

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

- Present:** Ms Gillian Arthur (Chair)
Ms Alexandra Elson
Mr Neil Holt
Mr John Newgas
Mr Chris Fitzpatrick
- Apologies:** Mr Andrew Wiseman
Ms Anna Soulsby
Mr Alastair Clark
- In attendance:** Mr Steve Dodgson
Mr Pat Cauthery
Ms Helen Russell Item 6
Mr David Underwood Item 8
- Secretary:** Mr Laurence Lily

1 APOLOGIES FOR ABSENCE

- 1.1 Apologies were received from Mr Wiseman, Mr Clark and Ms Soulsby. Ms Arthur chaired the meeting in Mr Wiseman's absence.

2 MINUTES OF 13 MAY 2013 MEETING AND MATTERS ARISING

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

3 CHIEF EXECUTIVE'S UPDATE

- 3.1 The Council noted the appointment of David Godfrey as Chief Executive of UKEF. Mr Dodgson said that David Godfrey had been a non-executive director on UKEF's management board and had therefore been associated with the operations of the department for a number of years. He was expected

to attend future meetings of the Council. A meeting with the Chairman would be arranged in the near future.

Business

- 3.2 Mr Dodgson reported that in June UKEF had agreed support for the Sadara petrochemical project in Saudi Arabia by issuing a guarantee for an export credit loan of £450 million to finance the supply of goods and services by UK exporters. This was one of the largest projects UKEF had supported that had been structured on a limited recourse basis. Other Export Credit Agencies (ECAs), including, France, Germany, South Korea and USA had also provided support.
- 3.3 The Council noted that the project had been classified as a Category A project as defined under the OECD Recommendation on Common Approaches on the Environment and Social Due Diligence (OECD Common Approaches). Mr Dodgson commented that UKEF had led the environmental, social and human rights (ESHR) due diligence on behalf of all the ECAs to assess compliance with the applicable international standards. The Council agreed it should review the project at a future meeting and would wish to focus on social and human rights issues.

Action: Secretary to arrange a briefing on the Sadara project

- 3.4 The Council noted the publication of the third revised version of the Equator Principles, which came into force in June 2013. The Council noted that unlike the OECD Common Approaches, the EPs only applied to projects financed on a limited recourse basis but, nonetheless, there was a growing alignment between the ECAs and banks in regards to ESHR issues.
- 3.5 The Council noted that the Prime Minister had visited Kazakhstan in June, during which UKEF signed an agreement with United Chemical Company of Kazakhstan to collaborate on the possibility of offering export credit loans to assist the financing of a \$4 billion integrated petrochemical complex and

infrastructure project in Kazakhstan. Mr Dodgson said that an application for support had not been received and no due diligence had started on examining the ESHR issues; the project sponsor would need to produce an Environmental Impact Assessment and, after this was made available, UKEF would also need to alert interested parties of the request for support in line with the disclosure requirements of the OECD Common Approaches.

4 MEETING WITH THE BRITISH EXPORTERS' ASSOCIATION (BEXA)

- 4.1 The Council reported on its meeting with BExA on 13 May. BExA had been supportive of the expansion of UKEF's business domain to include exports normally sold on short terms of credit and the introduction of new products. BExA had been particularly appreciative of the efforts to support SMEs. It also supported the establishment of a network of Export Finance Advisors (EFAs) based around the country and had received positive feedback from its members on the work of the EFAs. BExA had acknowledged the efforts made by UKEF to raise awareness of the new products and recognised the challenge of reaching out to a large but disparate community of small exporting firms that might need support. BExA had emphasised the critical role that local branch banks and trade bodies could play to raise awareness of UKEF's offering.
- 4.2 BExA raised the report on UKEF by the All Party Parliamentary Group (APPG) on International Corporate Responsibility. While BEXA had supported a number of its recommendations, it disagreed with the recommendation that the OECD Common Approaches should be applied to all exports for which UKEF support was sought to include those relating to trade exports, rather than limited to projects; BEXA considered that a unilateral expansion of ESHR due diligence to cover all exports would be impractical and harmful to the competitiveness of British exporters. BEXA argued that UKEF should apply ESHR standards as had been agreed multilaterally in order to ensure a level playing field for exporters. BEXA also expressed reservations about the establishment of a UKEF ombudsman/compliance function; BExA considered that existing machinery was sufficient to address complaints about UKEF.

