

Export Guarantees Advisory Council Annual Report 2012-13



The Export Guarantees Advisory Council is a Non-Departmental Public Body. The remit of the Council is defined by the Export and Investment Guarantees Act 1991. Its Terms of Reference, the minutes of meetings and a register of members' interests are available on ECGD's website.

The Council's broad remit is to provide advice to Ministers on the policies that ECGD applies when doing business, particularly its ethical policies related to:

- environmental, social and human rights;
- anti-bribery and corruption;
- sustainable lending; and
- obligations under information legislation.

Ministers have a statutory duty to consult the Council on matters related to the provision of reinsurance by ECGD to the private credit insurance market.

The Council does not provide advice on decisions ECGD makes to support individual export transactions and projects, although it does carry out retrospective reviews of business it has supported to understand how ECGD's principles and policies are applied in practice and, as appropriate, gives advice on how these might be further developed.

Chair

Andrew Wiseman (Partner, Head of Environmental Law, Stephenson Harwood LLP)

Members

Gillian Arthur (Head of Philanthropy Services, Sanne Group)

Alistair Clark (Corporate Director, Environment and Sustainability Department, European Bank for Reconstruction and Development)

Alexandra Elson (Policy Manager, Shell Plc)

Chris Fitzpatrick (Director, Elements of Sherwood Ltd; Non-Executive Director, UKTI)

Neil Holt (Director, Ethics and Business Conduct, CH2M HILL Group)

John Newgas (Consultant, Sagwen Computer Consultancy)

Anna Soulsby (Associate Professor of Organisation Behaviour, Nottingham University Business School)

The Council met four times during 2012-13. Separately, it met with the Minister for Trade and Investment.

At each of its meetings ECGD's Chief Executive informed the Council of ECGD's business activities, new initiatives and other developments that were relevant to its remit and which informed the issues upon which it could provide advice to Ministers. The Council also met interested parties to understand their issues of interest in ECGD to help shape the Council's agenda.

During 2012, the OECD revised its *Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence* (the Common Approaches) which informs the way in which member Export Credit Agencies (ECAs) should address the environmental, social and human rights (ESHR) impacts of the projects they are asked to support. This was the culmination of work by the OECD over a number of years and followed the revisions made by the International Finance Corporation (IFC) of the World Bank Group to its Performance Standards which are used by ECAs to benchmark the ESHR impacts of projects. The Council monitored the work carried out by ECGD to help shape the new OECD Common Approaches and also its contribution to the IFC's review of its Performance Standards.

The revised OECD Common Approaches includes a commitment to give further consideration to the issue of human rights, particularly to establish how project-related human rights impacts should be addressed in relation to the provision of officially supported export credits. This will take into account the UN Guiding Principles on Business and Human Rights (the 'Ruggie framework') which specifically identifies ECAs as agents that can affect the business and human rights agenda. The OECD has mandated the Environmental Practitioners Group to consider this commitment and report back to its Export Credits Group within two years. The Council has been briefed on the work of this Group in which ECGD is playing a leading role.

During the year the Council met Amnesty International. Amnesty has a particular interest in the application by ECGD of human rights issues in its policy-making and also its support for export transactions. It has called for ECGD to apply the OECD Common Approaches to all the business put to it for support, not solely for projects that fall within the ambit of the OECD Common Approaches.

The All Party Parliamentary Group (APPG) on International Corporate Responsibility conducted an inquiry into ECGD. I gave oral evidence on the role and work of the Advisory Council. The Group's report made a number of recommendations including that ECGD should extend the application of the OECD Common Approaches to all its business, introduce a mediation mechanism and make public its ESHR reviews. The Council advised on each of these recommendations. The Council advised that consideration should be given by ECGD to publishing a document to communicate the process for screening, reviewing and assessing projects for their potential ESHR impacts as there appears to be some misunderstanding about the application of the OECD Common Approaches to projects that ECAs are asked to support.

