



House of Commons  
Environmental Audit  
Committee

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**The Export Credits  
Guarantee Department  
and Sustainable  
Development**

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**Eleventh Report of Session 2007–08**

*Report, together with formal minutes, oral and  
written evidence*

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## The Environmental Audit Committee

The Environmental Audit Committee is appointed by the House of Commons to consider to what extent the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development; to audit their performance against such targets as may be set for them by Her Majesty's Ministers; and to report thereon to the House.

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### Committee staff

The current staff of the Committee are: Gordon Clarke (Clerk); Sara Howe (Second Clerk); Richard Douglas (Committee Specialist); Oliver Bennett (Committee Specialist); Susan Monaghan (Committee Assistant); Jennifer Steele (Secretary) and Charlotte Towerton (Sandwich Student)

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# Contents

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<b>Report</b>	<i>Page</i>
<b>Summary</b>	<b>3</b>
<b>1 Introduction</b>	<b>5</b>
<b>2 An effective role for the ECGD</b>	<b>5</b>
Remit	7
Portfolio and client base	8
<b>3 The Case Impact Analysis Process</b>	<b>10</b>
Standards	11
Constructive Engagement	12
Exports not subject to the CIAP process	14
Aerospace cases	14
Defence exports that require an export licence	15
<b>4 Transparency</b>	<b>15</b>
<b>Conclusions and recommendations</b>	<b>18</b>
<b>Formal minutes</b>	<b>21</b>
<b>Witnesses</b>	<b>22</b>
<b>List of written evidence</b>	<b>22</b>



## Summary

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Since our predecessor committee looked at the Export Credits Guarantee Department in 2003, the agency has continued to make progress on sustainable development that deserves to be recognised. Sound foundations have been laid and mechanisms put in place that offer a good framework for further action. There is still room for improvement in the way sustainable development is incorporated into the agency's decision-making and the ECGD must ensure its activities are in line with wider Government aspirations on sustainable development.

The challenge is for the ECGD to demonstrate that sustainable development is given appropriate weight within its current remit, and that it does nothing that would actively undermine this principle. In particular, the ECGD should identify areas where its environmental standards could be tightened. More rigorous standards can then be applied across its portfolio, including to aerospace exports. The ECGD must improve the transparency of its assessment processes and increase the level of disclosure of project information. It is important that the department does more to attract renewable energy and other projects that support sustainable development; support from Department for Business Enterprise and Regulatory Reform (DBERR) will be vital in taking this forward.

The ECGD's approach to sustainable development is all the more important because of its ability to influence and raise standards internationally. A bolder approach from the ECGD on sustainable development issues and transparency will be vital in improving the performance of Export Credit Agencies in general.



# 1 Introduction

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1. The Export Credits Guarantee Department (ECGD) is a non-ministerial department, accountable to Parliament through the Secretary of State for Business, Enterprise and Regulatory Reform. The ECGD's role is to assist UK exporters by providing financial guarantees and insurance for export contracts in markets where commercial cover would not normally be available. In the 1970s the ECGD supported up to 37% of all UK exports through its guarantees and insurance policies. The level of ECGD business has since declined significantly (in 2007, the ECGD supported less than 1% of UK exports) but it still fulfils an important role for the industries and projects that make use of its facilities.

2. In 2002–03, our predecessor Committee investigated the extent to which the ECGD was incorporating the Government's commitment to sustainable development into its policies and operations.<sup>1</sup> In particular, the inquiry examined the impact of the ECGD's Business Principles and the revised case impact analysis procedures, introduced in 2000. Among other issues, the Committee highlighted shortcomings in the coverage of the impact analysis process, a need for greater transparency, and concerns over the composition of the ECGD's portfolio. Five years on, we felt it appropriate to revisit the ECGD's progress on this matter, especially in the light of the planned review of the Case Impact Analysis Process. In particular, our inquiry examined how well the ECGD takes account of environmental impacts in its assessment and decision-making processes, and how the ECGD's procedures could be improved, especially with regard to information disclosure and transparency.

3. We are grateful to all who contributed to the inquiry, in particular the National Audit Office for its substantial memorandum providing factual and descriptive information on the ECGD's operations and procedures.<sup>2</sup>

## 2 An effective role for the ECGD

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4. Existing ECGD procedures on sustainable development derive from its 1999 Mission and Status Review. This 'strongly affirmed that there was a continuing need for ECGD and that its primary purpose should still be to facilitate trade. However, it argued that ECGD should also use its leverage to support projects which underpin the Government's international policies to promote sustainable development, human rights, and governance'.<sup>3</sup> This review led to the establishment of a set of Business Principles and, to support their implementation, a Business Principles Unit within the ECGD. The Business Principles relating to sustainable development state the ECGD will:

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1 Environmental Audit Committee, Seventh Report of Session 2002–03, *Export Credits Guarantee Department and Sustainable Development*, HC 689.

2 Reproduced here as ECGD 12, see Ev 81–98.

3 Ev 84

[...] promote a responsible approach to business and will ensure our activities take into account the Government's international policies, including those on sustainable development, environment, human rights, good governance and trade.<sup>4</sup>

The primary mechanism for incorporating the Business Principles into the ECGD's procedures is the Case Impact Analysis Process (CIAP), which guides the ECGD's decisions on applications. We examine the CIAP more closely in Chapter 3.

5. The NAO was broadly positive about the steps taken by the ECGD, noting that it had 'done much to incorporate sustainable development considerations into its project screening procedures'.<sup>5</sup> This was supported by the Joint Nature Conservation Committee (JNCC), which stated:

JNCC's experience of collaboration with ECGD indicates that the department takes environmental and sustainable development issues seriously, and is committed to improving standards within its own work and globally.<sup>6</sup>

The Confederation of British Industry, representing a number of the businesses that have to operate under any new conditions introduced by the ECGD, described the application of sustainable development criteria to the ECGD's work as 'rigorous and comprehensive'.<sup>7</sup> **The ECGD has made progress on supporting sustainable development that deserves to be recognised. The objectives introduced by the 1999 Mission and Status Review placed considerable demands on a small, specialised department, with a difficult role to play in balancing business and financial needs with wider government concerns. The mechanisms put in place following the review are a sound basis for further action on sustainable development.**

6. While the ECGD has clearly increased its capacity to incorporate sustainable development into its work practices, it has continued to attract criticism over the extent to which it has done so. There has been consistent criticism of the ECGD's approach from a number of NGOs, of which WWF and the Corner House are among the most vocal.

7. The ECGD has an important and visible role on the world stage. The high profile projects supported by the ECGD represent an opportunity to set a standard both in the regions where it operates and for other Export Credit Agencies (ECAs) to follow.<sup>8</sup> Alongside the ECGD's capacity for positive influence, there is a danger of negative influence if it was perceived as failing to set or meet appropriate standards.<sup>9</sup> The standards set by the ECGD influence the standards used by other ECAs and can help to raise international standards overall, notably the OECD's 'common approaches'. WWF noted:

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4 ECGD, *ECGD's Business Principles*, December 2000.

5 Ev 81

6 Ev 73

7 Ev 65

8 Q 3

9 Q 20



improvements in the various guidelines for ECAs on sustainable development issues have tended to come as a result of one ECA setting new standards and then encouraging others in the forum of the OECD to follow. As such the OECD has been a medium for improving standards multilaterally, but not the driver.<sup>10</sup>

**While the ECGD must balance the duty to raise its standards of sustainable development against its duty to support the competitiveness of UK industry, it has a unique capacity to influence and raise standards internationally.**

## Remit

8. The current ECGD remit is derived from the 1991 Export and Investment Guarantees Act, which sets a primary duty to assist exporters of UK goods and services to win business abroad and invest overseas. The Business Principles, including sustainable development objectives, are subsidiary to this primary duty. The NAO noted that ‘while ECGD can take account of wider Government policies (including environmental policies), it cannot allow these to prevent it from fulfilling its statutory purpose’.<sup>11</sup> However, Malcolm Wicks, the Minister overseeing the ECGD’s operations at the Department for Business, Enterprise and Regulatory Reform, assured us repeatedly during evidence that the status of the business principles would not prevent the ECGD from refusing a project if it failed to meet the department’s sustainable development standards.<sup>12</sup>

9. The question has been raised whether the ECGD would be more effective at incorporating sustainable development into its activities if sustainable development became part of its primary duty. WWF insists that the current remit is out of date, and that the primary duty should be recast in order to reflect wider government policy on sustainable development.<sup>13</sup> The Corner House argued that a change to the primary remit was ‘probably essential in terms of any real movement towards fitting the ECGD more with government sustainable development objectives’.<sup>14</sup>

10. However, as the NAO put it:

ECGD is neither a development bank nor an aid agency, and to transform it into one would not only require a fundamental statutory change but also risk duplicating the functions of other organisations such as DfID.<sup>15</sup>

Mr Wicks reiterated this argument,<sup>16</sup> and even the Corner House noted that it was important to remain focused on improving the consideration of sustainable development within the ECGD’s existing role.<sup>17</sup> **We conclude that a change to the ECGD’s primary**

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10 Ev 10

11 Ev 94

12 See, for example, Q 80

13 Q 13

14 Q 12

15 Ev 94

16 Q 39

17 Q 10 (Mr Hildyard)

**remit is not currently necessary, but continued scrutiny of further progress is important. The current remit provides an adequate basis for sustainable development to underpin its activities. The challenge for the ECGD is to demonstrate that sustainable development is given appropriate weight within its current remit, and that it does nothing that would actively undermine this principle.**

11. WWF has expressed concern that the Business Principles are not translating into meaningful and continuous progress on sustainable development issues,<sup>18</sup> while the Corner House described the principles as ‘largely aspirational and [...] their implementation discretionary’.<sup>19</sup> To some degree, these criticisms arise from shortcomings in the CIAP process and from a lack of transparency in the ECGD’s assessment and decision-making procedures. We make recommendations on how to address these problems in Chapters 3 and 4.

