



UK Export  
Finance

**Launch date:** 19 March 2014

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**Ref:** UK Export Finance/

Export Credits Guarantee Department

**Consultation on proposals to make changes to the Secretary of State's powers  
under the Export and Investment Guarantees Act 1991 (as amended)**

**Export Credits Guarantee Department**

## **Consultation on proposals to make changes to the Secretary of State's powers under the Export and Investment Guarantees Act 1991 (as amended)**

This consultation document sets out proposals to make changes to the Secretary of State's powers under s.1(1) of the Export and Investment Guarantees Act 1991 as amended by the Industry and Exports (Financial Support) Act 2009.

UK Export Finance has drawn this consultation document to the attention of organisations listed in Annex 1, being those known by us that have an interest in the Government's support for UK exports and investments overseas.

**Launch date:** 19 March 2014

**Closing date for responses:** 16 April 2014

### **Enquiries to:**

The Consultation Team  
Chief Executive's Office  
UK Export Finance  
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London SW1A 2HQ

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## **Introduction**

1. This consultation document invites comments on proposals to make changes to powers under s.1(1) of the Export and Investment Guarantees Act 1991 as amended by the Industry and Exports (Financial Support) Act 2009 (the “**EIGA**”).
2. This consultation has been launched by the Export Credits Guarantee Department, which operates under the name of UK Export Finance.
3. The Secretary of State exercises powers under the EIGA through UK Export Finance to provide support for UK exports and investments overseas. UK Export Finance is the UK’s official Export Credit Agency (ECA) and the principal ways in which this support is provided is through risk protection in the form of:
  - (i) contracts of insurance issued to exporters against the risks of non-payment under supply contracts with overseas buyers, and to overseas investors against certain political risks; and
  - (ii) guarantees to banks, against the risks of not being repaid loans advanced to overseas buyers/borrowers which finance the purchase of supplies from UK exporters; working capital loans to exporters and calls made under contract bonds issued to overseas buyers in respect of contracts with UK exporters.
4. Through the provision of such support, which complements that provided by the private sector, UK Export Finance can help exporting companies of all sizes to mitigate the financial risks of exporting, and to access trade finance and export credit insurance. Therefore, in the absence of support from the private market, UK Export Finance plays a part to enable UK companies to expand into overseas markets and win export contracts that they may not otherwise be able to take on.

## **Background**

5. In February 2011, the Government published the Trade and Investment for Growth White Paper<sup>1</sup>. It noted that “*Trade and Investment will be crucial to achieving strong, sustainable and balanced growth*”. With the goal of improving growth and productivity by overcoming the barriers to doing business overseas, the Government made a number of commitments in the White Paper with a view to increasing access to trade finance for businesses. The Government has also set targets to improve the UK’s export performance, specifically, to achieve by 2020 £1 trillion of exports per annum, increase by 100,000 the number of companies that export and for UK companies to win a greater number of overseas High Value Opportunity projects.

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<sup>1</sup> <http://www.bis.gov.uk/assets/biscore/international-trade-investment-and-development/docs/t/11-717-trade-investment-for-growth.pdf>

6. In order to help assist the Government's objectives, a number of changes have taken place in recent years at UK Export Finance, as follows:
  - (i) support has been re-introduced for exports of consumer durables, light manufactures, raw materials, etc., sold on short terms of payment, typically up to 180 days credit, following a twenty year gap when UK Export Finance's Insurance Services Group (which provided 'whole-turnover' insurance cover for such exports) was privatised. This re-entry was targeted, although not exclusively, towards SMEs, who found it difficult to obtain credit insurance and trade finance from the private market in respect of individual export contracts;
  - (ii) new products have been introduced namely:
    - (a) an Export Working Capital Facility to assist exporters who could not obtain finance from their banks;
    - (b) a Bond Support Scheme to assist exporters who could not provide the collateral required by banks to raise contract bonds on their behalf in favour of their overseas buyers;
    - (c) a revised, and simplified, export credit insurance policy – the 'Export Insurance Policy'; and
    - (d) a Letter of Credit Guarantee Scheme to enable banks to confirm letters of credit issued by overseas banks in respect of payments due to UK exporters; and
  - (iii) in the light of constraints on banks relating to funding of medium/long term export credit loans to overseas borrowers buying from UK exporters of high value capital and semi-capital goods and services, a Direct Lending Scheme has been launched and an Export Refinancing Facility has been announced that will help to ensure the availability of funding for such loans.
7. These changes should be viewed in the context of the financial crisis and the onset of the economic downturn which have had the effect of dislocating the provision of support by the private sector to exporters, principally by credit insurers and banks. While there has been significant recovery in the commercial market, the Government has been concerned to ensure there is no gap in the availability of risk protection and access to trade and export credits through UK Export Finance for the benefit of exporters.
8. This situation has not been peculiar to the UK; the ECAs of other countries have had to make changes to address the consequences of the financial crisis. All saw business levels rise during this time as they filled gaps in private market provision. The ascendancy of ECAs has brought into sharp focus differences between them in their products and services, and in their approach to the provision of support to their exporters at a time when competition to win a greater share of global trade has intensified.

