

EXPORT GUARANTEES ADVISORY COUNCIL

MINUTES OF MEETING HELD ON 14 May 2012

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

In attendance: **Mr Patrick Crawford**
 Mr Steve Dodgson
 Dr Helen Meekings
 Ms Helen Russell
 Mr David Underwood

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 None.

3 MINUTES OF 6 FEBRUARY 2012 MEETING AND MATTERS ARISING

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

4 CEO UPDATE

Short-Term products

4.1 Mr Crawford updated the Council on the number of exporters and level of exports supported under the Short-Term products since they had been introduced in 2011. The Council observed that demand continued to be low but noted the on-going efforts to raise awareness which over time would be expected to lead to a boost in demand.

4.2 Mr Crawford reported that UKEF had appointed two of the twelve Export Finance Advisors (EFAs) that would be based in each of the regions of UK Trade & Investment and in the Devolved Administrations. Mr Crawford said it was expected that a further four EFAs would be appointed by the summer with the aim of completing the recruitment of the remainder by late Autumn. Mr Crawford said he expected the EFAs to help make a substantial difference in raising exporters' awareness of UK Export Finance's products through engagement with companies locally within each of their regions.

Export Credit Financing

4.3 The Council noted that UKEF was continuing its efforts to identify solutions to potential liquidity problems in the banking sector that could potentially constrain the availability of bank funding against UKEF's guarantees. Mr Crawford said that UKEF was consulting with HM Treasury and the British Bankers' Association to develop solutions.

OECD Common Approaches on the Environment

4.4 The Council noted that the text of the revised OECD Recommendation on Common Approaches on the Environment and Officially Supported Export Credits had been agreed by OECD members on 17 April. Mr Crawford said that the next step, which was expected to take place in June, was for the OECD Council to ratify and promulgate the new agreement. The content of the new agreement remained as described to the Council at its meeting in February.

Climate Change Sector Understanding

4.5 The Council asked about changes to the OECD Climate Change Sector Understanding (CCSU). Mr Crawford confirmed that a new Sector Understanding had been approved by the OECD. The Council noted that for climate change mitigation and water projects credit terms of up to 15 years were permissible and that credit terms of 18 year terms were available for

renewable energy projects, including carbon capture and storage projects, which were the most favourable that could be obtained under the OECD Arrangement. The Council asked how the CCSU might impact UKEF's portfolio. Mr Crawford said he expected that it would have very little effect in the short term because the renewable industry sector in the UK did not yet require support from UKEF.

ECGD Support for Green Technologies

4.6 The Council asked about the progress being made to implement the Coalition Government's commitment that UKTI and UKEF should become champions for companies exporting green technologies rather than supporting dirty fossil-fuel projects. Mr Crawford said that Ministers were hoping to make an announcement before the summer Parliamentary recess. The Council considered that the agreement to establish more favourable credit terms agreed under the CCSU should assist the implementation of this commitment where UKEF support was needed.

5 MEETING WITH THE BRITISH EXPORTERS ASSOCIATION

5.1 The Council reported on its meeting with the British Exporters Association (BExA) held on 6 February. The Council explained that the discussion had centred upon BExA's benchmarking study which had recently been published.

5.2 The Council said that the benchmarking study had compared UKEF's policies and practices with other Export Credit Agencies (ECAs) and the commercial market. The Council considered that the benchmarking had limitations insofar as ECAs operate through different models, policy and legal environments. As a government department, UKEF had to operate to high standards of public scrutiny and accountability in the application of both its risk standards and international rules, which may not be the case for the ECAs of other countries, many of whom are private companies which operate business on behalf of host governments. Moreover, governments of EU Member States were subject to the Short-Term Communication which, except for certain carve-outs, largely bans government-backed credit insurance for exports within the EU and rich OECD markets.