## Portfolio and client base

12. The contents of the ECGD’s portfolio have changed significantly since 2000. Both the value of business and the number of projects supported have declined, a phenomenon ascribed to a number of factors including changing patterns in manufacturing and the increasing maturity of foreign markets. Most notably, the 1991 privatisation of the ECGD’s short term trade credit insurance operation led to a significant reduction in its role, which has been further eroded by the increasing availability of insurance from the private sector.<sup>20</sup> The profile of the ECGD’s portfolio has also changed: defence and aerospace cases have always been important but now dominate, while civil projects have shrunk to a fraction of the ECGD’s business. The NAO believed this raised ‘significant issues for the ECGD as its customer base has continued to shrink and it is now largely dependent on a small number of exporters operating in the civil aerospace and defence sectors’.<sup>21</sup>

13. These concerns are not new: the 1999 Mission and Status Review proposed widening the ECGD’s customer base and identifying specific export markets to support the Government’s sustainable development objectives.<sup>22</sup> The NAO noted that the ECGD had been ‘less able to respond’ to these ‘wider aspirations’<sup>23</sup> (the various reasons for this are set out in the paragraphs below). In addition, the domination of the portfolio by aerospace and defence, coupled with the high proportion of fossil-fuel-related projects in the civil non-aerospace sector, has attracted the criticism of environmental groups. WWF accused the ECGD of sending a message that the government, contrary to its environmental aims, is prepared to subsidise and support these heavily polluting sectors.<sup>24</sup>

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18 Ev 4

19 Ev 18

20 Further analysis of the changes to ECGD’s portfolio can be found in the NAO briefing note, Ev 91-93.

21 Ev 83

22 Ev 84

23 Ev 85

24 Ev 2

14. Evidence to the inquiry from business groups stressed the vital role played by the ECGD. The CBI insisted that any move to limit support for aerospace, defence, or fossil fuel projects could put UK business in these sectors at a competitive disadvantage and have a negative impact on the economy.<sup>25</sup> SBAC insisted that such a move could even have negative environmental consequences, because it ‘would result in making the equipment of UK competitors financially more attractive even if it is less efficient and more environmentally damaging.’<sup>26</sup> **The ECGD has a responsibility to support UK exporters. Any move by the Government to adopt policies that limited support to sectors such as defence, aerospace and fossil fuels, or to assess these sectors by different standards, would need to be carefully assessed. While these sectors remain within the ECGDs portfolio, the agency must take steps to improve the scrutiny of sustainable development in these areas.**

15. The Corner House argued that the agency should be trying to improve the balance of its portfolio.<sup>27</sup> However, the ECGD does not choose its business: it is a reactive organisation and its business is determined by the applications it receives. Any attempt to change the nature of the client base will either need to restrict ECGD support in these more polluting sectors, or encourage new industries to take advantage of ECGD facilities and redress the balance. In 2003 our predecessors welcomed the establishment of a £50 million underwriting facility for renewable energy projects as a ‘step in the right direction’;<sup>28</sup> but not a single application for support through this facility has been received. The NAO attributes this to the fact that the UK has relatively little manufacturing capacity in the renewable energy sector, and that those firms that do exist are not of the size to require support of the kind provided by the ECGD.<sup>29</sup> Patrick Crawford, the ECGD’s Chief Executive, noted that even in the USA, where the renewable energy industry is larger and better established, little use was made of export credits to support renewables.<sup>30</sup>

16. The ECGD is not able to offer subsidised facilities to exporters:

To do so on a tied basis to UK exporters would not only conflict with international guidance on ECAs but might be viewed as anti-competitive and incur the risk of legal action—for example, by the EU or WTO.<sup>31</sup>

The agency is also limited in terms of how actively it can market its services to potential applicants. The department has a non-statutory policy objective to ‘complement, not compete with, the private market’.<sup>32</sup> As such, the department is restricted to raising awareness of its services, rather than actively selling its wares or chasing down business opportunities. Mr Dodgson summarised how it currently goes about this:

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25 Ev 65

26 Ev 69

27 Q 7

28 Environmental Audit Committee, Seventh Report of Session 2002–03, *Export Credits Guarantee Department and Sustainable Development*, HC 689, para 39

29 Ev 94

30 Q 85 (Mr Crawford)

31 Ev 94

32 Ev 41

One of the key links is through UKTI [UK Trade & Investment] because it has contacts with industry. A number of my staff sit on some of the trade sector groups so we are linked with industry on those groups and they are aware of what we do. We also participate in conferences or exhibitions, and in some cases we will go out and visit exporters. The other arm of it is also to be known overseas because project sponsors are very influential in where they place business. [...] Therefore, there is a role in making sure that our posts overseas are aware of our services and facilities, but, frankly, it is about awareness rather than selling.<sup>33</sup>

This activity is encouraging, but it has clearly not been able to bring about the changes in the ECGD's client base that would support a more sustainable portfolio.

**17. A large programme of support for sustainable and environmental industries would help the ECGD to revitalise its role while remaining within its current remit. Although it cannot compete directly with the private sector, the ECGD should establish a programme actively to promote its services to environmental industries and to other projects that could support sustainable development.**

### 3 The Case Impact Analysis Process

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18. The ECGD carries out an environmental and social impact assessment for all civil non-aerospace applications, including defence exports not requiring an export licence. In 2007–08, 13 of the 96 cases supported by the ECGD required an assessment of this kind.<sup>34</sup> The Case Impact Analysis Process (CIAP) is set out in detail in the memorandum from the NAO, which describes CIAP as 'a good framework'<sup>35</sup> and notes:

Since 2000, ECGD has done much to incorporate policies and processes which seek to ensure that sustainability considerations are taken into account in deciding whether or not to approve applications for support. These meet or exceed all the requirements and expectations set out in international rules on the operation of export credit agencies.<sup>36</sup>

19. The assessment process is carried out by the Business Principles Unit (BPU), on the basis of information provided by the exporter through impact questionnaires. The BPU reports any concerns to the ECGD's Risk Committee, which then decides whether it would be appropriate to support the application. The NAO stressed that the effectiveness of the CIAP depends upon the experience and resources of the BPU.<sup>37</sup> The NAO was satisfied that the BPU's assessment of the information provided to them by exporters was comprehensive, but raised concerns about the timescales involved, stating:

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33 Q 87

34 Ev 81

35 Ev 88

36 Ev 81

37 Ev 88

The timescales involved in obtaining all the necessary information on the impacts of major projects are lengthy. This may result in ECGD only being in a position to consider whether financial support would be consistent with its Business Principles at a relatively late stage of the underwriting process.<sup>38</sup>

20. Careful and thorough assessments of this kind will inevitably take time, especially when the process relies upon exporters providing substantial amounts of information on request. It is critically important that the overall application process builds in enough time to accommodate this assessment and that, in the meantime, the underwriting process does not gather such momentum so as to render the BPU's assessment incidental to the matters under consideration. Although Mr Wicks assured us that any application that failed to pass the BPU's assessment would not receive support,<sup>39</sup> it is important to ensure that the timing of assessment and underwriting processes does not leave the BPU at a disadvantage. WWF alleged an application connected with the controversial Sakhalin development (which was later withdrawn) was given 'legally binding' conditional approval before full environmental assessments had been carried out, and that this then complicated the ECGD's involvement in the project.<sup>40</sup> **No offer of support should be made, whether actual or provisional, until the ECGD's Business Principles Unit has completed its assessment, and its recommendations have been duly considered. The Government must be prepared to provide the ECGD with whatever further resources are necessary for the Business Principles Unit to carry out its sustainable development assessment work swiftly, effectively, and consistently.**

## Standards

21. The ECGD requires compliance with international standards published by the World Bank, and with the standards of the project's host country where these are more stringent. Its policy is to employ 'the highest standards that are available'.<sup>41</sup> The JNCC supported this approach: 'the consistency with international standards, in particular those employed by the World Bank, ensures best practice and an analytical process that is comparable to that employed by other export credit agencies'.<sup>42</sup> This means, however, that the ECGD follows standards that can vary from case to case depending on the project and the host country, something that can lead to confusion and criticism. **The ECGD should disclose the precise standard used as the basis for environmental and sustainable development review in every high-impact case. This information should be published prominently alongside the project assessment information.**

22. There is obvious value in using universal, international standards. However, there has been some criticism that these standards do not go far enough in reflecting the sustainable development aims set out in the ECGD's Business Principles. In particular, the Corner House argued that the standards used by the ECGD should incorporate the UK's

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38 Ev 86

39 Q 80

40 Ev 11-13

41 Ev 90

42 Ev 70

Sustainable Development objectives,<sup>43</sup> and that by not doing so the assessment process failed to address a number of environmental and social impacts.<sup>44</sup> Including the UK's Sustainable Development objectives in the assessment procedure would introduce some difficulties: the 'guiding principles' in their current form would not be easily applicable; conflict and crossover with existing standards would need to be resolved; and, most significantly, the introduction of standards based on these objectives would raise the ECGD's standards above the international standards of other ECAs. The impacts of any increase in standards on the competitiveness of UK exporters would need to be carefully considered. However, the ECGD has a responsibility to set an example on the world stage and to use its status to encourage similar advances from other ECAs; a gradual raising and tightening of standards would be an obvious way to achieve this. It has also been noted that the swiftest and most effective way to raise the international bar through the OECD is for one ECA to set a higher standard for other ECAs to follow.<sup>45</sup>

**23. We recommend that the ECGD commissions an independent study into how its environmental and sustainable development standards could be tightened, including an assessment of how UK Sustainable Development objectives could be effectively reflected in the ECGD's assessment standards. Such a study should be used to help the ECGD raise international standards. The ECGD should devise and publish a strategy, so that it can be properly scrutinised, and so that UK exporters and other Export Credit Agencies are aware of the ECGD's intentions. Where a standard can be raised without undue impact on the competitiveness of UK industry, the higher standard should be adopted and concomitant action from other Export Credit Agencies should be encouraged.**

## Constructive Engagement

24. Where an application fails to meet the ECGD's standards, it may choose to enter into the 'constructive engagement' process in an effort to bring the project up to standard. This occurs during the application process, prior to the ECGD's final decision on whether or not to support the application. The NAO is confident that this process has value, detailing its achievements in a number of cases, including the controversial (and eventually withdrawn) Sakhalin application.<sup>46</sup> WWF, however, argued that constructive engagement on the Sakhalin application was inadequate, operated without due transparency and failed to produce the necessary improvements.<sup>47</sup> It noted:

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43 The Government's sustainable development strategy was set out in the 2005 publication '*Securing the Future*' and is based upon five guiding principles (living within environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly). The strategy also set out four priorities for action: sustainable consumption and production; climate change and energy; natural resource protection and environmental enhancement; and sustainable communities.