9. The Government's policy is to seek a level playing field for UK exporters by regulating the activities of state-backed ECAs through international agreements and understandings. From 2010, following a public consultation, UK Export Finance has operated a policy of applying international agreements that relate to the activities of ECAs but not going beyond them.
10. The Government has also sought to ensure that UK Export Finance's offering to UK exporters is no less than that of other comparable ECAs. The introduction of new products has helped UK Export Finance go some way to match other comparable ECAs in the support which is available for UK exporters so they can compete on a more equal footing but some barriers still remain as a result of limitations in the scope of the statutory powers under which UK Export Finance operates, such as the requirement for UK Export Finance's support to be linked to identifiable export contracts. The Government is anxious to remove these barriers in UK Export Finance's ability to support exports.

### **Proposed revisions**

11. Notwithstanding this expansion of UK Export Finance's business domain and introduction of new products, it remains constrained, by the current powers contained in the EIGA, from delivering certain forms of support that may be helpful to UK exporters. The Government therefore has in mind to put forward a Bill in the forthcoming session of Parliament to widen the powers of UK Export Finance (under s.1 of the EIGA) which will help maximise to the fullest extent its ability to support UK exporters, including by giving it:-
  - (i) a more generalised ability to assist and support businesses in the UK that are, or wish to become, involved in exporting or exporting supply chains, for example, by providing guarantees of general working capital facilities or by providing information or advice;
  - (ii) the ability to support exports of intellectual property rights and other intangibles;
  - (iii) more flexibility when supporting UK exports, in particular where there are complex contracting chains and financing arrangements or where exports are made via overseas subsidiaries or joint venture companies; and
  - (iv) more scope to support projects and business ventures overseas to which goods or services sourced from UK exporters are directly or indirectly supplied.
12. Certain other technical amendments to the EIGA are also proposed, including consolidation of the foreign currency and sterling limits on UK Export Finance's activities and the enhancement of UK Export Finance's powers to manage transactions, which will facilitate transfers of UK Export Finance-guaranteed loans, thereby increasing their liquidity.

13. A copy of the EIGA as amended in 2009 is at Annex 2.

14. The Government is not proposing to alter the requirement that the Secretary of State's powers under s.1(1) of the EIGA are exercised only with the consent of HM Treasury. UK Export Finance will continue to be required to achieve the financial objectives set by HM Treasury to help ensure that it operates over time at no net cost to the taxpayer taking into account its financial liabilities and its operating costs. Moreover, UK Export Finance's operations will remain subject to applicable EU laws and regulations (including those relating to State aid) and international agreements which apply to national export credit agencies, principally:-

- (i) the WTO Agreement on Subsidies and Countervailing Measures;
- (ii) the OECD Arrangement on Officially Supported Export Credits;
- (iii) the OECD Recommendation on Bribery and Officially Supported Export Credits (the Anti-Bribery Recommendation);
- (iv) the OECD Principles and Guidelines to Promote Sustainable Lending Practices in the Provision of Official Export Credits to Low Income Countries;
- (v) the OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence;
- (vi) Council Directive 98/29/EC on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover; and
- (vii) the Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term credit insurance.

### **Benefits and effects**

15. The proposed revisions to the EIGA are intended to:

- (i) contribute to the achievement of the Government's export targets; and
- (ii) facilitate the commitments regarding access to trade finance made in the Trade and Investment for Growth White Paper and the Government's 2011 "Plan for Growth"<sup>2</sup> which committed to "extend the range and eligibility of products offered by the Export Credits Guarantee Department....", in order to encourage exports.

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<sup>2</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/31584/2011budget\\_growth.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31584/2011budget_growth.pdf)

16. The proposed revisions to the EIGA will broaden UK Export Finance's powers to enable it better to provide support, not only for export contracts, but also to companies engaged in exporting or who may wish to export. This will allow UK Export Finance to assist companies in the exporting supply chains within the UK, or an exporting firm's business generally.
17. Broadening UK Export Finance's powers will help ensure there is closer equivalence with the products and services offered by other comparable ECAs. For example, Export Development Canada (EDC) is described in its enabling legislation as being established:-
- “for the purposes of supporting and developing, directly or indirectly,  
.....Canada's export trade and Canadian capacity to engage in that  
trade and to respond to international business opportunities.”*
18. Similarly, under the Export Credit Guarantee Ordinance that governs the operations of Sweden's Exportkreditnämnden (EKN), it is stated that:-
- “Export guarantees may be granted to cover loss in operations concerning exports, or which indirectly relate to exports, carried out by a Swedish company, by a company with its registered office abroad in which there is a significant Swedish interest, or by a company that purchases products and services from Sweden.”*
19. The Government considers that UK Export Finance should have powers of equivalent breadth to ensure that UK exporters, and those who may wish to export, are able to obtain support similar to that available to their overseas competitors.
20. The size of market failure in relation to medium-long term finance and trade credit and insurance is difficult to quantify, and changes over time according to the ability of the private market to take on financial risks. It is, therefore, not possible to quantify with any certainty the benefits, in terms of additional exports, which might arise from the revisions to UK Export Finance's powers. However, the proposed amendments to the EIGA will increase the size of UK Export Finance's "tool-kit" and make it easier for UK Export Finance to conduct its operations, thus enabling UK Export Finance to respond with greater agility to changes in market conditions, and with greater certainty that its powers are wide enough to allow it to offer products which fill gaps in the market as they appear.

### **Timelines**

21. This consultation was launched on 19 March 2014 and will close on 16 April 2014.
22. The consultation period takes into account the fact that consultees listed in Annex 1 to this consultation document are familiar with UK Export Finance's activities and that the issues consulted upon are relatively straightforward.

23. A Bill containing the amendments to the EIGA is expected to be laid before Parliament when the next session opens in June 2014.