4.3 The Council said it had briefed BExA on the Government's response to the APPG report as set out by the Minister for Trade and Investment to the co-Chairs of APPG. BExA considered that UKEF was not as competitive in terms of its offering as some other ECAs and felt that UKEF applied international agreements more strictly than other ECAs which impacted on turnaround times for business enquiries. The Council encouraged BExA to evidence the differences in approach by other ECAs particularly in relation to the way in which they applied the OECD ethical agreements so these could be followed-up. BExA told the Council that it planned to issue an updated ECA benchmarking report in the autumn which would include a comparison of products offered by UKEF against those offered by other ECAs.

5 DEFENCE EXPORTS

5.1 The Council noted that as reported in UKEF's 2012-13 Annual Report and Accounts the amount of business supported by UKEF had significantly increased including support for defence exports which had been dominated by a contract to supply of Typhoon military jets to Oman. The Council requested a briefing.

5.2 Mr Dodgson noted that the Council had not considered support for defence exports for a number of years. He reminded the Council that UKEF's Act did not discriminate between the exports UKEF could support; defence exports were eligible for support. Mr Dodgson said that some other ECAs did not support defence exports; for example, US Eximbank, because US defence exports were supported under the Foreign Military Sales programme. Mr Cauthery added that the OECD Arrangement on Officially Supported Export Credits which regulates the terms under which ECAs supported export credits did not cover military supplies.

5.3 The Council noted that support for defence exports was subject to UKEF's normal processes and factors it applied when considering applications for support. Mr Dodgson said that in relation to ethical policies, the OECD Common Approaches did not apply to military exports but the OECD

Recommendation on Bribery and Officially Supported Export Credits (the OECD Bribery Recommendation) and the OECD Sustainable Lending Principles did apply. The Council asked about the application of the OECD Bribery Recommendation in relation to the support provided for the supply of Typhoons to Oman against a background where BAES had been the subject of allegations of engaging in corrupt activity in relation to Saudi Arabia.

- 5.4 Mr Dodgson explained that anti-bribery due diligence was carried for all transactions irrespective of sector, size or product other than exports supported under the Letter of Credit Guarantee Scheme where separate arrangements applied which had been the subject of a Public Consultation in 2008. The due diligence was informed by the requirements of the OECD Bribery Recommendation and UKEF's practice of making reasonable inquiries to inform a view as to whether the exports contracts it was asked to support may have been tainted by bribery and to take recourse in the event that UKEF suffered loss as a result of corrupt activity by the exporter.
- 5.5 Mr Dodgson reminded the Council that the inquiry by the Serious Fraud Office into possible corrupt activity by BAES in relation to Saudi Arabia had been terminated in 2007; BAES had not been prosecuted for bribery offences although the company had been the subject of legal proceedings related to other offences in the UK and USA. Mr Dodgson told the Council that in line with the OECD Bribery Recommendation, BAES had submitted written declarations and undertakings to UKEF that it had not engaged in any corrupt activity on the Oman transaction. BAES also stated that no Agent was involved in representing the company in accordance with its policy to no longer engage middlemen. Mr Dodgson added that in the light of allegations of corrupt activity, UKEF had also reviewed BAES' anti-corruption policies and practices following the reforms to its business operations as recommended by Lord Woolf. UKEF had obtained advice from independent sources on BAES's progress in implementing the Woolf recommendations and applying its anti-corruption policies including a report by the Ethical Leadership Group. .

- 5.6 Mr Dodgson said that having undertaken due diligence, UKEF had concluded that support could be provided for the contract, taking into account its policy of taking reasonable precautions, including making reasonable enquiries to avoid becoming involved in transactions that may be tainted by bribery and the OECD Bribery Recommendation. UKEF had provided support for the contract in the form of insurance and guarantees.
- 5.7 The Council noted that at its next meeting it would be considering UKEF's anti-bribery policies and would want a briefing on the OECD review of the UK's application of the OECD Convention on combating bribery of public officials in the light of recommendations it made in relation to UKEF in the context of the termination of the SFO inquiry into BAES.. The Council also asked to meet with Transparency International at its next meeting and consider UKEF's support for defence exports at another meeting.