5.3 The Council said that BExA had been complimentary about the recent changes at UKEF, particularly the launch of new products, but had noted that the Department still lagged behind other ECAs in certain respects. The Council reported that one of BExA's main concerns related to the availability of bank funding to support exports under UKEF medium and long-term guarantees; BExA considered that the Government should be willing to *directly* fund guarantees issued by UKEF. The Council was aware that direct lending would impact on Public Sector Net Debt, which suggested that the Treasury would prefer an alternative solution. The Council reported that BExA had restated concerns about the lack of a Fixed Rate Export Finance (FREF) scheme; it considered that unavailability of a FREF scheme meant that UK exporters bidding for large projects could be disadvantaged by competition from countries

which still operated FREF schemes. Mr Dodgson reminded the Council that the scheme had been closed following a public consultation and that the reasons and arguments which had been considered at that time had not changed.

5.4 The Council said that BExA had welcomed the introduction of the new Short-Term products. However, they had a number of issues. In particular, BExA believed UKEF could improve the wording of the Exporter Insurance Policy and that application forms should be simplified. BExA considered that the anti-bribery declarations and undertakings were too long and indigestible, especially for SMEs. BExA suggested that exporters could make a simple declaration about complying with the UK's new Bribery Act. Mr Crawford said that changes to the application forms would be considered as part of the planned review of the Short-Term Products that was scheduled to take place in the summer. Mr Dodgson reminded the Council that UKEF had to comply with the OECD Recommendations on Bribery and Officially Supported Export Credits which applied to ECA support for exports sold on short terms of credit and that UKEF had undertaken a public consultation of its anti-bribery policies as a result of which the anti-bribery declarations had been formed.

5.5 The Council also reported that BExA has stated its intention to lobby the EU on the review of the Short-Term Communication. Mr Dodgson told the Council that the EU Commission would shortly be launching a public consultation on its draft proposals for a revised Short-Term Communication to take effect from 1 January 2013. The Council said that BExA had indicated that they would be

seeking greater flexibility in the framework so that the rules could be quickly adapted in the face of a deterioration in market conditions. Mr Crawford confirmed that UKEF would be participating in the review of the Short-Term Communication with other Member States. He said that the Council would be informed of the outcome of this review.

6 BUSINESS AND HUMAN RIGHTS

- 6.1 Ms Russell provided the Council with a presentation on current human rights issues, in particular the development of UK and international frameworks relating to business and human rights. Ms Russell reminded the Council of the United Nation's "Protect, Respect and Remedy" Framework for Business and Human Rights that had been developed by Professor Ruggie, the UN's Special Representative. Ms Russell explained that the UK Government was developing its own business and human rights strategy, drawing on these UN principles. She said that UKEF was participating in its development which was being led by the Foreign & Commonwealth Office. She said that the Government expected to publish the outcome in the summer or autumn.

- 6.2 Ms Russell reminded the Council that the new OECD Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence would address potential social, as well as environmental impacts, equally throughout the Recommendation and explicitly include project-related human rights impacts within the definition of social impacts.

6.3 Ms Russell reported on the work that UKEF was undertaking on human rights matters through its participation in the OECD Environmental Practitioners Group. The Council recalled that the new OECD Common Approaches was expected to include a commitment for the Practitioners Group to consider how to enhance human rights impacts due diligence. Ms Russell confirmed that the Practitioners had been tasked to address human rights issues with the aim of reviewing how project-related human rights might be further addressed and report back to the Export Credits Group within two years. Ms Russell said that it was expected to start this work at a forthcoming Practitioners meeting being hosted by Norway. It was expected that a small working group would be established to carry out this work and UKEF would wish to be a member.

7 PROJECT MONITORING

7.1 Dr Meekings briefed the Council on the work undertaken by UKEF's Environmental Analysis Unit (EAU) to monitor Category A projects *after* support had been provided during the construction and/or operation phases. She explained that the principal purpose of post-issue monitoring was to track performance against the international standards, to identify any areas where performance was deficient and to ensure remedial action was taken where necessary.