### **Responses**

24. The final date for responses is 16 April 2014.

25. Responses to this consultation should be sent by email or post, marked for the attention of Kate Bittlestone.

26. Email responses should be sent to [cxo@ukef.gsi.gov.uk](mailto:cxo@ukef.gsi.gov.uk)

27. Postal responses should be sent to:

Consultation Team  
Chief Executive's Office  
UK Export Finance  
1 Horse Guards Road  
London SW1A 2HQ

### **Publication of Responses**

28. All responses will be published as part of the Government's final response unless any consultee providing a response states that it wishes that response to be treated as confidential and it would not be inconsistent with the obligations of UK Export Finance under the Freedom of Information Act to do so.

### **Additional Copies**

29. Additional copies of this consultation document are available electronically and can be downloaded from UK Export Finance's website at:

<https://www.gov.uk/government/organisations/uk-export-finance>

## ANNEX 1

### Consultees

#### **EXPORTERS**

AArtoft Ltd  
Abercynon International  
AB Pharos Marine Ltd  
AC/DC LRD Ltd  
Aeromatic-Fielder Ltd  
AGCO Ltd  
AgustaWestland Helicopters Ltd  
AIM Automation Ltd  
Air Products plc  
Airbus S.A.S  
Alderley plc  
Alderley Systems Ltd  
Alexander Dennis Ltd  
Al-Futtaim Carillion  
ALTEK Europe Ltd  
Alstom UK Ltd  
Alvis Brothers Ltd  
AMEC plc  
Amino Communications Ltd  
Amphenol Ltd  
Anchor Fast Products Ltd  
Ancon Ltd  
Angloco Ltd  
Anite Telecoms Ltd  
Anpario plc  
Apex Fluid Engineering Ltd  
Applicable Ltd  
Aquipu Financial Consultants  
Arcade (UK) Ltd  
Arena Event Services Group Ltd  
ASE plc  
Astrium  
Atherden Fuller Leng Ltd  
ATM Automation Ltd  
Aylesbury Automation Ltd  
Babcock Wanson UK Ltd  
BAE Systems plc  
Balmoral Group Ltd  
BAM Nuttall Ltd  
Barr-Rosin Ltd  
Barton Firtop Engineering Co. Ltd  
BCB International Ltd  
Bechtel Ltd

BG International  
Biwater International Ltd  
BlueFinger Ltd (Globavista)  
Bluewater Bio  
B-N Group Ltd  
Bolina Ltd  
Bombardier Aerospace  
Bombardier Transportation  
Boomeco Ltd  
BP  
Brecknell Willis & Co. Ltd  
British Converting Solutions Ltd  
British Engineering Services  
Britplas Commercial Windows Ltd  
Building Design Partnership Ltd  
Buro Happold Ltd  
Caley Ocean Systems  
Cambridge Glasshouse Company Ltd  
Capital Valves Ltd  
Carbon Holdings  
Carillion plc  
Casco International Ltd  
Case New Holland UK Ltd  
Caterpillar  
Cathodic Protection Co. Ltd  
CB&I  
Champion Laboratories (Europe) Ltd  
Chemring EOD Ltd  
Chemtech International Ltd  
CHR Travel LLP  
Chrome Nickel Alloys Ltd  
Ciga Healthcare Ltd  
Clayton Engineering Ltd  
Cleveland Bridge  
Cleveland Potash  
Click Netherfield Ltd  
Clyde Blowers Ltd  
Clyde Union Ltd  
Coflexip Stena Offshore Ltd  
Compact Engineering Ltd  
Contained Air Solutions Ltd  
Corrotherm International Ltd  
Creative Education Ltd  
Cube Precision Engineering Ltd  
Cummins Power Generation Ltd

Darlow Lloyd Group Ltd  
Dawcul Ltd  
Dawnus Sierra Leone Ltd  
Delta-T Devices  
Deltex Medical Ltd  
Design and Projects Int. Ltd  
Diak Technical Export Ltd  
DiGiCo UK Ltd  
Divex Global Ltd  
Doncaster Parallooy Ltd  
Doncasters Ltd  
DPS (Bristol) Ltd  
Dresser-Rand Company Ltd  
Duco Ltd  
Dunlop Oil & Marine Ltd  
Dynamotive Ltd  
Dyson Exchange Ltd  
EADS  
Eduteq Ltd  
Enterprise Control Systems Ltd  
EPS Pipeworks Ltd  
Erebus UK Ltd  
ES Global Ltd  
Europa Crown Ltd  
Eurotherm Process Automation Ltd  
Event Communications Ltd  
Exedy Clutch Europe Ltd  
Expert Tooling and Automation Ltd  
Extronics Ltd  
FG Wilson (Engineering) Ltd  
Firetec Systems Ltd  
Flexal Springs UK Ltd  
Flexej Ltd  
Flexible Engineered Solutions Ltd  
Flexitallic Ltd  
Flight Calibration Services Ltd  
Fluor Ltd  
FMA Process Engineering Ltd  
Forum Energy Technologies (UK) Ltd  
Forum Technologies (UK) Ltd  
Foster Wheeler Energy Ltd  
FPE Global Holdings Ltd  
Gall Thompson Environmental plc  
Gateway (Textiles) Ltd  
GBM Minerals Engineering  
Consultants  
GEA Process Engineering Ltd  
GE Energy  
Gentec Energy plc  
Gilbert Gilkes and Gordon Ltd  
Glen Dimplex Home Appliances Ltd  
Graham & Brown  
Griffon Hoverwork Ltd  
G.R Lane Health Products Ltd  
Guralp Systems Ltd  
Gustafson Porter LLP  
Halcrow Group Ltd  
Hampco Ltd  
Harland & Wolff  
Hawkspare Ltd  
Hayward Tyler Ltd  
Horstman Defence Systems Ltd  
Houlder Ltd  
Howden Power Ltd  
Hughes Safety Showers Ltd  
Hydromine Inc.  
Ice Oxford Ltd  
Icon Connect Ltd  
Independent Power Corporation plc  
Indigovision Ltd  
Industrial Penstocks Ltd  
Industrial Tomography Systems plc  
International Hospitals Group  
International Power Holdings Ltd  
Invensys Rail  
I.T Transport Ltd  
Jacobs Engineering  
Jaguar Land Rover Exports Ltd  
JC Bamford Excavators Ltd  
J & C Joel Ltd  
JDR Cable Systems Ltd  
J & E Hall Ltd  
Jewelultra Ltd  
JH Fenner & Co. Ltd  
John R Boone Ltd  
John Wood Group plc  
Jorin Ltd  
Joseph Rhodes Ltd  
Joy Mining Machinery Ltd  
Kellogg Brown & Root Ltd  
Kelton Engineering Ltd  
Kier Construction Ltd  
K.G.D Enterprises Ltd  
Kiln Flame Systems Ltd  
Kone Lifts Ltd  
KW Designed Solutions Ltd  
Lagan Holdings Ltd  
Lakesmere Ltd  
Lanemark International Ltd  
Leafield Logistics Ltd