44 Ev 16

45 Ev 10

46 Ev 90

47 Ev 11-13

Whilst constructive engagement may be used to improve a project prior to design and construction, beyond this there are limited changes that can be made. [...] Engagement is only effective if it takes place early enough to set out the clear standards that are required of all projects to be supported by ECGD.<sup>48</sup>

25. Constructive engagement raises particular concerns regarding the ECGD's powers of discretion. By seeming provisionally to accept a project that has failed to meet international standards, constructive engagement can contribute to the perception that the agency has wholly flexible standards. The Corner House expressed concern that the constructive engagement process is bound by 'no real rules',<sup>49</sup> while WWF deplored the ECGD's admission that it retained its right to exercise discretion and support a project even where there was a breach of international standards.<sup>50</sup> This discretion, especially when shrouded in secrecy, it was argued, sometimes serves to undermine the ECGD's sustainable development credentials:

ECGD has reserved wide powers to derogate from its stated sustainable development and procedural standards, thus seriously weakening their effectiveness. Categorical policy statements (for example, that all projects should comply with World Bank safeguard policies) are hedged by other statements that allow ECGD to exercise wide discretion in their application [...] The ECGD does not normally disclose decisions to derogate or the nature of the derogations applied.<sup>51</sup>

**26. Constructive engagement and the ability to exercise discretion are important and, when used appropriately, can help to improve project standards in general. But the failure effectively to communicate these decisions and the reasoning behind them leaves the ECGD open to criticism and suspicion. The disclosure of the reasoning behind these decisions, and the effects of the constructive engagement process, must be improved if the system is to inspire confidence.**

27. The ECGD recently announced that it would be increasing the reporting of the carbon emissions related to its projects.<sup>52</sup> This is an important first step towards measuring and improving the carbon footprint of ECGD-supported projects, and will set a clear standard for other ECAs to follow. Mr Wicks told us that, under World Bank standards, the ECGD is already obliged to require sponsors to seek to reduce greenhouse gas emissions.<sup>53</sup> This is positive, and the data provided by this increasing reporting of carbon emissions will provide an opportunity to strengthen this process and open it up to wider scrutiny.

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48 Ev 8

49 Q 12

50 Q 19 (Mr Leaton)

51 Ev 17

52 Q 39

53 Q 66



28. We welcome the recent decision of the ECGD to report the carbon dioxide impacts of high and medium impact projects.<sup>54</sup> The information gathered under this exercise must be put to practical use by helping further to improve the standards of individual projects. This is an area where the ECGD should be leading from the front and setting an example for other Export Credit Agencies. The ECGD should also use the data to review the carbon footprint of its portfolio as a whole and to identify areas where further emissions reductions could be achieved without limiting the scope of its business.

## Exports not subject to the CIAP process

### Aerospace cases

29. Civil aerospace exports are excluded from the CIAP on the grounds that the environmental impacts of the exports are already assessed as part of the regulatory requirements for the certification of new aircraft: the European Aviation Safety Agency (EASA) Standards, incorporating ICAO standards for aircraft emissions and noise. The Government argues that no ‘useful purpose would be served’ by also subjecting these exports to the ECGD’s own procedures.<sup>55</sup> The ECGD argues that it is impossible fully to assess the impact of aircraft in the same way as CIAP projects, since there is no way of knowing exactly how the aircraft will be used: as such, international standards on noise and emission levels are the only meaningful assessments that can be carried out.<sup>56</sup> The NAO found that: ‘ECGD does not attempt to assess the environmental impacts relating to the use of aircraft after they have been exported nor does it possess the necessary information upon which to base such an assessment’.<sup>57</sup>

30. The report of our predecessor Committee recommended that the ECGD bring all aerospace-related applications within its impact screening process, for the same reasons reiterated by WWF in the course of this inquiry:

Adherence to only the International Civil Aviation Organisation standards reveals nothing of the social, developmental or human rights consequences that such exports may have in the buyer country nor about the effect they may have on the local or regional economy—issues that would be covered by ECGD’s existing case impact screening.<sup>58</sup>

31. It is difficult to assess exactly how aircraft will be used. However, by excluding aerospace from the Case Impact Assessment Process too many important sustainable development impacts are left unconsidered. We reiterate the conclusion of our predecessor Committee that the ECGD should bring all aerospace-related applications within the Case Impact Assessment Process, in addition to ICAO assessment. Full assessment may be difficult, and may even be impossible on occasion, but it is crucial to

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54 Q 39

55 Environmental Audit Committee, Seventh Special Report of Session 2002-03, *Government Response to the Committee’s Seventh Report 2002-03 on ECGD and Sustainable Development*, HC 1238, page 2.

56 Q 49

57 Ev 89

58 Ev 6



assess civil aerospace under these criteria to demonstrate that these issues have at least been considered. In such cases the assessment process should be accompanied by a narrative explaining any difficulties in applying the process, and setting out how conclusions have been reached.

## Defence exports that require an export licence

32. The ECGD does not assess the environmental and social impacts of defence exports that require an export licence granted by BERR's Export Control Organisation (ECO), on the grounds that the ECO process itself undertakes some assessment of sustainable development concerns. The NAO described the scope of this assessment:

Applications for defence exports which require an export licence from the Export Control Organisation are subject to an economic assessment of expenditure within developing countries, and this will to some extent take into account social impacts. They are not subject to any form of environmental impact appraisal, though in practice it is difficult to envisage how such an assessment might be made.<sup>59</sup>

The Report of our predecessor Committee recommended that the DTI ensure the ECO process was as rigorous as the ECGD's screening for civil projects.<sup>60</sup> In response, the Government insisted that the ECO process was indeed 'rigorous and takes proper account of human rights and sustainable development'.<sup>61</sup>

## 4 Transparency

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33. A lack of transparency lies at the root of a substantial part of the criticism directed at the ECGD during the course of our inquiry. WWF described the ECGD as 'fundamentally and indefensibly untransparent',<sup>62</sup> while the JNCC noted, more charitably, that 'the current levels of disclosure by ECGD are not sufficient to avoid criticism of its procedures'.<sup>63</sup> The amount of information disclosed by the ECGD on its sustainable development impacts and the projects supported by the agency is sometimes inadequate. There is a need for review of the ECGD's approach to transparency and the disclosure of information.

34. Any move to increase transparency and disclosure will need to be reconciled with the exporters' needs of commercial confidentiality. The CBI and SBAC cautioned against placing excessive disclosure burdens on exporters.<sup>64</sup> These concerns were supported by the British Exporters Association: 'it would be regrettable if a move for more transparency

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59 Ev 89

60 Environmental Audit Committee, Seventh Report of Session 2002–03, *Export Credits Guarantee Department and Sustainable Development*, HC 689, para 22.

61 Environmental Audit Committee, Seventh Special Report of Session 2002–03, *Government Response to the Committee's Seventh Report 2002–03 on ECGD and Sustainable Development*, HC 1238, page 2.

62 Ev 6

63 Ev 72

64 Ev 65 and Ev 68

were to jeopardise exporters' willingness to use ECGD support because of their unwillingness to have details of their contracts published against either their, or their customers', wishes'.<sup>65</sup> There is, admittedly, a risk that higher levels of disclosure by the ECGD could discourage certain exporters from dealing with the agency, and may lead them to undertake arrangements with less scrupulous or demanding lenders and insurers. However, it remains the case that the ECGD's use of public funds demands greater levels of transparency.

**35. We do not believe that the ECGD has struck the appropriate balance between protecting commercial confidentiality and ensuring due transparency. The ECGD provides support from public funds and exporters must therefore recognise that this facility should necessarily entail certain conditions to ensure adequate disclosure and scrutiny of funding decisions. In 2003, our predecessor Committee recommended that 'requests for confidentiality should be tested against rigorous criteria to ensure that only such information as might genuinely compromise clients' commercial activities is withheld. A high degree of disclosure should become a condition of ECGD support.'**<sup>66</sup> We reiterate this recommendation.

36. Due disclosure of information on ECGD-supported projects and assessments is vital to ensure that the ECGD can be held to account for the use of its funds and facilities. A key issue is that details for medium and low impact projects are not released until after the guarantee has been awarded, making it difficult for applications to be assessed and challenged.<sup>67</sup> WWF, the Corner House, and the JNCC all called for basic project information and assessments to be made available as a matter of course.<sup>68</sup> **The ECGD needs to ensure that project information is disclosed at a stage in the assessment process where any challenge to the case could still be taken into account. The ECGD should make the disclosure of basic project information (name, involved parties, and a brief description) a pre-condition of its appraisal process, for all categories of project. As further assessments of the project's economic, social and environmental impacts are made, these too should be made publicly available.** In 2003 the Government rejected the recommendation of our predecessor Committee to publish information for medium impact potential cases under consideration, on the grounds that these cases 'are not generally controversial and attract very little public interest'.<sup>69</sup> We do not believe that this represents adequate grounds to exclude disclosure for these cases.

37. Equally important is the disclosure of information relating to the decision-making process within the ECGD. Without information to explain and support the ECGD's decisions, it is difficult for Parliament and outside parties to assess whether or not these decisions are appropriate. A key example raised during the inquiry was the decision to classify an export related to the Shin Kori nuclear development as low impact, when exports related to nuclear power are advised by the ECGD usually to be rated as medium

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65 Ev 64

66 Environmental Audit Committee, Seventh Report of Session 2002–03, *Export Credits Guarantee Department and Sustainable Development*, HC 689, para 30.

67 Ev 7

68 Ev 7-8; Ev 20; Ev 72

69 Environmental Audit Committee, Seventh Special Report of Session 2002–03, *Government Response to the Committee's Seventh Report 2002-03 on ECGD and Sustainable Development*, HC 1238, page 3.

or high impact. The ECGD revealed in oral evidence that this decision was taken because the export related to components for a diesel-fired standby generator, something considered incidental to the main development.<sup>70</sup> Had this explanation been made available previously, significant speculation and concern could have been avoided. Mr Crawford accepted that disclosing more information in general about ECGD decisions could improve confidence in ECGD procedures: ‘I appreciate that building confidence in our decision making equal to that which we hold internally would be useful’.<sup>71</sup>

38. The current shortcomings in the ECGD’s information disclosure procedures breed suspicion and misunderstanding, often exposing the ECGD to unnecessary criticism. **By failing to disclose a wider range of information as a matter of course, the ECGD has directly contributed to the negative perception of its sustainable development policies.**

39. **Where decisions are taken that appear contrary to the information available in the public domain (for example in the classification of projects into impact categories) the ECGD should publish an explanation of their decision and provide further supporting material as necessary. This will increase confidence in the ECGD’s procedures and make it easier for Parliament and interested parties properly to assess the ECGD’s decisions.**

40. There is also room for improvement in the area of general reporting of project progress and impacts. In particular, several witnesses raised the need for clearer reporting of the achievements and shortcomings of the ECGD’s constructive engagement approach. The NAO demonstrates in its study that the ECGD’s constructive engagement approach can be effective, but if this is the case then any successes are not being adequately communicated outside the agency. The NAO states ‘the BPU does not attempt to measure or quantify the impact of its work in terms of such improvements to projects and, in any case, it could be very difficult to do so with any degree of objectivity’.<sup>72</sup> Although it may be difficult to prove exactly what improvements were a direct result of ECGD activity, there should still be a demonstration that the required standards have eventually been met. **Where the ECGD conditionally agrees to support a project that does not meet all of its standards, it should publish a document clearly setting out where the project falls short; why the ECGD remains prepared to support the project, and what actions the ECGD will take to ensure that the project is brought up to standard. The ECGD must then demonstrate that these standards have been achieved.** Faith in the ECGD’s constructive engagement approach depends on the disclosure of information.

