

Export Guarantees Advisory Council Annual Report



The Export Guarantees Advisory Council is a non-departmental public body (NDPB) established under the Export and Investment Guarantees Act 1991. Its role is to give advice to the Secretary of State for Business, Innovation and Skills at his request on matters related to UKEF. The Secretary of State has a statutory duty to consult the Council on matters related to the provision of reinsurance by UKEF to the private credit insurance market. In practice, the Council provides advice to Ministers on the policies that UKEF applies when doing business particularly related to:

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

The Council's advice is provided in the context of the government's export strategy and the role UKEF plays in helping to fulfil it, particularly that it does so in line with the government's ethical policies and international obligations as they relate to ECAs.

The Council does not have executive powers and therefore is not involved in decision-taking by UKEF in the provision of support for particular export transactions. It carries out retrospective reviews of export transactions UKEF has supported to understand how its principles and policies are applied in practice, provides assurance and, as appropriate, gives advice on how these might be further developed.

Members of the Council are appointed by Ministers. The members are:

Chair

Andrew Wiseman (Partner, Harrison Grant Solicitors)

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)

Members of the Council are not remunerated and provide their time on a voluntary basis. Its direct cost in 2013-2014 was less than £4,000.

During 2013–14, the Council met on five occasions. Separately, it met with the Minister of State for Trade and Investment.

One meeting was devoted to the government's triennial review of the Council. The government's policy is to review the need for, and the governance of, NDPBs every three years. UKEF conducted such a review of the Council and in doing so consulted the Council. The Council made no comment as to its future but gave advice on factors that the government should consider taking into account in reaching a view. UKEF also consulted other interested parties. The outcome concluded that the Council still had a role to play in supporting Ministers in the exercise of their responsibilities for UKEF and that it should continue to provide advice and assurance in line with its existing terms of reference. A number of recommendations were made to bring the Council's governance into line with the Cabinet Office's best practice guidelines for NDPBs. The recommendations also took into account an internal audit review of the Council that had been undertaken during the year.

At each of its meetings, the Council met with senior officials from UKEF including its chief executive who routinely provided a briefing on current issues and developments to provide context to the Council's deliberations and lines of inquiries upon which it could provide advice in fulfilment of its terms of reference. UKEF officials provided briefings on particular issues and export transactions supported. The Council also met with the Minister. It is the practice of the Council to also meet with interested parties to understand their issues of interest in UKEF and to help shape the Council's agenda.

During the year the Council met the British Exporters' Association (BExA) a trade lobby group that campaigns for the interests of British exporters. BExA welcomed the expansion of UKEF's business domain to assist exports sold on short terms of credit and the introduction of new products and services. It was supportive of the initiative to deploy a network of export finance advisers based around the country and the efforts being made to raise awareness of UKEF amongst the exporting community. BExA produces an annual comparison report on the products and services offered by ECAs and reported that it now benchmarked UKEF more favourably as a result of the changes made. BExA recognised UKEF's responsibilities to apply policies and practices to fulfil its international obligations with respect to anti-bribery, environmental standards etc. but made clear it would seek to ensure that these were not applied more onerously than other ECAs given its concern that British exporters should compete on a level playing field.

The Council also met with Transparency International (TI) a non-governmental organisation (NGO) whose activities centre on combating corruption including in international trade. TI has previously examined the policies and practices of ECAs in regards to their anti-bribery policies in line with their obligations under the *OECD Recommendation on Bribery and Officially Supported Export Credits* (the OECD Bribery Recommendation). TI has a wealth of information to assist UKEF in its fulfilment of the OECD Bribery Recommendation and the Council encouraged engagement between UKEF and TI to draw upon its resources to help UKEF fulfil its anti-bribery due diligence on applications for support and to assist staff training.

The Council carried out an annual review of the application of UKEF's anti-bribery and corruption policies in compliance with UKEF's obligations under the OECD Bribery Recommendation. It also considered UKEF's practices in conducting "know your customer" checks and adverse history due diligence in respect of applications it receives for support. The broadening of UKEF's business domain has meant that it is now serving a wider community of exporters, many of whom are SMEs. Not all operate anti-bribery policies and therefore UKEF can help to play a broader role in the deterrence of corrupt activity by encouraging such companies to adopt appropriate anti-bribery management systems and signpost them to external resources, including TI.