Ledbury Welding and Engineering Ltd  
Lend Lease Ltd  
Lilleker Bros Ltd  
Locker Heathshielding Ltd  
Maats Tech Ltd  
Mabey Bridge Ltd  
Macquarie AirFinance  
Mantis Deposition Ltd  
Marine Specialised Technology Ltd  
Marlborough Communications Ltd  
Marshall Aerospace International  
Services Ltd  
Martel Instruments Ltd  
Martin Baker Aircraft Ltd  
Marubeni Europe plc  
MBDA  
McCloskey International Ltd  
MCPS Ltd  
Metal One UK Ltd  
Metreel Ltd  
Micha Design Company Ltd  
Micro Nav Ltd  
Micron Sprayers Ltd  
Midrex UK Ltd  
Miniflex Ltd  
Mitchell Dryers Ltd  
Mivan Ltd  
Moog Fernau Ltd  
Morphy Richards Ltd  
Motorola Credit Corporation  
Mourne Ltd  
Mustang Marine (Wales) Ltd  
MW Creative Ltd  
North East Surrey College of  
Technology  
NPL Management Ltd  
NSG Exports Ltd  
Oasys Technologies Ltd  
Omega Foundry Machinery Ltd  
OMK Design Ltd  
OSL Group Ltd  
Oxford Policy Management Ltd  
Oxford Research Group  
Page Bros (Norwich) Ltd  
Parsons Brinckerhoff  
Perry Slingsby Systems Ltd  
Petrofac Ltd  
Pharos Marine Ltd  
Philip Harris International (Findel  
Education)

Phoenix Scientific Industries Ltd  
Pims of London Ltd  
Pinnacle Re-Tec Ltd  
Plextek Ltd  
Polypipe Ltd  
Premier Tank Services Ltd  
Pultrex Ltd  
PVC Recycling Ltd  
Pyrolytech Ltd  
Qualter Hall & Co. Ltd  
Rapid Labs Ltd  
Rautomead International Ltd  
Refresh Eng Ltd  
Richard Cooke Engineering Steels  
Rika Biofuels Ltd  
Riva Europe Ltd  
RJ Herbert Engineering Ltd  
Rockwell Collins UK Ltd  
Rolls-Royce Capital Ltd  
Romica Engineering Ltd  
Ross & Catherall Ltd  
Rotary UK  
Roughton International Ltd  
RS Clare & Co. Ltd  
RSW Partnership  
RWE Npower plc  
Sabre Computers International Ltd  
Salt Separation Services Ltd  
Saywell International  
Scientific Vacuum Systems Ltd  
Scotmas Ltd  
Sedgewall Communications Group Ltd  
Sensonics Ltd  
Severn Glocon Ltd  
Shell International Ltd  
Siemens Industrial Turbomachinery  
Ltd  
Siemens VAI UK  
Simon Carves Ltd  
Snamprogetti Ltd  
Soil Machine Dynamics Ltd  
Sojitza Europe plc  
Sperry Marine  
Spirotech SRD Group Ltd  
Stadco Ltd  
Stage Technologies Ltd  
Stansted Fluid Power Ltd  
Steel Services Direct Ltd  
Surrey Satellite Technology Ltd  
Tata Steel Group