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70 Q 108

71 Q 109

72 Ev 90

## Conclusions and recommendations

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1. The ECGD has made progress on supporting sustainable development that deserves to be recognised. The objectives introduced by the 1999 Mission and Status Review placed considerable demands on a small, specialised department, with a difficult role to play in balancing business and financial needs with wider government concerns. The mechanisms put in place following the review are a sound basis for further action on sustainable development. (Paragraph 5)
2. While the ECGD must balance the duty to raise its standards of sustainable development against its duty to support the competitiveness of UK industry, it has a unique capacity to influence and raise standards internationally. (Paragraph 7)
3. We conclude that a change to the ECGD's primary remit is not currently necessary, but continued scrutiny of further progress is important. The current remit provides an adequate basis for sustainable development to underpin its activities. The challenge for the ECGD is to demonstrate that sustainable development is given appropriate weight within its current remit, and that it does nothing that would actively undermine this principle. (Paragraph 10)
4. The ECGD has a responsibility to support UK exporters. Any move by the Government to adopt policies that limited support to sectors such as defence, aerospace and fossil fuels, or to assess these sectors by different standards, would need to be carefully assessed. While these sectors remain within the ECGD's portfolio, the agency must take steps to improve the scrutiny of sustainable development in these areas. (Paragraph 14)
5. A large programme of support for sustainable and environmental industries would help the ECGD to revitalise its role while remaining within its current remit. Although it cannot compete directly with the private sector, the ECGD should establish a programme actively to promote its services to environmental industries and to other projects that could support sustainable development. (Paragraph 17)
6. No offer of support should be made, whether actual or provisional, until the ECGD's Business Principles Unit has completed its assessment, and its recommendations have been duly considered. The Government must be prepared to provide the ECGD with whatever further resources are necessary for the Business Principles Unit to carry out its sustainable development assessment work swiftly, effectively, and consistently. (Paragraph 20)
7. The ECGD should disclose the precise standard used as the basis for environmental and sustainable development review in every high-impact case. This information should be published prominently alongside the project assessment information (Paragraph 21)
8. We recommend that the ECGD commissions an independent study into how its environmental and sustainable development standards could be tightened, including an assessment of how UK Sustainable Development objectives could be effectively reflected in the ECGD's assessment standards. Such a study should be used to help

the ECGD raise international standards. The ECGD should devise and publish a strategy, so that it can be properly scrutinised, and so that UK exporters and other Export Credit Agencies are aware of the ECGD's intentions. Where a standard can be raised without undue impact on the competitiveness of UK industry, the higher standard should be adopted and concomitant action from other Export Credit Agencies should be encouraged. (Paragraph 23)

9. Constructive engagement and the ability to exercise discretion are important and, when used appropriately, can help to improve project standards in general. But the failure effectively to communicate these decisions and the reasoning behind them leaves the ECGD open to criticism and suspicion. The disclosure of the reasoning behind these decisions, and the effects of the constructive engagement process, must be improved if the system is to inspire confidence. (Paragraph 26)
10. We welcome the recent decision of the ECGD to report the carbon dioxide impacts of high and medium impact projects. The information gathered under this exercise must be put to practical use by helping further to improve the standards of individual projects. This is an area where the ECGD should be leading from the front and setting an example for other Export Credit Agencies. The ECGD should also use the data to review the carbon footprint of its portfolio as a whole and to identify areas where further emissions reductions could be achieved without limiting the scope of its business. (Paragraph 28)
11. It is difficult to assess exactly how aircraft will be used. However, by excluding aerospace from the Case Impact Assessment Process too many important sustainable development impacts are left unconsidered. We reiterate the conclusion of our predecessor Committee that the ECGD should bring all aerospace-related applications within the Case Impact Assessment Process, in addition to ICAO assessment. Full assessment may be difficult, and may even be impossible on occasion, but it is crucial to assess civil aerospace under these criteria to demonstrate that these issues have at least been considered. In such cases the assessment process should be accompanied by a narrative explaining any difficulties in applying the process, and setting out how conclusions have been reached. (Paragraph 31)
12. We do not believe that the ECGD has struck the appropriate balance between protecting commercial confidentiality and ensuring due transparency. The ECGD provides support from public funds and exporters must therefore recognise that this facility should necessarily entail certain conditions to ensure adequate disclosure and scrutiny of funding decisions. In 2003, our predecessor Committee recommended that 'requests for confidentiality should be tested against rigorous criteria to ensure that only such information as might genuinely compromise clients' commercial activities is withheld. A high degree of disclosure should become a condition of ECGD support.' We reiterate this recommendation. (Paragraph 35)
13. The ECGD needs to ensure that project information is disclosed at a stage in the assessment process where any challenge to the case could still be taken into account. The ECGD should make the disclosure of basic project information (name, involved parties, and a brief description) a pre-condition of its appraisal process, for all categories of project. As further assessments of the project's economic, social and

environmental impacts are made, these too should be made publicly available. (Paragraph 36)

14. By failing to disclose a wider range of information as a matter of course, the ECGD has directly contributed to the negative perception of its sustainable development policies. (Paragraph 38)
15. Where decisions are taken that appear contrary to the information available in the public domain (for example in the classification of projects into impact categories) the ECGD should publish an explanation of their decision and provide further supporting material as necessary. This will increase confidence in the ECGD's procedures and make it easier for Parliament and interested parties properly to assess the ECGD's decisions. (Paragraph 39)
16. Where the ECGD conditionally agrees to support a project that does not meet all of its standards, it should publish a document clearly setting out where the project falls short; why the ECGD remains prepared to support the project, and what actions the ECGD will take to ensure that the project is brought up to standard. The ECGD must then demonstrate that these standards have been achieved. (Paragraph 40)

# Formal minutes

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**Tuesday 14 October 2008**

## Members present

Mr Tim Yeo, in the Chair

Mark Lazarowicz  
Dr Desmond Turner

Joan Walley

## **The Export Credits Guarantee Department and Sustainable Development**

The Committee considered this matter.

Draft Report (*The Export Credits Guarantee Department and Sustainable Development*), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 40 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Eleventh Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Tuesday 21 October at 9.45am]

## Witnesses

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### Tuesday 8 July 2008

### Page

**James Leaton**, Senior Policy Advisor, **Daisy Streatfield**, Researcher, World Wildlife Fund UK and **Nick Hildyard**, The Corner House

Ev 28

### Wednesday 16 July 2008

**Malcolm Wicks MP**, Minister of State for Energy, Department for Business, Enterprise and Regulatory Reform, **Patrick Crawford**, Chief Executive and Steve Dodgson, Business Director, Export Credits Guarantee Department (ECGD)

Ev 48

## List of written evidence

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1	World Wildlife Fund-UK (WWF-UK)	Ev 1: Ev 78
2	The Corner House	Ev 16: Ev 38: Ev 39
3	Export Credits Guarantee Department (ECGD)	Ev 41
4	Association Green Alternative, Tbilisi, Georgia	Ev 60
5	British Exporters Association	Ev 64
6	The Confederation of British Industry (CBI)	Ev 65
7	The Society of British Aerospace Companies (SBAC)	Ev 67
8	Joint Nature Conservation Committee	Ev 70
9	Organisation for Economic Co-ordination and Development (OECD)	Ev 73
10	United Kingdom Delegation to the Organisation for Economic Cooperation and Development (OECD)	Ev 75
11	PLATFORM and Kurdish Human Rights Projects (KHRP)	Ev 75
12	The World Bank	Ev 78
13	Jubilee Debt Campaign	Ev 80
14	National Audit Office (NAO)	Ev 81



## List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2007–08

First Report	Are biofuels sustainable?	HC 76-I & -II (HC 528)
Second Report	Reducing Carbon Emissions from UK Business: The Role of the Climate Change Levy and Agreements	HC 354 (HC 590)
Third Report	The 2007 Pre-Budget Report and Comprehensive Spending Review: An environmental analysis	HC 149-I & -II (HC 591)
Fourth Report	Are Biofuels Sustainable? The Government Response	HC 528 (HC 644)
Fifth Report	Personal Carbon Trading	HC 565
Sixth Report	Reaching an international agreement on climate change	HC 355
Seventh Report	Making Government operations more sustainable: A progress report	HC 529
Eight Report	Climate change and local, regional and devolved government	HC 225
Ninth Report	Carbon capture and storage	HC 654
Tenth Report	Vehicle Excise Duty	HC 907

### Session 2006–07

First Report	The UN Millennium Ecosystem Assessment	HC 77 (HC 848)
Second Report	The EU Emissions Trading Scheme: Lessons for the Future	HC 70 (HC 1072)
Third Report	Regulatory Impact Assessments and Policy Appraisal	HC 353 (HC 849)
Fourth Report	Pre-Budget 2006 and the Stern Review	HC 227 (HC 739)
Fifth Report	Trade, Development and Environment: The Role of FCO	HC 289 (HC 1046)
Sixth Report	Voluntary Carbon Offset Market	HC 331 (HC 418)
Seventh Report	Beyond Stern: From the Climate Change Programme Review to the Draft Climate Change Bill	HC 460 (HC 1110)
Eighth Report	Emissions Trading: Government Response to the Committee's Second Report of Session 2006–07 on the EU ETS	HC 1072
Ninth Report	The Structure of Government and the challenge of climate change	HC 740 (HC 276)

**Session 2005–06**

First Report	Greening Government: the 2004 Sustainable Development in Government Report	HC 698
Second Report	Sustainable Timber	HC 607 (HC 1078)
Third Report	Sustainable Procurement: the Way Forward	HC 740
Fourth Report	Pre-Budget 2005: Tax, economic analysis, and climate change	HC 882 (HC 195)
Fifth Report	Sustainable Housing: A follow-up report	HC 779
Sixth Report	Keeping the lights on: Nuclear, Renewables, and Climate Change	HC 584 (HC 196)
Seventh Report	Sustainable Development Reporting by Government Departments	HC 1322 (HC 1681)
Eighth Report	Proposals for a draft Marine Bill	HC 1323 (HC 1682)
Ninth Report	Reducing Carbon Emissions from Transport	HC 981
Tenth Report	Trade, Development and Environment: The Role of DFID	HC 1014 (HC 197)
Eleventh Report	Outflanked: The World Trade Organisation, International Trade and Sustainable Development	HC 1455 (HC 354)
Twelfth Report	Transport Emissions: Government Response to the Committee's Ninth Report of Session 2005–06 on Reducing Carbon Emissions from Transport	HC 1718

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# Oral evidence

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## Taken before the Environmental Audit Committee

on Tuesday 8 July 2008

Members present

Mr Tim Yeo, in the Chair

Mr Martin Caton  
Colin Challen  
Mr Graham Stuart

Jo Swinson  
Dr Desmond Turner

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### Memorandum submitted by WWF

WWF welcomes the opportunity to contribute to this inquiry. The evidence we submit includes responses to the specific questions posed by the Committee. As the Committee is undoubtedly aware, a number of recommendations from its 2003 inquiry into ECGD still remain unresolved.