Action: Secretary to arrange a briefing on the OECD recommendations about UKEF and arrange a briefing with Transparency International

6 HUMAN RIGHTS UPDATE

- 6.1 The Council noted the recently published UK Action Plan on Business and Human Rights. Ms Russell said the UKEF had contributed to the development of the plan which was the UK's response to the so-called 'Ruggie Principles' (of Protect, Respect and Remedy of human rights) on business and human rights adopted by the UN which had made specific reference to Export Credit Agencies. Mr Dodgson said that at the launch of the Action Plan, attended also by the Chairman of the Council, the BIS Secretary of State had spoken of the practical difficulties for business in addressing human rights issues. Ms Russell explained that the plan highlighted the role of the FCO in supporting exporters with in-country intelligence and advice on relevant issues and concerns.
- 6.2 The Council noted the report published by Amnesty International UK entitled 'A History of Neglect: UK Export Finance and Human Rights'. Ms Russell told

the Council that UKEF had not been given an opportunity to comment on the report before its publication; had it done so, mistakes and misconceptions might possibly have been corrected. The Council observed that the report was very historical and did not appear to include recognition of the work undertaken by UKEF to assess the ESHR impacts on more recent projects as required by the OECD Common Approaches. The Council asked whether Amnesty had produced a similar briefing on other ECAs. Mr Dodgson said that as far as UKEF was aware it had not done so.

- 6.3 The Council considered that a fundamental difference between Amnesty and the Government's policy for UKEF was that Amnesty wanted the OECD Common Approaches to be applied to all business put to UKEF for support and not limited to projects which fell within the ambit of the OECD Common Approaches. However, the Council did not consider the report made the arguments to justify its view. Mr Dodgson said that the Government's approach was that the UK should not act unilaterally but influence change through multilateral negotiation. Mr Dodgson said further developments were expected in respect of human rights as the OECD had mandated member ECAs to consider ways in which to strengthen human rights due diligence; UKEF was playing a leading role alongside other ECAs to take forward the mandate. Ms Russell told the Council that ECAs were already testing and developing tools designed to help identify key human rights risks.
- 6.4 The Council observed that the OECD Common Approaches was often misunderstood and misinterpreted. Mr Dodgson said that following comments made by the Council at its previous meeting in regard to communicating how UKEF applied the OECD Common Approaches and addressed human rights issues, a process map and statement on human rights had been drafted in an attempt to show how the OECD Common Approaches worked, which it would publish. Mr Dodgson asked the Council to provide feedback on the two draft documents which it could consider ahead of their publication.
- 6.5 The Council asked about other due diligence that UKEF conducted in the underwriting process. Mr Dodgson said that other due diligence was routinely

carried out, for example, adverse history checks. The Council asked for a briefing on these checks at its next meeting.

Action: Secretary to obtain feedback from the Council on the draft documents and arrange a briefing on non-ESHR due diligence.

7 TRIENNIAL REVIEW OF EGAC

7.1 The Council noted that the Council was to be reviewed under the Government's policy to review the need for Non-departmental Public Bodies every three years. Mr Cauthery said the triennial review would be shortly announced in Parliament and led by UKEF and the views of interested parties would be sought to help inform the recommendations to Ministers. He said that the Chairman would be briefed on the process and that the Council would be asked to input into the review at a special meeting sometime during October/November.

Action: Secretary to arrange a special meeting of the Council.

8 ECA TRANSPARENCY SURVEY

8.1 The Council reviewed the results of a survey conducted by the German export credit agency which had asked EU Member States to summarise the impact of transparency legislation on the operations of export credit agencies. The Council noted that the survey showed a wide range of experiences among EU ECAs, most notably that experiences of legal challenges on access to information were limited to the Finland, Germany and the UK.

9 REQUESTS FOR INFORMATION

9.1 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.

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.

Larry Lily
Secretary