As part of its review of UKEF's anti-bribery policies and practices, the Council particularly examined the support provided to BAE Systems in respect of the supply of Typhoon aircraft to Oman and the supply of bridges to Sri Lanka by Mabey Bridge Limited. The Council was satisfied that UKEF had carried out comprehensive due diligence in respect of both companies and the export contracts in line with the OECD Bribery Recommendation.

The Council also examined new projects that UKEF supported to understand how it had applied the OECD Common Approaches. It reviewed UKEF support for the Sadara Petrochemical project, an integrated chemicals complex costing over US\$19 billion being constructed in Jubail Industrial City II in Saudi Arabia. UKEF support had been provided alongside six other ECAs. UKEF took the lead role in undertaking the ESHR due diligence of the project. The project was classified 'Category A' 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 UKEF's Environmental Advisory Unit (EAU) and UKEF's conclusion that the project would meet international ESHR standards. Given the size of the project, essentially an integration of 26 individual projects, which required substantial labour resources for its construction, the Council paid particular attention to the worker conditions and social issues connected with the project. The Council was satisfied that UKEF had properly categorised the project and benchmarked it against the IFC Performance Standards. The Council examined the arrangements to undertake monitoring of ESHR issues during the construction and operational phases of the project and will be looking at this in 2014–15 to be assured that the project remains aligned with international standards.

At a number of its meetings, the Council considered human rights issues. The Council noted the publication by the government in September 2013 of its action plan *Good Business: Implementing the UN Guiding Principles on Business and Human Rights* to which UKEF had contributed. The Council also considered the work being undertaken by UKEF in the OECD Environmental Practitioner's Group to fulfil a mandate in the 2012 OECD Common Approaches to review how project related human rights impacts are being addressed and should be further addressed including the adoption of human rights due diligence tools. The Council considered a report published by Amnesty International entitled *A History of Neglect: UK Export Finance and Human Rights*, which was critical of UKEF's record of considering the human rights impacts of the projects it had supported. The Council noted that projects highlighted by Amnesty dated from many years previously. The Council considered there appeared to be a lack of knowledge and understanding of how the OECD Common Approaches works and the human rights due diligence that UKEF carries out in line with the relevant international ESHR standards. The Council encouraged UKEF to make information available to raise awareness and knowledge and welcomed the subsequent publication by UKEF of a guide to the OECD Common Approaches and a note on its approach to human rights on projects.

The Council reviewed the activities of the EAU during 2013. The Council noted that the workload of the EAU had remained high as a result of rising demand for UKEF support and the increase in the number of projects now subject to monitoring following the provision of support. The EAU has arrangements to obtain advice where specialist ESHR knowledge is required and to provide additional resource to manage peaks in workload. The EAU also plays an important role in representing UKEF at the OECD's Environmental Practitioners' Group meetings, where it works with representatives of other ECAs to advise the OECD's Export Credit Group on ESHR matters and make recommendations on how standards could be developed.

The Council reviewed (in May 2013) UKEF's handling of information requests made under the Freedom of Information Act and the Environmental Information Regulations. The Council noted that in 2012–13, while the total number of requests had fallen from the previous year, the proportion of those answered within statutory deadlines had also fallen. While recognising this reflected a higher concentration of complex requests that involved the need to consult external parties, the Council encouraged UKEF to improve its timeliness in handling requests in 2013-14¹.

1 In 2013-14, UKEF responded to 83% of cases within the statutory time limit, compared to 76% in 2012-13. See page 35 for more details.

During the year, the Council was briefed by UKEF on the recovery of sovereign debts rescheduled under the auspices of Paris Club rescheduling agreements following default on payment of original debts. The majority of the original debts related to export contracts supported in the 1970s and 1980s. This matter was the subject of attention by NGOs such as the Jubilee Debt Campaign who called for an audit of the debts to be carried out and for debts to be cancelled. It led to information about the debts being disclosed by UKEF through parliamentary questions and freedom of information requests. In the light of this, the Council planned to meet the Jubilee Debt Campaign during 2014–15 as part of its engagement with parties interested in UKEF.

The Council's terms of reference, register of members interests, minutes of its meetings, the triennial review report and contact details can be found on the government's website at www.gov.uk/government/organisations/export-guarantees-advisory-council. For further information on the work of the Council please contact the council secretary on +44(0)20 7271 8101 or email enquiries@ukef.gsi.gov.uk.

Andrew Wiseman
Chair