*1. How effectively does decision making by ECGD take into account sustainable development concerns? What evidence is there that sustainable development is treated as a priority? Where should sustainable development rank in ECGD's priorities? How successfully is Government policy on sustainable development communicated to ECGD and implemented in its work?*

It is not clear to WWF how exactly ECGD takes into account sustainable development concerns except to pay lip service to them in its publications and communications. It is certainly not treated as a priority. ECGD's mission statement declares among its objectives "to operate in accordance with its Business Principles, so that its activities accord with other Government objectives, including those on sustainable development, human rights, good governance and trade". However the ECGD Sustainable Development Action Plan 2007 (SDAP) states that sustainable development is a "secondary" duty relative to its duties under the 1991 Export and Investment Guarantees Act. We appreciate that according to this Act the function of ECGD is to facilitate UK exports and not primarily to promote or fund sustainable development. In carrying out its facilitative functions, however, it can either operate in a manner that is conducive to sustainable development, or in a manner that consistently undermines it. ECGD's operations too often achieve the latter.

It is this government's stated intention to actively work towards achieving sustainable development. In November 2007 Prime Minister Gordon Brown consolidated the UK position in a speech hosted by WWF "the role of government from now on is transformed. Once government objectives were economic growth and social cohesion. Now they are prosperity, fairness and environmental care. And it falls to this generation to show that we can meet and master the challenge of combining economic growth and environmental stewardship with social justice."

Sustainable development is no longer a "secondary" objective for this Government. It makes little sense that it is for ECGD. The Act governing ECGD was created during the era when government objectives were indeed economic growth and social cohesion. If the statute for the department were written now, given the considerable consequences that the activities of ECGD potentially have for sustainable development, it would certainly include a duty to have due regard for sustainable development. WWF believes sustainable development should be a priority for all government departments. ECGD appears to have been forgotten in the government's attempts to integrate sustainable development into the activities of its various departments.

At present it is difficult to see how ECGD is operating in accordance with wider government objectives on sustainable development. To illustrate we would like to draw attention to certain statements from various government departments and documents.

UK GOVERNMENT SUSTAINABLE DEVELOPMENT STRATEGY “SECURING THE FUTURE: DELIVERING UK SUSTAINABLE DEVELOPMENT STRATEGY” (2005)<sup>1</sup>

“The Government will look at ways to ensure that UK financial assistance to developing countries maximises opportunities for adopting low and zero carbon technologies”

“where, firstly, there is a risk of significant adverse environmental effects occurring and secondly, any possible mitigation measures seem unlikely to safeguard against these effects, the precautionary principle will be adopted. Where evidence exists of likely harm to ecosystems or biodiversity, we will adopt practices that avoid irreversible damage.”

[emphasis added]

Taking ECGD’s consideration of the Sakhalin project as an example, there is no evidence that a precautionary principle was adopted despite clear and unmitigated risks to a number of endangered species. ECGD gave a conditional offer of support and was still prepared to consider offering final support when Sakhalin Energy Investment Company (SEIC) withdrew its application. If ECGD had been operating a precautionary principle in accordance with the Government’s sustainable development strategy it should have rejected the application on the grounds that the mitigation measures that SEIC implemented did not comply with the best scientific recommendations. The amount of time that had elapsed and the advanced stage the project had reached indicated that these risks would not be fully mitigated. As ECGD is not the project operator, if constructive engagement is not delivering the necessary improvements, its only option for implementing this principle is to reject the application. Please see Annexes I and II on the Sakhalin II project for further information on the project and WWF’s concerns surrounding ECGD’s handling of the application.

ENERGY WHITE PAPER 2007<sup>2</sup>:

“The UK will... drive investment to accelerate the deployment of low carbon energy technologies; and promote policies to improve energy efficiency, to cut emissions and reduce our dependence on fossil fuels”

“The Government’s aim is to speed the development and deployment of sustainable and affordable low carbon technologies which can help cut carbon dioxide emissions. Our strategy, both nationally and globally, is based on:

- building credible long-term policy frameworks for tackling climate change to provide clear long-term signals to industry which will shape their investment decisions”

“All UK Government Departments share responsibility for making sustainable development a reality.”

[emphasis added]

In light of the large proportions of aerospace and hydrocarbon intensive projects in ECGD’s portfolio, ECGD is sending a signal to industry that the government is prepared to support further investments in highly polluting activities, not that it encourages renewable energy and a low carbon future. With its current mandate and function ECGD has limited capacity to proactively alter its portfolio. However its total disregard for the implications its activities have on climate change is unacceptable.

In its Sustainable Development Action Plan 2007 ECGD states “The UK Government’s formal position on climate change is stated in “Climate Change, The UK Programme 2006” presented to Parliament by the Secretary of State for the Environment, Food and Rural Affairs in March 2006; this does not refer to ECGD.” ECGD uses the absence of a direct reference to the department in this document to divest itself of any responsibility to recognise the impacts of its portfolio on climate, or take account of government policy on this issue. It is a notable example of ECGD’s attitude to taking wider government policy on aspects of sustainable development into account. WWF would also note that ECGD does not appear to consider the risk climate change poses to its activities. Climate change regulation would further restrict the market for fossil fuels, whilst at a more practical level power generation assets could be at risk of flooding or restricted water supply depending on their location.

When challenged on its record, ECGD often cites its reactive position—namely that it is not at liberty to change the way in which it operates. The department is required to follow its duties as set out in the statute and it is the responsibility of the Secretary of State to make changes to ECGD’s overall mandate. However this does not preclude ECGD from improving its procedures or making suggestions. In order to provide absolute clarity, WWF would advocate a statutory change to the Act governing ECGD and call on the Secretary of State to make appropriate changes to ECGD’s current procedures to ensure that the Government’s various sustainable development objectives are properly communicated to ECGD and fully integrated into its activities.

<sup>1</sup> HM Government (2005) “UK Government Sustainable Development Strategy ‘Securing the Future: delivering UK sustainable development strategy”  
[http://www.sustainable-development.gov.uk/publications/pdf/strategy/SecFut\\_complete.pdf](http://www.sustainable-development.gov.uk/publications/pdf/strategy/SecFut_complete.pdf)

<sup>2</sup> DTI (2007) “Meeting the Energy Challenge: A White Paper on Energy” <http://www.berr.gov.uk/files/file39387.pdf>

The Sustainable Development Commission (SDC) in commenting on ECGD's 2005 preliminary draft of their SDAP stated "The plan recognises the need to increase staff knowledge of sustainable development but does not explore what steps ECGD will take to achieve this. It was explained in the bilateral that all new staff are trained to use ECGD's Business Principles, which include a sustainable development element, as part of their induction package. The Commission would expect to see future plans set out clear actions to develop staff awareness and capacity so that staff can fully reflect Securing the Future's priorities and principles in their work, particularly civil project assessment."<sup>3</sup>

In the SDC's recent report on the sustainable development performance of government departments ECGD is given a 4 (out of a possible 5) star rating. By improving by 4 stars it is technically the most improved, but from a starting point of 0. Many of the other departments got worse in a number of areas, so it is more a reflection on how poorly government as a whole performed than on ECGD being particularly outstanding. Importantly, the ratings are predominantly focussed on the internal operations of ECGD. It is the projects that ECGD supports which constitute the overwhelming portion of its sustainable development impact.

However, the only rating that would include reference to ECGD's projects is the assessment of the operationalising of the department's SDAP—and this is not disaggregated to determine what progress has been made in the specific area of the sustainable development impact of projects. Interestingly this is based on the department's self-assessment of progress and ECGD scored itself just 4/10. The rating given in the SDC report was "Some progress—but not sufficient to meet targets". This is below the performance of most other departments (although as a self-assessment it is somewhat subjective). However it indicates that ECGD themselves do not consider that sustainable development is sufficiently embedded in the operations of the department.

At present, ECGD's reporting on its activities with regard to sustainable development tends to focus on actions taken to improve social and environmental standards for ECAs multilaterally. ECGD does not report on the cumulative sustainable development impacts of its portfolio. By comparison the Danish ECA, EKF, produces an annual environmental report detailing the net contribution of all the projects it supports to sustainable development. WWF would advocate ECGD similarly reporting on the sustainable development impacts of the projects it supports in order that their overall performance in this area can be assessed.

*2. Do ECGD's Business Principles make adequate provision for sustainable development? What evidence is there that the Business Principles are carried through into practice, and cover all aspects of ECGD's work? Does the ECGD have any targets for sustainable development and what form should these targets take?*

Perhaps WWF's most fundamental criticism of the Business Principles is the implementation gap. The absence of a specific mention of climate change also appears a major oversight. Given ECGD's reluctance to address climate change under the broader sustainable development umbrella, it would seem prudent to make specific reference to this in ECGD's processes. An announcement from the G8 meeting of finance ministers in Osaka on 14 June 2008 states "We call on the MDBs, in cooperation with other institutions, to develop common methodologies for measuring carbon emissions and other environmental impacts from projects they finance and to establish a joint benchmarking, monitoring and reporting system. We will consider using these common methodologies for our bilateral assistance and export credits, and ask the private sector to follow our example."

The time has clearly come when export credit agencies cannot ignore the need to consider the climate impacts of their actions. This should be reflected in ECGD's Business Principles.

We would highlight some specific aspects of the Business Principles that are not adequately carried through in practice, which are not covered in other sections of this evidence:

Firstly it states "We will promote a responsible approach to business and will ensure our activities take into account the Government's international policies, including those on sustainable development, environment, human rights, good governance and trade".