TBS Engineering Ltd  
TCB-Arrow Ltd  
Team Leyland International Ltd  
Techflow Flexibles Ltd  
Techflow Marine Ltd  
Technip E&C Ltd  
Technip Stone & Webster Process Technologies  
Telent  
Terex Construction Ltd  
Terex Corporation  
Tetronics International  
Thales Group  
The Translation Desk Company  
Tracerco Ltd  
TT Electronics plc  
Tyron Developments Ltd  
UIM Ltd  
Unit Superheater Engineering Ltd  
UTM  
Van Tongeren International Ltd  
Vapormatt Ltd  
Vee Bee Filtration UK Ltd  
Viper Subsea LLP  
Voith Paper Ltd  
Vulcan SFM Ltd  
VWS Westgarth Ltd  
Waterman  
Watford Control Instruments Ltd  
WD-40 Company Ltd  
Weir Pumps Ltd  
Welltrade Services Ltd  
Westfield Medical Ltd  
Westland Helicopters Ltd  
WFEL Ltd  
William Hare Ltd  
Windell Ltd  
Winkworth Machinery Ltd  
Worley Parsons Europe Ltd  
Wozair Ltd  
WRG Creative Communication Ltd  
Zeeko Ltd

#### **BANKS**

ABC International Bank plc  
AKA Ausfuhrkredit-Gesellschaft mbH  
Australia and New Zealand Banking Group Ltd  
Bank of Ireland

Bank of London and the Middle East plc  
Bank of Scotland plc  
Barclays  
BNP Paribas  
Citibank N.A  
Clydesdale Bank  
Commerzbank AG – UK Corporates  
Crédit Agricole CIB  
Danske Bank  
Deutsche Bank AG  
DNB Bank  
Europe Arab Bank plc  
Handelsbanken  
HSBC Bank plc  
ICICI Bank  
JP Morgan  
Lloyds Banking Group  
Mizuho Corporate Bank Ltd  
National Bank of Abu Dhabi  
Rabobank  
Royal Bank of Scotland  
Santander  
Societe Generale  
Standard Chartered Bank  
Sumitomo Mitsui Banking Corporation  
Svenska Handelsbanken AB  
Ulster Bank  
UniCredit Bank AG

#### **TRADE BODIES/ASSOCIATIONS**

ADS Group  
Association of British Insurers  
Association of British Mining Equipment Companies  
Association of Manufacturers of Power Generating Systems  
British Airport Services and Equipment Association  
British Aviation Group  
British Bankers Association  
British Business and General Aviation Association  
British Chambers of Commerce  
British Chemical Engineering Contractors Association  
British Educational Suppliers Association  
British Electrotechnical & Allied Manufacturers' Association

British Expertise  
British Exporters Association  
British Insurance Brokers Association  
British Water  
British-Iranian Chamber of Commerce  
CBI  
China-Britain Business Council  
Civil Engineering Contractors  
Association  
Combined Heat & Power Association  
East Lancashire Chamber of  
Commerce  
EEF  
Electrical Contractors' Association  
Energy and Utilities Alliance  
Energy Industries Council  
Engineering Construction Industry  
Association  
Federation of Small Businesses  
Federation of the Electronics Industry  
Fire Fighting Vehicles Manufacturers  
Association  
Forum of Private Business  
Institute of Directors  
Institute of Export  
London Chamber of Commerce and  
Industry  
Middle East Association  
Pipeline Industries Guild  
Processing & Packaging Machinery  
Association  
Railway Industry Association  
Shipbuilders & Shiprepairers  
Association  
Society of British Water & Wastewater  
Industries  
UK Competitive Telecommunications  
Association  
UK Petroleum Industry Association Ltd

#### **SPECIAL INTEREST GROUPS**

Amnesty International  
Anti-Slavery International  
Campaign Against Arms Trade  
Christian Aid  
Friends of the Earth  
Global Infrastructure Anti-Corruption  
Centre  
Global Witness

International Institute for Environment  
and Development  
IUCN CEESP  
Jubilee Debt Campaign  
Jubilee Scotland  
Oxfam  
Publish What You Pay  
Save the Children UK  
The Corner House  
Transparency International (UK)  
TUC  
Unicorn  
WWF

#### **CREDIT INSURERS AND BROKERS**

Antur Insurance Services Ltd  
Aon Ltd  
Aon McMillen Ltd  
Arthur J. Gallagher (UK) Ltd  
Atlas Risk Management Ltd  
Atradius  
Berry Palmer & Lyle Ltd  
Bluefin Group  
Bridge Insurance Brokers Ltd  
Charles Dominic Ltd  
Coface  
Cooper Darwin Credit Insurance  
Consultants  
Credit and Business Finance Group  
LLP  
Credit Risk Solutions Ltd  
Euler Hermes UK  
Financial and Credit Insurance  
Services Ltd  
Heath Lambert  
JLT Speciality Ltd  
LFE Insurance Services Ltd  
LPDA Credit Insurance  
LLTPS Brokers  
Marsh Ltd  
MCM Insurance  
Newstead International  
Oval Insurance Broking Ltd  
Perkins Slade Ltd  
Prophet Trade Credit Group  
RK Harrison  
TL Dallas Group  
TL Risk Solutions Ltd  
The John Reynolds Group Ltd  
Underwood Insurance Services

W Denis Credit Risks Ltd  
Willis Ltd  
Zurich GSG Ltd

**OTHER**

Crown Agents for Overseas  
Governments and Administrations  
Department for Economy, Science and  
Transport (Wales)

Export Credit Services  
Invest Northern Ireland  
Scottish Development International  
Sovereign Star Trade Finance Ltd  
Synergy in Trade Ltd  
Trade and Export Finance Ltd  
Trade Finance Solutions &  
Outsourcing Ltd  
Unicorn Asset Management Ltd

## ANNEX 2

# Export and Investment Guarantees Act 1991 (as amended)

## 1991 CHAPTER 67

*An Act to make new provision as to the functions exercisable by the Secretary of State through the Export Credits Guarantee Department; and make provision as to the delegation of any such functions and the transfer of property, rights and liabilities attributable to the exercise of any such functions*

[22nd October 1991]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Part I

Powers of ECGD

### **1 Assistance in connection with exports of goods and services**

[(1) The Secretary of State may make arrangements under this section in connection with supplies by persons carrying on business in the United Kingdom of goods or services to persons carrying on business outside the United Kingdom.

