Due Diligence*. Mr Hopkins said the review had tracked a sample of transactions/projects where UKEF support had been requested to check those which fell within the scope of the OECD Common Approaches had been submitted to the Environmental Advisory Unit and subsequently been screened, classified and reviewed in accordance with the Common Approaches. The review also included projects where support had been provided to check that post-issue monitoring procedures were being followed.
- 8.2 Mr Hopkins said that the review had found that there were clear instructions to staff and processes were well-designed and aligned with the OECD Common Approaches. The review had found that processes were being properly

followed. He said the review had resulted in some suggestions being made to improve records for reporting purposes.

- 8.3 The Council welcomed the independent assurance that the processes were being correctly applied. The Council noted that the review had examined processes and not looked at the environmental social and human rights due diligence carried out by the EAU to ascertain that the projects for which support was being sought aligned with local and international standards as required by the OECD Common Approaches. It could be considered for any area of future review.

9 INFORMATION REQUESTS

- 9.1 The Council noted UKEF's recent responses to requests for information.

10 EGAC SCORECARD

- 10.1 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.

11 BUSINESS SUPPORTED

- 11.1 The Council noted the business supported since its last meeting.

12 ANY OTHER BUSINESS

- 12.1 There was 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 2013 to 30 JUNE 2014

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
259	61	7	200	0

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 ²	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
2	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 COFACE – France, Atradius - Netherlands.

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

A. Number of Applicants requesting use of SHAs	2
B. Number of Applications on which an Applicant's consent was sought for the making of inquiries by UK Export Finance	5
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 ³

³ 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?	59%
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 ⁴	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
557	72	3	0

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.	0⁵
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
November 2013 – OECD Secretariat (Export Credits) published the 2012 annual review of Member's responses to the implementation of the 2006 Recommendation.	
November 2013 – OECD Secretariat (Anti-Corruption Division) provided an update on implementation and monitoring of the OECD Anti-Bribery Convention, including the latest Phase III reports relating to export credits.	
March 2014 – Members were reminded to update their responses to the 2006 Recommendation, if there had been any changes. The UK reviewed its responses to ensure that it remained accurate.	
June 2014 - OECD Secretariat (Anti-Corruption Division) provided an update on implementation and monitoring of the OECD Anti-Bribery Convention, including the latest Phase II and III reports relating to export credits.	

⁴ 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.

⁵ 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	0
B. Number of specific allegations of corruption referred by UK Export Finance to the appropriate UK authorities	0

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
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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

June 2014 – Additional due diligence checks carried out as a result of the introduction of the US and EU Sanctions lists.