The Council's advice in relation to extending the scope of the OECD Common Approaches was to fulfil the remit from the Government for the Council to consider the outcome of the change to ECGD's policy, adopted in April 2010 following a Public Consultation, to follow international agreements related to ethical policies which apply to the operation of ECAs and not additionally create, and separately operate, its own policies which go beyond those agreements. The change of policy meant that certain export transactions, normally supported under ECGD's Export Insurance Policy, and projects under £10 million not near a sensitive site, for which ECGD support was sought, were no longer normally reviewed by ECGD for their ESHR impacts. The Council considered the outcome of the change of policy in 2011-12 and advised that it did not consider a review of the change of policy was warranted, but requested to be consulted again in 2012-13 so that it could assess the impact further, taking account of the widening of ECGD's business domain and demand for support under the newly introduced Short-Term products. The Council remained of the view that no change of policy was warranted. The revised OECD Common Approaches now specifically excludes from its scope some of the new Short-Term products of the type that ECGD has introduced.

The Council routinely examines new projects that ECGD has supported to understand how its ethical policies have been applied. In 2011-12, it reviewed the support it had provided for a line of credit of up to US\$1 billion for the development by Petrobras of offshore oil and gas fields off the coast of Brazil. It was classified 'Category A' by ECGD, i.e. as a project having potentially high ESHR impacts, as defined by the OECD Common Approaches. The Council reviewed the process by which the project had been screened, classified and assessed by ECGD's Environmental Advisory Unit (EAU) and the conclusion that the project would meet international ESHR standards. The Council was satisfied that ECGD had properly categorised the project and benchmarked it against the IFC Performance Standards. ECGD's review of the project, which has been made public, demonstrated the comprehensiveness of its ESHR due diligence. The Council had confidence in ECGD's ESHR due diligence practices.

The Council also considered the arrangements ECGD puts in place to monitor projects it has supported during their construction and operating phases where ECGD has extant liability. The purpose of this monitoring is to track performance against international standards, identify any areas where performance has been deficient and ensure remedial action is taken where necessary. ECGD normally requires post-issue monitoring arrangements to be put in place for Category A prospects and sometimes for Category B, i.e. projects having medium potential ESHR impacts, depending upon the nature of the project. Having examined the arrangements, the Council was satisfied that ECGD is tracking performance of projects against relevant international standards.

The Council carried out a review of the application of ECGD's anti-bribery and corruption policies taking account of ECGD's obligations under the *OECD Recommendation on Bribery and Officially Supported Export Credits*. The Council will be monitoring how ECGD's anti-bribery due diligence practices operate in relation to business conducted under the Short-Term products given the materially shorter commercial deadlines to decide support for this class of exports as compared to project exports.

The Council reviewed ECGD's handling of information requests made under the Freedom of Information Act and the Environmental Information Regulations. The Council noted that in 2011-12 ECGD had received its highest number of information requests since the FOI regulations came fully into force in 2005. There was a significant number of requests seeking information about sovereign debts owed to ECGD. The Council welcomed the publication by ECGD of sovereign debt data in respect of those countries which defaulted on their debt obligations because of balance of payments difficulties, including those guaranteed and insured by ECGD, which resulted in them being rescheduled and where repayments to ECGD are still outstanding. While recognising the complexity of some of the information requests made, and the need to consult external parties, the Council encouraged ECGD to improve its timeliness in handling requests.

The Council reviewed the activities of the Environmental Analysis Unit (EAU) during 2012. The Council noted that the workload of the EAU had continued to increase as a result of rising demand for ECGD support and also the increase in the number of projects that are now subject to monitoring following the provision of support. The EAU has arrangements in place to obtain advice where specialist ESHR knowledge is required and to provide additional resource to manage peaks in workload. These arrangements had worked effectively.

I thank ECGD for the support it provides to the work of the Council and its willingness to supply the Council with all the information it requires to assist its deliberations. The Council is also grateful for the information provided to it by interested parties.



Andrew Wiseman
Chair