

**EXPORT GUARANTEES ADVISORY COUNCIL
MINUTES OF MEETING HELD ON 23 FEBRUARY 2015**

Present: Mr Andrew Wiseman (Chair)
Ms Gillian Arthur
Mr Neil Holt
Ms Anna Soulsby

Apologies: Mr Alastair Clark
Ms Alexandra Elson
Mr Chris Fitzpatrick
Mr John Newgas

In attendance: Mr David Godfrey
Mr Pat Cauthery
Mr Steve Dodgson
Mr Max Griffin
Dr Helen Meekings
Ms Helen Russell
Ms Rebecca Schade
Mr David Underwood

Secretary: Mr Laurence Lily

1 APOLOGIES FOR ABSENCE

1.1 Apologies were received from Mr Alastair Clark, Ms Alexandra Elson, Mr Chris Fitzpatrick and Mr John Newgas

2 MINUTES OF 8 DECEMBER 2015 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 PROFESSOR RUGGIE

3.1 The Council met with Professor Ruggie, formerly a Special Representative to the UN Secretary-General and author of the UN Guiding Principles on Business

and Human Rights (the Guiding Principles) together with colleagues from Shift, an organisation with expertise on the Guiding Principles. Professor Ruggie explained that his visit to London was to launch a reporting framework and implementation guidance on the Guiding Principles. Professor Ruggie said that the production of the framework was a natural and important development flowing from the promulgation by the UN of the Guiding Principles.

3.2 Professor Ruggie recalled that the UK Government had published a strategy document on human rights and business in the wake of the adoption by the UN of the Guiding Principles. Professor Ruggie reminded the Council that the Guiding Principles specifically referenced Export Credit Agencies (ECAs) given they are directly, or indirectly, organs of governments (States) and played a significant global role in the financing of exports and, therefore, had a particular responsibility to manage, respect and protect human rights through support provided in respect of particular projects. 3.3 Mr Godfrey commented that in common with other OECD ECAs, UKEF applied the *OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence* (OECD Common Approaches) when supporting relevant projects. He said UKEF had a dedicated team of professional environmental staff that undertook environmental, social and human rights (ESHR) due diligence. He said it was UKEF's practice to undertake ESHR due diligence before giving support and, after support was provided by monitoring projects according to their potential ESHR impacts during the construction and operational phases to ensure on-going alignment with international standards typically the IFC Performance Standards. Professor Ruggie commented that while the IFC Performance Standards provided a means to benchmark project related human rights impacts, in his view, the standards, including Performance Standard 1 had gaps and needed to be strengthened. Professor Ruggie considered that much still needed to be done in the human rights arena and cited the extractive industries sector as an example where often there were human rights issues related to land use,

access to water resources, etc. Moreover, there were particular human rights issues related to projects in conflict areas.

3.4 The Council commented that the role of ECAs was to support national exports and exporters who competed for business with suppliers from other countries, in contrast to government aid agencies that made grants and/or soft loans available usually directly to other sovereign governments and, therefore, were in a stronger position to influence improvements to human rights standards. In contrast, the ECAs did not always have a contractual nexus with buyers and project sponsors. While recognising the role of ECAs, Professor Ruggie remarked that exporters still had a responsibility to address human rights in conducting their business and the UN Guiding Principles provided a framework in which States and businesses should both play their respective roles to respect and protect human rights appropriate to each of their sphere of responsibility. Professor Ruggie commented that the OECD Guidelines for Multinational Enterprises also provided a framework for business behaviour and it covered human rights. He said it was vital that businesses understood the reputational as well as legal risks in being associated with projects that failed to properly address human rights. In regards to the ECAs, he remarked that the provision of finance provided a degree of leverage with project sponsors and the ECAs should use such leverage to make a difference. In this respect, the banks also had a role to play through their adoption of the Equator Principles.

3.5 The Council observed that projects supported by UKEF (and other ECAs) were sometimes in countries where the national legislative framework, for example, in relation to worker rights, meant that full alignment with international standards may not be achievable. Professor Ruggie acknowledged the issue and recognised businesses could not take responsibility for addressing human rights issues which properly belonged to States. However, he said that it was important for ECAs to consider the severity of potential human rights impacts on a risk-based approach, taking account of the size of projects, and apply 'principled pragmatism' bearing in mind the local context; for example, where a country did not permit worker associations/trades unions and/or freedom of

association and collective bargaining, it would still be possible for project sponsors to implement mechanisms, including grievance mechanisms, to cover such gaps and ensure workers were afforded protection. Mr Dodgson observed that migrant labour particularly from the Indian sub-continent were often culturally inhibited from raising complaints and grievances even where procedures may exist at the project level.

3.6 The Council remarked that while the OECD had made progress to develop ethical policies including human rights through the adoption of the OECD Common Approaches, many exporting countries were not subject to these disciplines. A major challenge would be to persuade such ECAs to adopt similar policies and practices.