As outlined with examples above, it does not appear that ECGD is active in taking into account the policies of wider government on sustainable development.

Secondly "We will provide a customer oriented, efficient and professional service and we are committed to continuous improvement".

To an extent it is right that ECGD is customer oriented given its function to facilitate exports. However, as was demonstrated in 2004 with ECGD watering down its anti-corruption procedures in the face of pressure from a number of its customers, being too customer-focussed will not necessarily deliver the best outcomes for sustainable development and fulfilment of its Business Principles. In the case of the recent liberalisation of its foreign content rules, ECGD sought to investigate the concerns about standards in supply chains raised by NGOs after the changes in the rules had been enacted. We are pleased that ECGD

<sup>3</sup> Full assessment available at [http://www.sd-commission.org.uk/publications/downloads/ecgd\\_sdap.pdf](http://www.sd-commission.org.uk/publications/downloads/ecgd_sdap.pdf)

is looking into these issues. However, the sequencing of these concerns being addressed after the demands of business have been satisfied indicates that priority is accorded to customers at the expense of sustainable development concerns.

ECGD's previous limit for foreign content was 15%. Its consultation document proposed 50%; the new provisions allow 80%. This means that only 20% of the value of a contract has to have a British element. This 20% could quite easily be an "arrangement fee" for a British registered enterprise, who then subcontracts the work overseas to source cheaper labour and materials. WWF considers that this fundamentally changes the nature of ECGD's business in several ways. Firstly, the support is no longer aimed at activities which are primarily British businesses, so the potential domestic benefits of ECGD in terms of jobs and revenues are reduced. Secondly, ECGD is opening the government up to a wide range of supply chain risks, which have not been considered in this move. ECGD has not explained what extra measures, monitoring or capacity it has to ensure compliance with environmental and social standards in the supply chain, and to protect the government and taxpayers from increased risk exposure.

Although the Case Impact Analysis Process (CIAP) has been introduced and the Bribery & Corruption rules eventually improved, WWF would also question the extent to which ECGD is achieving continuous progress on its Business Principles and sustainable development outcomes. Certainly the Principles agreed in 2000 themselves have not been reviewed to enable such improvement despite indications from ECGD that this would happen as far back as 2004. In the minutes of meeting of EGAC and NGOs on 23 August 2004 it states "Mr Allwood said that he was developing proposals for a review of the Statement of Business Principles and, in parallel, the development of a sustainable development strategy for ECGD...The upcoming consultation and review of the Statement of Business Principles would be an opportunity for views to be expressed on specific issues."

In a similar meeting in 2006 the minutes state "The Chairman reviewed the intended follow up to the last meeting. He confirmed that the Review of Business Principles had been delayed due to the public consultation on ECGD's proposed anti-bribery and corruption rules." Since then there has been no further indication of when this review will take place. However, the following parliamentary question tabled by Mike Hancock MP and response by Rt Hon Malcolm Wicks MP indicates that the Government has quietly dropped its intention to review the Principles in spite of the fact it is now eight years since their inception:

#### EXPORT CREDITS GUARANTEE DEPARTMENT: STANDARDS

Mr. Hancock: To ask the Secretary of State for Business, Enterprise and Regulatory Reform what plans he has to review the business principles of the Export Credits Guarantee Department; and what progress has been made in developing proposals for a review. [206456]

20 May 2008: Column 255W

Malcolm Wicks: There is no plan to review ECGD's business principles in the immediate future.

WWF would welcome a review of the Business Principles to address issues of both content and implementation measures.

Thirdly "ECGD will press for reform on sustainable development and human rights issues in relation to export credits." It would be helpful for ECGD to have clear targets as to the reforms it is pursuing in order to ensure that this principle is implemented. Furthermore we would note that many of the reforms relating to sustainable development including common approaches on the environment and productive expenditure policy have come as a result of unilateral improvements by a particular ECA which then had an incentive to actively push for reforms at OECD level. WWF would suggest that ECGD may be likely to lobby most effectively for reforms if it had those policies in place itself.

Fourthly "establish a mechanism for consulting other interested government departments on cases with significant project impacts". ECGD does ask relevant departments such as Defra and the FCO for input on high impact cases. The quality and extent of these consultation procedures and responses that are deemed sufficient is less clear. What is of great concern to WWF is how the ECGD takes the views expressed in these consultations into account in its decision-making process. Earlier this year, through a Freedom of Information request by Friends of the Earth (FOE), the responses from Defra and FCO to the notification by ECGD of the Sakhalin II project were eventually made public. This was despite ECGD repeatedly declining to disclose the information and an appeal by government to prevent disclosure.

Defra's response concluded "Our preliminary view on this project is that the potentially devastating effects of this project on the local environment and in particular on an endangered population of whales and biodiversity in a sparsely populated region are not compensated for by the positive effect of this project on the global climate (supplying primarily gas to a region that is currently dependent on coal for its energy needs)". Extract from Defra response to ECGD, 14 March 2003.

It appears that ECGD gave a conditional offer of support, and continued to consider the project for final support in spite of these concerns, which would have continued to be valid given the insufficient actions undertaken by SEIC to mitigate against these risks. WWF therefore questions the efficacy and transparency of the current mechanisms for consulting other departments and incorporating their concerns into the decision-making process.

Fifthly “engage with all stakeholders to discuss ECGD’s policies, products and practice”. WWF would question the level of engagement that ECGD seeks with stakeholders other than its customers. Although the Export Guarantees Advisory Council (EGAC) meets intermittently with NGOs, ECGD is rarely active in meeting to discuss NGOs concerns. In the past year WWF have requested meetings on a number of occasions to meet with ECGD as well as the Secretary of State for ECGD and the Treasury. These requests have not been accepted. WWF has also offered on a number of occasions to update ECGD on its concerns relating to Sakhalin but ECGD has not considered this a valuable use of its time. In March, NGOs were invited to meet with ECGD’s CEO but on the basis that they did not raise issues concerning ECGD’s current projects but instead came to discuss how ECGD could work with NGOs. WWF would hope that ECGD will formalise the mechanisms through which it will engage with NGOs and other stakeholders going forward.

Such targets as ECGD has for sustainable development are represented in the department’s Sustainable Development Action Plan 2007. However the targets for improving the sustainable development standards of its projects are entirely soft targets such as “Progress Sustainable Development Standards on a multilateral basis”. There are no specific targets as to exactly what improvements ECGD will be seeking to achieve. Nor does ECGD have indicators by which to measure the sustainable development impacts of its projects, the effectiveness of its constructive engagement approach in reducing the negative impacts of projects, or monitor its progress on achieving these soft targets.

In 2003 the Committee recommended that ECGD should develop indicators to measure its impact on project quality. Government responded that David Allwood, the Head of the Business Principles Unit had carried out a thesis to develop such indicators which were being considered. In July 2004 EGAC discussed the indicators and appeared positive about developing them further<sup>4</sup>. To the best of our knowledge, no project oriented sustainable development indicators having been promulgated. The thesis is available on ECGD website.<sup>5</sup>

We are interested to note that according to this thesis on sustainability indicators for ECGD done by the Head of the Business Principles Unit, ECGD informally uses a “weak sustainability” model when considering the sustainable development implications of its projects. This interpretation implies that the five forms of capital—human, financial, natural, social, manufactured—are fully substitutable for one another ie reduction or damage to one form of capital such as the environment can be compensated for by increase or improvement in another. This approach does not really stand up to scrutiny—to paraphrase environmental economist Herman Daly you cannot build the same house with more saws and less wood. To take Sakhalin as an example, it is not acceptable to put a price on the extinction of a species of whale, trading profits against a priceless species. WWF would be interested to know if this approach to sustainable development is consistent with that of wider government. We would welcome the introduction of appropriate indicators against which to measure ECGD’s sustainable development impacts and encourage reporting against indicators developed to judge the impacts of ECGD supported projects.

*3. How satisfactory are the case screening procedures and impact assessments carried out by ECGD? Do environmental and social concerns receive appropriate consideration in these assessments? Are the environmental assessment procedures accurate and consistent? What evidence is there that the results of impact assessments have a significant bearing on ECGD decisions?*

ECGD’s procedure for assessing the environmental and social impacts of its projects is through its Case Impact Analysis Process (CIAP). Our fundamental concern is that the application of this process remains discretionary:

Para 2.1 states: “This paper provides an outline of the Case Impact Analysis Process that is usually followed by the BPU (Business Principles Unit) in relation to civil, non-aerospace, transactions. It is not a statement of what will be done in every case.

Para 2.8: “Projects that do not meet the relevant international standards will normally be considered unacceptable. ECGD’s approach in these circumstances is to engage the exporter and/or the project developer in discussions with the objective of raising the project standards to an acceptable level”.

[emphases added]

Unfortunately this right of discretion is not just an extreme safety net. In the case of Sakhalin, in response to a submission by WWF which outlined breaches in international standards, ECGD responded “ECGD’s own policy as set out in the CIAP gives ECGD a discretion to provide support even where a breach of international standards has been identified.”<sup>6</sup> We do not believe that the degree of discretion which ECGD seeks to reserve itself is acceptable or can be justified.

<sup>4</sup> The full minutes of the discussion are available at [http://www.ecgd.gov.uk/egac\\_minutes\\_21\\_july\\_2004.pdf](http://www.ecgd.gov.uk/egac_minutes_21_july_2004.pdf).

<sup>5</sup> [http://www.ecgd.gov.uk/sdpis\\_thesis.doc](http://www.ecgd.gov.uk/sdpis_thesis.doc)

<sup>6</sup> Letter from ECGD to WWF, December 2006 provided as a supporting document.

The CIAP also states:

Para 10.2: “Where applicable, ECGD will take account of the commitments made by the UK Government at the World Summit on Sustainable Development in Johannesburg in September 2002. Those of most relevance to ECGD’s operations, and therefore to projects seeking ECGD’s support, include commitments towards:

greater natural resource efficiency and a reduction in unsustainable consumption and production patterns;

increasing the generation of energy from renewable resources, a more efficient use of energy and increasing access to energy;

significantly reducing the rate of loss of biodiversity on land by 2010 and a halt to biodiversity loss at sea;

reducing poverty levels and improving access to energy, sanitation and clean water; and

promoting best practice in corporate responsibility and accountability, and a recognition of the importance of public participation in decision-making and access to environmental information.”