7.2 The Council noted that all Category A cases supported by UKEF were subject to a post-issue monitoring regime. Dr Meekings explained that responsibility for carrying out monitoring was performed by either an independent environmental consultant (usually in situations where there was more than one ECA involved

in the project) a consultant appointed on behalf of UKEF or by staff from the EAU. If there are particular issues which require UKEF to get a better understanding of what was happening on the ground, for example, if there were on-going non-compliances or deficiencies, the EAU might decide to accompany the independent consultant or consultant appointed on behalf of UKEF. Dr Meekings explained that more frequent monitoring was usually carried out during the construction phase and involves site visits. In some cases the site visits were twice yearly and, occasionally, on a quarterly basis. During the operational phase monitoring was normally undertaken annually.

- 7.3 The Council discussed a number of Category A projects in the construction phase that were being monitored. Dr Meekings explained the basis upon which the monitoring was being carried out and some examples where shortfalls had been identified. Although none were serious, it had been necessary to insist upon improvements being made through a remedial action plan.
- 7.4 The Council asked about the response of project sponsors to findings where implementation did not meet the agreed standards. Dr Meekings said that project sponsors normally accepted the need for improvements where the evidence was clear that performance was below expectations, and agreed to deal with the situation. The Council asked what happened in situations where project sponsors failed to address or turnaround shortcomings. Dr Meekings said UKEF had not experienced situations where a project was being constructed below the agreed standard and remediation measures put in place had failed to turn the situation around. However, in normal circumstances the

ECAs would, ultimately, have the ability to call an event of default although the precise circumstances and means by which this could be done varied from project to project. The Council observed that calling an event of default was a ‘nuclear’ option, as it could cause projects to collapse and even if they were able to continue without ECA backed finance the ECAs would lose all influence.

- 7.5 Dr Meekings said that at present there were six Category A projects in the post-issue phase. Dr Meekings reported that there had been a growth in the amount of post-issue monitoring work as an increasing number of civil projects were being supported by UKEF, including Category B projects, some of which were subject to monitoring arrangements, which had put pressure on internal resources.
- 7.6 The Council thanked Dr Meekings for the briefing. The Council said that it would review a Category A or B case at a future meeting to understand how UKEF had categorised and reviewed the environmental, social and human rights impacts of the project concerned before taking a decision to grant support.

8 OECD WORKING GROUP ON BRIBERY: PHASE THREE REPORT ON IMPLEMENTING THE ANTI-BRIBERY CONVENTION IN THE UK

- 8.1 The Council noted the OECD report and the contributions made by UKEF to the OECD examination. The Council also noted, in line with evidence given to the OECD, that anti-bribery refresher training for staff had recently been carried

out with the assistance of Neill Stansbury of the Global Infrastructure Anti-Corruption Centre.

9 EGAC ANNUAL REPORT 2011-12

9.1 The Council approved its Annual Report for 2011-12. This would be published in July within UKEF's Annual Report and Accounts 2011-12.

10 ALL PARTY PARLIAMENTARY GROUP ON INTERNATIONAL CORPORATE RESPONSIBILITY

10.1 The Chairman reported that he had received and accepted an invitation to discuss UKEF with the All Party Parliamentary Group (APPG) for International Corporate Responsibility which was conducting an inquiry into UKEF. He said that he expected to be asked about the role and work of the Council. Mr Crawford said that UKEF would be submitting written evidence and that he expected to meet the APPG to give oral evidence.

11 REQUESTS FOR INFORMATION

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. The Council noted UKEF's performance over the year in responding to requests for information. The Council observed

that in 2011-12 the Department had received the highest ever number of information requests, representing a 50% increase over the previous year. The Council noted that nearly 90% of requests had been responded to within the statutory deadline. The Council noted that while there was no statutory limit to undertake Internal Reviews, the guidance suggested that these should be done within 40 days which was achieved in 50% of cases. The Council encouraged the Department to improve.

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