(1A) Arrangements under subsection (1) may be made in connection with goods or services supplied before the arrangements are made or in connection with goods or services which are to be, or which may be, supplied.]

(2) The Secretary of State may make arrangements under this section for the purpose of rendering economic assistance to countries outside the United Kingdom.

(3) The Secretary of State may make arrangements under this section with a view to facilitating—

(a) the performance of obligations created or arising, directly or indirectly, in connection with matters as to which he has exercised his powers under this section or section 2 of this Act, or

(b) the reduction or avoidance of losses arising in connection with any failure to perform such obligations.

(4) The arrangements that may be made under this section are arrangements for providing financial facilities or assistance for, or for the benefit of, persons carrying on business; and the facilities or assistance may be provided in any form, including guarantees, insurance, grants or loans.

### **2 Insurance in connection with overseas investment**

(1) The Secretary of State may make arrangements for insuring any person carrying on business in the United Kingdom against risks of losses arising—

(a) in connection with any investment of resources by the insured in enterprises carried on outside the United Kingdom, or

(b) in connection with guarantees given by the insured in respect of any investment of resources by others in such enterprises, being enterprises in which the insured has any interest,

being losses resulting directly or indirectly from war, expropriation, restrictions on remittances and other similar events.

(2) The Secretary of State may make arrangements for insuring persons providing such insurance.

(3) References in subsection (1) above to a person carrying on business in the United Kingdom and to the insured include any company controlled directly or indirectly by him.

### **3 Financial management**

(1) The Secretary of State may make any arrangements which, in his opinion, are in the interests of the proper financial management of the ECGD portfolio, or any part of it.

(2) In pursuance of arrangements under this section the Secretary of State may enter into any form of transaction, including—

(a) lending, and

(b) providing and taking out insurance and guarantees.

(3) The Secretary of State may not, in pursuance of such arrangements, enter into any transaction for the purpose of borrowing money but, subject to that, he is not precluded from entering into any transaction by reason of its involving borrowing.

(4) In pursuance of such arrangements the Secretary of State may—

(a) alter any arrangements made under section 1 or 2 of this Act or the old law or make new arrangements in place of arrangements so made, or

(b) make further arrangements in connection with arrangements so made.

(5) Arrangements under this section may be made in anticipation of further rights being acquired or liabilities being incurred by the Secretary of State.

(6) In this section the "ECGD portfolio" means the rights and liabilities to which the Secretary of State is entitled or subject by virtue of the exercise of his powers under this Act or the old law or in consequence of arrangements made in the exercise of those powers.

(7) The Secretary of State may certify that any transaction he has entered into or is entering into has been or, as the case may be, is entered into in the exercise of the powers conferred by this section and such a certificate shall be conclusive evidence of the matters stated in it.

### **4. Provisions Supplementary to sections 1 to 3**

(1) Transactions entered into in pursuance of arrangements made Provisions under sections 1 to 3 of this Act may be on such terms and conditions as supplementary to the Secretary of State considers appropriate. sections 1 to 3.

(2) The powers of the Secretary of State under those sections are exercisable only with the consent of the Treasury and such consent may be given in relation to particular cases or in relation to such descriptions of cases as may be specified in the consent.

(3) In those sections—

- (a) "business" includes a profession,
- (b) "guarantee" includes indemnity,
- (c) references to persons carrying on business, in relation to things done outside the United Kingdom, include persons carrying on any other activities, and
- (d) references to things done in or outside the United Kingdom are to things done wholly or partly in or, as the case may be, outside the United Kingdom.

(4) References in this and those sections to the United Kingdom include the Isle of Man and the Channel Islands.

## **5 Provision of services and information**

(1) The Secretary of State may provide to any person—

- (a) information relating to credit or investment insurance,
- (b) services ancillary to the provision by that person of credit or investment insurance, and
- (c) such other goods or services as may be specified in an order under this section, and may make such charges for doing so as he may determine.

(2) The power to make an order under this section is exercisable only with the consent of the Treasury.

## **6 Commitment limits**

(1) The aggregate amount of the Secretary of State's commitments at any time under arrangements relating to exports and insurance shall not exceed—

- (a) in the case of commitments in sterling, £35,000 million, and
- (b) in the case of commitments in foreign currency, [30,000 million] special drawing rights.

(2) In subsection (1) above, "arrangements relating to exports and insurance" means—

- (a) arrangements under section 1 or 2 of this Act, other than arrangements for giving grants or arrangements under section 1(3), and
- (b) arrangements under the old law, other than arrangements for giving grants.

(3) The aggregate amount of the Secretary of State's commitments at any time under section 3 of this Act shall not exceed—

- (a) in the case of commitments in sterling, £15,000 million, and
- (b) in the case of commitments in foreign currency, 10,000 million special drawing rights.

(4) The Secretary of State may by order increase or further increase—

- (a) either of the limits in subsection (1) above by a sum specified in the order not exceeding £5,000 million or, as the case may be, 5,000 million special drawing rights,

(b) either of the limits in subsection (3) above by a sum specified in the order not exceeding £3,000 million or, as the case may be, 2,000 million special drawing rights,

but the Secretary of State shall not in respect of any limit exercise the power on more than three occasions.