We are not convinced that the ECGD should still have been considering supporting Sakhalin II if it was committed to halting biodiversity loss at sea given the risks to the endangered Western Pacific Gray Whale. Again the implementation of ECGD’s stated policies appears questionable.

A further issue is that on average less than half of ECGD’s portfolio is covered by the CIAP. The sustainable development impacts of sharp arms defence and aerospace are not assessed by ECGD. Despite various select committees recommendations to include these sectors under the CIAP, ECGD insists on ignoring the impacts of the majority of its portfolio. WWF advocates the inclusion of all defence and aerospace projects in ECGD’s screening procedures. The Export Control Organisation’s (ECO) licensing system, through which ECGD states the sustainable development impacts of defence exports are considered, does not take into account environmental impacts when granting licenses to export. On other sustainable development issues the ECO consults with DfID. Given the absence of account taken of Defra’s response on Sakhalin highlighted earlier we would suggest that ECGD not assume that other department’s consultation procedures or assessments will be reliable and therefore should assess the impacts of defence projects themselves.

In terms of the aviation sector, ECGD has supported the supply of nearly 300 aircraft in the last five years—the equivalent of more than BA’s entire fleet. By only requiring compliance with these international standards ECGD does not address cumulative impact of its support for the aviation sector. Compliance with international regulations on noise and emissions means only that ECGD is supporting legally compliant aircraft, as one would surely expect from a government department. There is no evidence of requirements from ECGD for aircraft supported to go beyond regulatory compliance, despite the rapidly growing contribution of aviation to global warming. Adherence to only the International Civil Aviation Organisation standards reveals nothing of the social, developmental or human rights consequences that such exports may have in the buyer country nor about the effect they may have on the local or regional economy—issues that would be covered by ECGD’s existing case impact screening. For the above reasons, ECGD should assess all projects under its own CIAP.

*4. How satisfactory is the level of information disclosed by ECGD about existing projects and projects under consideration? What information should be disclosed, and how and where should this information be made available? How can the commercial interests of industry be reconciled with the need for transparency?*

The Business Principles state: “ECGD will be as open as possible, whilst respecting legitimate commercial and personal confidentiality.” We would strongly challenge that this intention is implemented in practice. The experience of WWF, and many other NGOs, is that ECGD remains fundamentally and indefensibly untransparent. Many requests for information under the terms of the Freedom of Information Act are delayed beyond the required period for response and information is often not eventually disclosed. When FOE pursued the case on Government responses to Sakhalin to tribunal, ECGD’s basis for non-disclosure was found to be wanting, and the information was released. This is an indicator that ECGD’s policies on disclosure are not consistent with the true requirements under the Freedom of Information Act.

WWF made a number of requests regarding the Sakhalin II project. Some of these were simple factual requests, regarding progress on the project or monitoring reports. Worryingly ECGD was not able to provide this kind of information as the department did not hold it. This suggests that the department was not even closely following the development of the project, despite its claims that it is actively involved in improving the projects it considers for support.

WWF further tried to ascertain to what extent ECGD was engaging with the company on the key issues on the project, and how it was influencing the outcome. ECGD continually refused to provide any evidence of its responses to earlier drafts of consultants’ reviews of the Sakhalin II project, and its responses to other UK government departments. ECGD’s reasons for withholding the information were that the material was



in draft form. Recent requests for lists of outstanding areas of non-compliance on the Sakhalin II project exposed that ECGD had no such ongoing assessment—ECGD stated that after four years its due diligence was still in progress.

The environmental issues WWF was requesting information about were fundamental to the project. For example ECGD's assessment of the measures to protect the critically endangered Western Gray Whale. WWF does not understand how any such information can be considered commercially sensitive. ECGD claimed other reasons for not disclosing the information, yet WWF believes the public interest in how a government department is dealing with such an issue outweighs other concerns. This is not the position of ECGD.

The overall approach of ECGD to providing information on environmental matters is contrary to the principles of the Environmental Information Regulations, which require that "A public authority shall apply a presumption in favour of disclosure".<sup>7</sup> ECGD has rejected requests for information several times because it believes the information requested is not completed, or in draft form. This position prevents ECGD from engaging in any meaningful consultation on important environmental issues. If ECGD is only willing to release information once matters are signed, sealed and finalised, then it is preventing any consultation taking place at a time when it can be effective in contributing to the outcome. Furthermore, this contributes to the opacity of procedures, as raised early in this submission, making it impossible to ascertain how ECGD has incorporated the views of others or had an influence on a project.

Experience of the overall FOI process has the effect of discouraging stakeholders from making further requests. First of all the initial consideration of a request is made by ECGD, which frequently takes longer than the required 20 working days. If one then requests an internal review, this can take months—the most recent example (ECGD Internal Review (IR(07)06)) took seven months. One could then raise the case with the Information Commissioner, and if not satisfied with the outcome, take the case to the Information Tribunal, which takes more time, and then either side could appeal the outcome. This has been demonstrated by the efforts of Friends of the Earth to obtain the responses from other government departments to the ECGD's notification of Sakhalin II as a sensitive case. After three years and winning the case in the Information Tribunal and again winning against appeals by ECGD, the request was supported and ECGD had to release the information.<sup>8</sup>

Given the time-sensitivity of information relating to cases being considered by ECGD, it is not acceptable that this tendency to withhold information persists. Furthermore it requires significant resources from those seeking the information. ECGD meanwhile engaged Queens Counsel to defend its position in the recent appeals against FOE, deploying significant resources at the taxpayers' expense to repeatedly lose the case.

In 2003 the Committee questioned the proportion of business ECGD allowed to remain undisclosed due to commercial confidentiality. Although it may have been only three exporters who required confidentiality in 2002–03 over the last five years, in value terms, over 50% of ECGD's total business has not been listed. We agree with the Committee's initial recommendation that requests for commercial confidentiality should be rigorously assessed to ensure the highest degree of disclosure possible. Where commercial confidentiality does justly apply, ECGD should seek to publish any details of these transactions that would not contravene such confidentiality and as soon as the applicability of confidentiality expires, as it often does when a contract is complete for example, ECGD should publish details of these guarantees retrospectively.

The reason ECGD gives for insurance transactions not being disclosed is to avoid host countries defaulting on repayments in the knowledge that the investor or exporter is insured. We would question the basis of this assumption and seek a full justification of this claim. ECGD's current practices go against the spirit of its business principles which state that ECGD will "routinely seek more information about the business it supports with a view to publication" and "expand the information it publishes regarding its financial performance, business activities and the application of its Business Principles."

Overall WWF experience suggests that while the stated transparency procedures have improved, the nature of ECGD remains one of secrecy.

With regard to cases with environmental impacts that may be of concern to stakeholders, ECGD continues to publish details for only high impact cases on its website. The inadequacy of ECGD's policy not to list all details and assessments of high impact projects including environmental and social impacts has been exemplified recently with the attempts by The Corner House to access the impact assessments for the Jindal Steel project in Orissa named on ECGD's website. Despite contacting the company at the address provided The Corner House has not been able to easily obtain copies of the environmental and social impact assessments. ECGD have responded saying that only rapid environmental assessments exist, and a full package according to World Bank standards is not yet available. We would question, given the difficulty in accessing these documents, whether ECGD has anything other than the company's assurance that affected people have had suitable access to these documents and been appropriately consulted. In order to ensure that such documents are available direct links to these documents should be included on ECGD's website and ECGD should be rigorous in ensuring that they are made available in the project location.

<sup>7</sup> <http://www.opsi.gov.uk/si/si2004/20043391.htm>

<sup>8</sup> <http://www.Defra.gov.uk/corporate/engov/eir/decision/ecgd.htm>

WWF would also advocate listing medium impact projects. There appears to be no independent or public scrutiny of ECGD's categorisation process. Listing both high and medium impact projects would allow this to take place before ECGD commits to supporting a project. Disclosure of a summary of the assessments made by ECGD in its decision on categorisation for each project and publication of the case specific assessment procedures and monitoring processes that will be undertaken in light of this categorisation should be published in order that the accuracy of ECGD's categorisation and the fulfilment of required assessments can be sufficiently scrutinized. We would also advise that ECGD's procedures be assessed in order to ensure compliance with the terms of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, to which the UK is a signatory.

*5. How effective is ECGD's "constructive engagement" approach? What evidence is there that ECGD involvement has led to significant changes in either the design or implementation of the project? What evidence do we have that ECGD intervenes on environmental or social grounds as a matter of priority? What conditions would lead to a project being rejected on environmental grounds? Are ECGD's standards in line with international standards?*

WWF believes that whilst constructive engagement may be used to improve a project prior to design and construction, beyond this there are limited changes that can be made. The timing of this engagement is therefore critical. Furthermore it is essential that an engagement process is not used to lower the standards required. Principles and standards must still be applied, otherwise their value is diminished. WWF therefore believes engagement is only effective if it takes place early enough to set out the clear standards that are required of all projects to be supported by ECGD. ECGD's discretion on which standards apply results in a lack of clarity for applicants as to what the requirements are. This could be resolved by making standards mandatory.

On the evidence to date, WWF is not convinced that the current implementation of this stated approach has resulted in an improvement of standards on projects in ECGD's portfolio. On civil projects for which it has a process to consider environmental and social impacts there is little evidence of this policy in action. Certainly in the case of Sakhalin II the number of unresolved environmental issues indicates that ECGD's influence was too little, too late.

As indicated in the previous section, WWF's attempts to ascertain the effectiveness of ECGD's influence on projects has not been facilitated by ECGD. As mentioned, a FOI request by Friends of the Earth for the responses of other government departments to ECGD's initial notification of Sakhalin II was declined several times by ECGD and only released following a judgement in the appeals court earlier in 2008. One of the reasons for civil society to request this information was to assess to what extent it was taken into account by ECGD. As mentioned in Section 2, the strong views of Defra appear to have had limited effect. Because ECGD resisted release of the Defra response for three years, it made it impossible to follow the government's decision-making process as it unfolded.

During the construction of Sakhalin II, there were several times when urgent action was needed to intervene in the construction of offshore components. Yet ECGD failed to respond to the information provided by NGOs. For example, WWF's monitoring team observed excessive noise levels in the gray whale's feeding area during construction on 30 June / 1 July 2007, which breached the maximum noise criteria recommended by the panel of whale experts. WWF raised this with ECGD, yet received no response or indication that the department would intervene or investigate the matter. The whale experts later confirmed that the noise limits had been breached on this occasion. This panel of whale experts was hosted by IUCN and one of the funders was Defra. The panel publicly criticised the company for failing to meet the noise limits in July 2007, yet no action was taken by the UK government.