3.7 Mr Dodgson asked Professor Ruggie for his views on the Equator Principles. Professor Ruggie acknowledged the progress being made by financial institutions to also operate within a framework that included examining human rights and noted that there was much similarity with the OECD Common Approaches applied by ECAs.

3.8 The Council thanked Professor Ruggie and colleagues from Shift for making time available for a meeting. The Council commented that it had been a useful discussion which had informed their understanding of the UN Principles. The Council asked for a briefing at a further meeting on the new reporting framework being launched in London.

4 CHIEF EXECUTIVE'S UPDATE

4.1 Mr Godfrey provided the Council with an update on business. He told the Council that the outturn of business supported in 2014-15 was now expected to be around £2-£2.3bn. Mr Godfrey commented that a number of contracts involving Petrobras, the Brazilian state oil company, had been delayed in the light of bribery allegations against Petrobras. He told the Council that RollsRoyce had been named in allegations but said that the company had last received UKEF support for supplies to Petrobras in 2005.

- 4.2 The Council asked if UKEF had undertaken an assessment of EFA activity in order to gauge their impact and effectiveness. Mr Godfrey said that performance measures were being implemented that would also take account of situations where the EFAs had directed exporters that had sought help to sources of support from the private market and not just referrals to UKEF.
- 4.3 Mr Godfrey told the Council that along with UKTI, a comprehensive customer segmentation analysis had been produced which had assisted the alignment of UKTI and UKEF marketing programmes. He said UKEF had also produced and distributed a bank toolkit which was a guide designed to help bank staff understand UKEF's products and provide them with sufficient knowledge to discuss with confidence the products to their customers. The Council asked whether UKEF encouraged staff to obtain export and finance qualifications. Mr Godfrey said that a number of the EFAs had banking and/or exporting experience. Staff had undertaken training with the Institute of Export and external project financing and credit analysis training courses.
- 4.4 Mr Godfrey told the Council there had been public comment in the media about the level of UKEF support for business in the oil and gas sectors. Greenpeace had alleged that the Government had not applied its commitment when taking office to be the greenest government ever and constrain UKEF support for 'dirty fossil fuel' projects. The Council recalled that the Government had issued a statement about how the UKEF would implement the commitment contained in the Coalition Programme for government. Mr Dodgson confirmed that UKEF had applied that commitment. He commented that UKEF stood ready to support green technology exports but it could only respond to demand. UKEF continued to engage with the renewables industry to ensure exporters were aware of its products and services. This had recently included meetings between UKEF and the UK Green Investment Bank (GIB).
- 4.5 Mr Godfrey briefed the Council on the efforts being made within the OECD to limit ECA support for coal-fired power projects. He said that the OECD would be likely to table alternative proposals to those put forward by the US/UK to

implement an emission standard. This discussion had exposed strong differences between the ECAs. He said negotiations within the EU Council Working Group on Export Credits, which was seeking to agree a common EU position on the issue, had also reached an impasse. The Council asked to be updated on further developments.

4.6 Mr Godfrey reminded the Council about proposals to make changes to the anti-bribery declarations and undertaking made by applicants. He confirmed that taking account of the Council's advice, UKEF would carry out a public consultation. The Council said it would wish to consider submissions from interested parties when the government's response was being formulated.

5 BRITISH BANKERS' ASSOCIATION: DISCUSSION OF MEETING

5.1 The Council reported on its meeting with the Trade Finance Committee of the British Bankers Association (BBA). The Council said that the BBA had welcomed the improvements in UKEF over recent years. The BBA had particularly cited the introduction of new products and felt that the government had reinvigorated the UK's ECA. The launch of the Direct Lending facility in particular had been a significant development. However, the BBA also commented that it had concerns about the responsiveness and flexibility of UKEF, particularly in the application of its processes and procedures which often delayed applications for support and issuing cover. The long turnaround times did not fit the commercial timelines that exporters and banks had to work under.

5.2 The Council said the BBA acknowledged more could be done to improve the understanding of UKEF's products and services within banks. While the central trade finance functions had a good knowledge and appreciation of UKEF's products and services, this was not always the case in the regional networks and at local branch level, although each bank had different structures and this often influenced the level of engagement with UKEF.

5.3 Mr Godfrey told the Council that the banks were the key partner as the Working Capital and Bond Support products were delivered through them. They had a multiplier effect in promoting the availability of the products to their customers. He referenced the toolkit UKEF had produced to help banks message the products to exporters. Mr Godfrey also commented that work was in hand to address response times and consideration was being given to examining other possible delivery models that could cut and simplify processes and thereby improve turnaround times. The Council noted that awareness raising in banks, along with seeking to improve turnaround times, would remain a priority.