(5) For the purposes of this section and section 7 of this Act—

(a) the commitments of the Secretary of State under any arrangements are his rights and liabilities relating to the arrangements,

(b) the amount of any commitments shall be ascertained in accordance with principles determined from time to time by the Secretary of State with the consent of the Treasury,

(c) “foreign currency” means any currency other than sterling, including special drawing rights and any other units of account defined by reference to more than one currency,

(d) whether any commitments are in sterling or foreign currency is to be determined by reference to the currency in which the amount of the commitments is measured (rather than the currency of payment) but, if the commitments are expressed to be subject to a sterling or foreign currency limit, the commitments are to be taken to be in sterling or, as the case may be, foreign currency, and

(e) the equivalent in special drawing rights of the amount of any commitments in foreign currency shall be ascertained at intervals determined from time to time by the Secretary of State with the consent of the Treasury and in accordance with principles so determined.

(6) A determination under subsection (5)(e) above may provide for leaving out of account for the purposes of the limit in subsection (1)(b) or (3)(b) above any amount by which the limit would otherwise be exceeded to the extent that the amount is attributable to—

(a) a revaluation of commitments under subsection (5)(e) above, or

(b) the fulfilment of an undertaking which, had it been fulfilled when given, would not have caused the limit to be exceeded.

(7) Any power to make an order under this section is exercisable only with the consent of the Treasury.

## **7 Reports and returns**

(1) The Secretary of State shall prepare an annual report on the discharge of his functions under sections 1 to 5 of this Act.

(2) The Secretary of State shall prepare, as soon as practicable after 31st March in each year, a return showing separately the aggregate amounts of the commitments in sterling and in foreign currency on that date for the purposes of the limits in section 6(1) and (3) of this Act.

(3) Any return under this section may also give such further information as to the amounts of his commitments for the purposes of those limits as the Secretary of State may determine for that return.

(4) . . .

(5) Reports and returns prepared under this section shall be laid before Parliament.

Sub-s (4): repealed by the Statute Law (Repeals) Act 2004.

## Part II

### Transfer or Delegation of ECGD Functions

#### **8 Scheme of transfer**

(1) The Secretary of State may make a scheme or schemes for the transfer to any person or persons of such property, rights and liabilities as are specified in or determined in accordance with the scheme, being property, rights or liabilities—

(a) to which the Secretary of State (or, in the case of copyright, Her Majesty) is entitled or subject immediately before the day on which the scheme providing for the transfer comes into force, and

(b) which then subsisted for the purposes of or in connection with or are otherwise attributable (wholly or partly) to the exercise of functions under Part I of this Act or the old law.

(2) Without prejudice to the generality of subsection (1)(b) above, any property, rights or liabilities shall be taken to fall within that subsection if the Secretary of State issues a certificate to that effect.

(3) A scheme under this section may apply—

(a) to property wherever situated, and

(b) to property, rights and liabilities whether or not otherwise capable of being transferred or assigned by the Secretary of State or, as the case may be, Her Majesty.

(4) A scheme under this section shall come into force on such day as may be specified in, or determined in accordance with, the scheme; and on that day the property, rights and liabilities to which the scheme applies shall be transferred and vest in accordance with the scheme.

(5) A scheme under this section may contain such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.

(6) The Schedule to this Act (scheme of transfer: supplementary provisions) shall have effect.

(7) References below in this Act to a transferee are to any person to whom anything is transferred by virtue of a scheme under this section.

#### **9 Transferred staff**

(1) No scheme under section 8 of this Act shall provide for the transfer of any rights or liabilities relating to a person's employment, but the [Transfer of Undertakings (Protection of Employment) Regulations 2006] shall apply to the transfer of property, rights or liabilities by virtue of such a scheme whether or not the transfer would, apart from this subsection, be a relevant transfer for the purposes of those regulations.

(2) Where, by reason of the operation of those regulations in relation to a transfer of property, rights or liabilities by virtue of such a scheme, a person ceases to be employed in the civil service of the State and becomes employed by a transferee—

(a) he shall not, on so ceasing, be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having retired on redundancy, and

(b) his ceasing to be employed in that service shall not be regarded as an occasion of

redundancy for the purposes of the agreed redundancy procedures applicable to persons employed in that service.

## **10 Vehicle companies**

(1) In this section “vehicle company” means a company formed or acquired for the purpose of—

- (a) becoming a transferee, or
- (b) holding shares in a company formed or acquired for that purpose.

(2) Subject to subsections (3) and (4) below, the Secretary of State may—

- (a) subscribe for or otherwise acquire shares in or securities of a vehicle company, or acquire rights to subscribe for such shares or securities,
- (b) by a direction given to a company formed or acquired for the purpose of becoming a transferee require it, in consequence of the transfer by virtue of a scheme under section 8 of this Act of property, rights or liabilities, to issue to him, or to such other person as may be specified in the direction, such shares or securities as may be so specified,
- (c) from time to time by a direction given to a vehicle company require it to issue to him, or to such other person as may be specified in the direction, such shares or securities as may be so specified, or
- (d) make loans to a vehicle company on such terms and conditions as he may determine.

(3) A direction under subsection (2)(b) or (c) above may require any shares to which it relates to be issued as fully or partly paid up.