5.4 The Council said that the BBA had commented that other ECAs were more aggressive in pursuing their national interest agenda in the way they conducted business, for example, through their interpretation of international agreements, including those relating to environmental, social and human rights impacts. Mr Dodgson commented that the banks would be very familiar with the operations of other ECAs as most would fund exports being supported by other ECAs. The Council commented that the BBA had not offered concrete examples of other ECAs that applied the OECD agreements differently. The Council observed that other interested parties alleged that other ECAs operated beyond the OECD agreements.

5.5 The Council said that the discussion had largely been positive and encouraged UKEF to continue engagement with the BBA given the vital role played by the banks in financing exports.

6 ENVIRONMENTAL ADVISORY UNIT ANNUAL REVIEW

6.1 Dr Meekings gave a presentation on the work of the Environmental Advisory Unit (EAU) during 2014. She summarised the work it carried out to conduct ESHR assessments in respect of new applications for support and on projects where support had already been provided to monitor on-going alignment with international standards. The Council noted that the proportion of due diligence in respect of existing projects was increasing given the numbers that were now

in the post-issue phase. The Council asked whether this posed a challenge for the resourcing of the EAU. Dr Meekings said that she was monitoring the workload of the EAU and was preparing a potential bid for additional resource. However, she reminded the Council that the EAU had access to independent environmental consultants that could be called upon to meet high workloads. She also told the Council that during the year the EAU had established a new panel of consultants in line with public procurement rules.

6.2 Dr Meekings briefed the Council on policy work carried out by the EAU during the year. The EAU had supported the work of the OECD Environmental Practitioners to examine human rights due diligence and reporting of greenhouse gases as mandated by the OECD Working Group on Export Credits. The EAU had also been involved in policy matters related to ECA support for coal-fired power projects. Dr Meekings said the EAU would need to provide policy advice in relation to the OECD considering later in 2015 whether to make revisions to the OECD Common Approaches.

6.3 The Council said it was impressed by the breadth and depth of activity carried out by the EAU. It considered that UKEF should do more to explain and educate the role it plays in undertaking ESHR due diligence to customers and interested parties. It encouraged the EAU to consider producing and making public a case study to demonstrate the value it brought to projects supported by UKEF.

7 CATEGORY A PROJECT: JAMNAGAR OIL REFINERY, INDIA

7.1 At the Council's request, a presentation was provided on UKEF's support for a project to expand an oil refinery, the world's largest, on the west coast of India by Reliance Industries, India's largest private sector company. The Council noted the project was the first large project supported in India for many years, coming at a time when the government was promoting exports to India.

7.2 The Council noted the project had been supported on a corporate risk basis. It also noted the project had been supported by other ECAs but unlike those financed on a limited recourse basis, each ECA had separately carried out their own due

diligence at different times and there had been no information sharing. Mr Griffin said that UKEF had undertaken site visits to supplement the environmental information published by the project sponsor.

7.3 Mr Griffin summarised for the Council the activity undertaken to review the ESHR impacts and how these had been benchmarked against local and international standards. He explained some of the issues which had arisen from this process, including in relation to worker conditions, for example, health and safety, accommodation, and also security arrangements.

7.4 Mr Griffin said that UKEF support included post-issue monitoring rights and further discussed with the Council the outcome of the first post-issue monitoring visit. He told the Council that there was not an independent environmental consultant acting for UKEF or other ECAs which meant that each ECA had to carry out its own due diligence during the construction and operations phases. He commented that to his knowledge UKEF had been the only ECA, so far, that had conducted an on-site post-issue monitoring review. A team, including the Director of the Business Group, visited the site, met with senior management to discuss project implementation issues and also observed community programmes being supported by Reliance in the vicinity of the project. Mr Griffin commented that the project would be employing some 140,000 workers by the summer of 2015 and UKEF was planning to

carry out a further post-issue monitoring visit and would look at worker conditions given the increasing numbers of labourers on site.

7.5 The Council commented that the project was very significant in terms of its physical size and the amount of financing that was involved, but the ECAs had not collaborated in the ESHR due diligence which otherwise may have made the task easier of engaging with the project sponsor, carrying out due diligence and monitoring alignment with international standards. The Council asked to be kept informed of developments.

8 LEGISLATION UPDATE

8.1 Mr Cauthery updated the Council on the passage through Parliament of the Small Business, Enterprise and Employment Bill which included clauses to widen UKEF's statutory powers. He informed the Council of amendments proposed by the Opposition which had not been accepted by the Government but might be further proposed at a later stage. Mr Cauthery said that there was a risk that the Bill may not complete its passage given the volume of business and the short time remaining before Parliament would be prorogued in readiness for the forthcoming General Election.

8.2 The Council asked to be updated, noting that changes to policies or products as the result of new powers might impact the development or application of UKEF's ethical policies.

9 REQUESTS FOR INFORMATION

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 The Council noted that the Secretary was moving to new role in UKEF and thanked Mr Lily for his services to the Council. The Council welcomed Mr Underwood as the new Secretary.

**Larry Lily
Secretary**