(4) The Secretary of State shall not—

- (a) subscribe for or otherwise acquire shares in or securities of a vehicle company, or acquire rights to subscribe for such shares or securities, unless all the relevant shares are to be held by or on behalf of the Crown, or
- (b) at any time give a direction or make a loan to a vehicle company unless all the relevant shares are then held by or on behalf of the Crown.

(5) For the purposes of subsection (4) above—

- (a) shares are held by or on behalf of the Crown where the Crown or any person acting on behalf of the Crown has a legal interest in them; and
- (b) “relevant shares”, in relation to a vehicle company, means the issued shares of that company or, if it is a subsidiary of another vehicle company, the issued shares of that other company.

(6) A scheme under section 8 of this Act may, as between any vehicle companies or as between a vehicle company and the Secretary of State, confer or impose rights and liabilities in connection with any of the matters as to which the Secretary of State may exercise his powers under this Act.

(7) The Secretary of State shall not exercise any of the powers conferred by the preceding provisions of this section or dispose of any shares in or securities of a vehicle company without the consent of the Treasury.

## **11 Reinsurance**

(1) The Secretary of State may make arrangements with any transferee under which the transferee insures the Secretary of State against risks of losses arising in consequence of arrangements made, before the day on which any scheme under section 8 of this Act comes into force, under Part I of this Act or the old law.

(2) The Secretary of State shall from time to time determine, in relation to such classes of risk determined by him as might be insured by him under section 1 of this Act, whether it is expedient in the national interest for him to exercise his powers under that section to make arrangements for reinsuring persons providing insurance for risks of that class.

(3) This section is without prejudice to any power of the Secretary of State under Part I of this Act.

## **12 Delegation of assistance function**

(1) The Secretary of State may make arrangements for any of the functions to which this section applies to be exercised on his behalf by any transferee or any other person, instead of through the Export Credits Guarantee Department, on such terms and conditions as he may determine.

(2) This section applies to the power of the Secretary of State to make arrangements under section 1 of this Act and to any functions of his under arrangements so made, or arrangements under the old law, including, so far as relating to any such arrangements, arrangements made by virtue of section 3(4) of this Act.

(3) This section does not affect any requirement for the consent of the Treasury.

## **Part III**

### **General**

## **13 The Export Credits Guarantee Department and the Export Guarantees Advisory Council**

(1) All the functions of the Secretary of State under Part 1 of this Act, except the power to make orders under section 5 or 6 of this Act, shall be exercised and performed through the Export Credits Guarantee Department, which shall continue to be a Department of the Secretary of State.

(2) There shall continue to be an Export Guarantees Advisory Council.

(3) The function of the Council shall be to give advice to the Secretary of State, at his request, in respect of any matter relating to the exercise of his functions under this Act.

(4) In exercising his duty under section 11(2) of this Act, the Secretary of State shall consult the Export Guarantees Advisory Council.

## **14 Expenses**

(1) Any sums required by the Secretary of State for making payments or for defraying his administrative expenses under this Act shall be paid out of money provided by Parliament and any sums received by the Secretary of State by virtue of this Act shall be paid into the Consolidated Fund.

(2) If any sum required by the Secretary of State for fulfilling his liabilities under this Act is not paid out of money provided by Parliament, it shall be charged on and paid out of the Consolidated Fund.

## **15 Short title, interpretation, commencement, etc**

- (1) This Act may be cited as the Export and Investment Guarantees Act 1991.
- (2) In this Act “the old law” means the Export Guarantees and Overseas Investment Act 1978 and any earlier enactment from which any provision of that Act was derived.
- (3) Any power to make an order under section 5 or 6 of this Act shall be exercisable by statutory instrument and no such order shall be made unless a draft of it has been laid before and approved by resolution of the House of Commons.
- (4) ...
- (5) Subsection (4) above does not affect any power exercisable by the Secretary of State in respect of arrangements made under the old law.
- (6) . . .

### **Amendment**

Sub-s (4): repeals the Export Guarantees and Overseas Investment Act 1978.

Sub-s (6): repealed by the Statute Law (Repeals) Act 2004.

### **SCHEDULE**

#### **SCHEME OF TRANSFER: SUPPLEMENTARY PROVISIONS**

Section 8: *Certificate of vesting*

#### **1**

A certificate by the Secretary of State that anything specified in the certificate has vested on any day in any person by virtue of a scheme under section 8 of this Act shall be conclusive evidence for all purposes of that fact.

*Construction of agreements etc.*

#### **2**

(1) This paragraph applies to any agreement made, transaction effected or other thing (not contained in an enactment) which—

- (a) has been made, effected or done by, to or in relation to the Secretary of State,
- (b) relates to any property, right or liability transferred from the Secretary of State in accordance with the scheme, and
- (c) is in force or effective immediately before the day on which the scheme comes into force.

(2) The agreement, transaction or other thing shall have effect on and after that day as if made, effected or done by, to or in relation to the transferee.

(3) Accordingly, references to the Secretary of State which relate to or affect any property, right or liability of the Secretary of State vesting by virtue of the scheme in the transferee and which are contained—

- (a) in any agreement (whether or not in writing), deed, bond or instrument,
- (b) in any process or other document issued, prepared or employed for the purpose of any proceeding before a court or other tribunal or authority, or

(c) in any other document whatever (other than an enactment) relating to or affecting any property, right or liability of the Secretary of State which vests by virtue of the scheme in the transferee, shall be taken on and after that day to refer to the transferee.

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