ECGD spent over four years between the time a conditional offer of support was made to Sakhalin Energy, and the time at which the application was withdrawn. During this time, numerous breaches of the standards referred to by ECGD were documented and submitted to ECGD. These included issues relating to impacts on biodiversity, fisheries, pollution, and indigenous peoples, which were inadequately dealt with in the original environmental & social assessments. At no point are we aware of ECGD considering rejecting the application on environmental and social grounds. ECGD refused to give a definitive answer of which standards were being applied to the project and whether the project was in compliance. In response to parliamentary questions on this matter, ECGD merely referred to its CIAP process on its website. Again ECGD is relying on the discretionary nature of its policies which provide no assurance that taxpayers' support is only being given to projects that meet certain standards.

The failure of ECGD's constructive engagement policy would not be so concerning if projects subsequently not meeting standards were then refused cover. However, to the best of our knowledge, no project has ever been refused support on environmental or social grounds. WWF can therefore only assume that there are no environmental or social grounds on which a project would automatically be rejected.

It is very difficult to know the level of consideration and priority given to environmental and social issues as ECGD does not routinely release details of its own assessments of projects on this basis. Even when requested under FOIA much of this information is typically redacted making it impossible to know what information has been considered, in what depth and whether concerns raised have translated into further

engagement with the company to improve the project. ECGD released its Business Principles Unit's assessment of the Baku-Tbilisi-Ceyhan Pipeline, following a FOIA request by The Corner House, however the analysis of the issues raised by stakeholders was all redacted. (Please see the "Business Principles Unit's Review of the Baku-Tbilisi-Ceyhan pipeline project" provided as a supporting document)

The final result however, that no project has yet been refused on environmental or social grounds, indicates that these concerns are secondary to the financial merits of a project. ECGD applies the OECD Recommendation on Common Approaches to the Environmental and Officially Supported Export Credits through its CIAP. The CIAP is broadly consistent with the recommendations for appropriate international standards, namely the World Bank safeguards, which it usually applies. Ultimately, however, both the Common Approaches and CIAP are discretionary. The most recent test case, Sakhalin, indicates that ECGD is more than willing to invoke such discretion. We would strongly advocate that the Government lobby for the OECD recommendation to become binding on members and until that time ECGD operates on the assumption of non-discretion in its standards, providing evidence to parliament of the necessity for its use in cases where deviation from the standards may be necessary.

The Sakhalin case has also raised concerns about the practice of offering conditional support to projects with such great impacts and whether it is appropriate to do so in advance of the necessary impact assessments being carried out. This "binding commitment", (as ECGD referred to it), further weakened the government's position as it left them exposed to challenge from the potential client if support was subsequently declined for any reason not explicitly covered in the offer of conditional support. This formed part of the Judicial Review application made by WWF and The Corner House. The issues raised by this case are summarised in the letter appended to this submission. (See Annexe I)

*6. To what extent does ECGD involvement support the transition to low carbon economies, for example through supporting renewable energy projects or carbon capture and storage? Why do renewable energy projects currently account for only a tiny proportion of the ECGD portfolio? What conditions would need to change in order to raise this percentage? Is there any way in which ECGD could further incentivise or facilitate renewable and environmental projects? Should ECGD involvement in fossil fuel and aerospace projects be limited, and if so, how?*

ECGD is not supporting the transition of the UK, or that of any host country, to a low-carbon economy. It remains the case, as noted by the Committee in 2003 that ECGD's portfolio is heavily dominated by aerospace and defence. In addition hydrocarbon intensive projects make up a significant portion of the remainder. The particularly environmentally damaging sectors, namely aerospace and hydrocarbons, made up over one third of ECGD's portfolio in 2006–07. ECGD maintains close relations with its best customers and employs specialists for its largest sectors. This may not actively prevent other business from coming forward but it certainly makes it easier for ECGD to continue doing business with the defence and aerospace sectors and suggests a lack of capacity to support new sectors such as environmental technologies.

Since the £50 million facility ring fenced for renewable energy projects was announced in 2002, ECGD has yet to support a single renewable energy project as far as we are aware. Given that ECGD now claims that this reflects the limited scale of this sector in the UK and therefore there is a lack of demand for this facility, WWF would question what the department thought the point of introducing this was in the first place, if they consider there to be no demand, and had no intention of being pro-active. If the facility was expected to be used then the Government should investigate the reasons for the lack of uptake and whether a different use of such a resource might be more effective in supporting environmental sectors of the UK economy and facilitating the use of greener technologies abroad.

It remains to be seen whether liberalisation of foreign content rules by ECGD, or indeed liberalisation of the OECD local content rules, will enable ECGD to more easily support renewables in the future. Should a demand for the £50 million grow in time, the fact that the sum represents such a tiny amount compared to the total value of ECGD support, which goes predominantly to environmentally and socially damaging sectors, should be addressed.

Other ECAs often manage to support renewable technologies owing to the types of facility they offer, for example the provision of mixed credits by the Danish ECA. There appears to be a reticence in Government to increase the amount of business supported by ECGD, owing to the conflict between the role of export credits as a form of subsidy and the desire to promote free trade. This would appear to preclude ECGD from developing new products that may help it to support renewables, but does not prevent it from effectively subsidising its current client base.

The current halfway house of ECGD existing only to support traditional, namely unsustainable, industries is not a satisfactory solution. If ECGD cannot support renewable energy technologies, it should at least address the part it plays in impeding the development of this sector. The current make-up of ECGD's portfolio prevents a level playing field on which renewables can successfully compete. By reducing the operating risks for hydrocarbon intensive industries, ECGD effectively still provides a subsidy for these activities. This is unacceptable given the need to rapidly decarbonise the global economy. Although fossil fuels will continue to play some role in a decarbonised world, ECGD's support for these is not bounded within a UK strategy for achieving such decarbonisation and is therefore a potential threat to achieving such a goal.

Thus far ECGD's only deference to the need to achieve such a transition is to encourage fossil fuel power plants it supports to be carbon capture and storage (CCS) ready. Firstly a strategy to "encourage" is hardly a firm assurance that this aim will be routinely fulfilled. Secondly, as this technology is still very underdeveloped we would question whether it is possible to know what even constitutes "CCS ready".<sup>9</sup> Therefore implying that because a plant is CCS ready it will be able to adopt CCS technology at some point and therefore such a plant is environmentally acceptable, leaving aside the need to ensure there will be the financial resource to do so, is misleading.

In 2007, the US Overseas Private Investment Corporation (OPIC) introduced a target to reduce the emissions associated with its portfolio by 20% over the next 10 years, which demonstrates that it is both feasible and practical for such institutions to measure and manage the emissions they support. We would recommend that ECGD introduce such a target, but in keeping with the UK's own targets to be introduced in the forthcoming Climate Bill, in order that the activities of ECGD are not undermining the Government's actions in this area. ECGD needs to be able to demonstrate how it is contributing to a low carbon future.

A vital first step in this process is for ECGD to collect data and report on the emissions associated with its portfolio. It already collects such information for Category A and B projects. As many companies, including Airbus (which is likely to be ECGD's largest single emitting client), already collect and report information on emissions WWF does not accept that it would be particularly burdensome to carry out such a process and then report the data in its existing annual report.

It is not acceptable in the 21st Century to have a UK government department primarily focused on supporting the supply of aircraft. This is not coherent with UK government positions on the need to tackle climate change. Overall WWF would recommend that the Government recognise that ECGD's activities currently undermine its efforts to address climate change and include ECGD in all forthcoming strategies and Government targets on this issue.

*7. What impact has the OECD (Organisation for Economic Co-ordination and Development) had on making sustainable development a priority for Export Credit Agencies? What more could it be doing? Can we be satisfied that ECGD represents best practice and is pushing for higher standards on the world stage?*

The OECD has had limited impact on making sustainable development a priority for Export Credit Agencies. As mentioned previously, improvements in the various guidelines for ECAs on sustainable development issues have tended to come as a result of one ECA setting new standards and then encouraging others in the forum of the OECD to follow. As such the OECD has been a medium for improving standards multilaterally but not the driver. Therefore, we would dispute any claim by ECGD that getting multilateral agreement at the OECD first is the best means of achieving changes. WWF would argue that ECGD must instead set an example. This would then act as an incentive to actively lobby for higher standards for all OECD ECAs to avoid any lasting competitive disadvantage. Although ECGD has stated that it was active in supporting improved environmental standards, there is no evidence that ECGD has any future targets for improving multilateral standards. However ECGD is happy to hide behind the absence of higher OECD standards to avoid improving its own unilaterally.

It should be noted that the OECD only provides recommendations, which are ultimately non-binding on members. Even full adoption of the Common Approaches on the Environment and Officially Supported Export Credits would still allow for standards employed to assess the impacts of projects to be waived in "exceptional circumstances". No definition or illustrative list of exceptional circumstances is supplied. Other guidelines such as the recent 2008 recommendation on sustainable lending, despite the title, make no provision that ECA support should have any regard for sustainable development outcomes. Sustainable lending refers only to the ability and likelihood of the host country or recipient to repay.

It is doubtful whether the longer OECD agreed financing terms for renewables, advocated by the UK, will increase the renewables business in ECGD's portfolio, or that of any other ECA. The lengthening of the terms matches the terms available for nuclear but it is not clear whether this period is relevant for increasing support of renewables. Furthermore dams have been included as renewables. The controversial Ilisu project is one of the dams that OECD ECAs have supported under the new terms. Annex III provides details of the projects supported under the terms, demonstrating that the greatest beneficiary has indeed been hydropower.

WWF supports hydropower as a renewable energy when implemented according to best practices and complying with the recommendations of the World Commission on Dams, but remains concerned about the sustainability of many hydropower projects. Recently ECGD has not supported such projects but there is no evidence that this is down to the application of strict environmental standards. We would therefore like to take the opportunity to encourage ECGD to make an application of World Commission on Dams guidelines mandatory when considering such projects in the future. We believe the government has indicated support for these guidelines previously. In addition a global multi-stakeholder group, the Hydropower Sustainability Assessment Forum, is currently developing an operational standard for dam developments, including consideration of cumulative impacts of hydropower and river basin ecology, based on documents

<sup>9</sup> For a more complete discussion of the issues around CCS and use of the term CCS ready, please see the WWF report "Evading Capture", May 2008, available at [http://www.wwf.org.uk/filelibrary/pdf/evading\\_capture\\_brief.pdf](http://www.wwf.org.uk/filelibrary/pdf/evading_capture_brief.pdf)

developed by the International Hydropower Association. We would encourage ECGD, as we do with other export credit agencies, to follow this process and consider adopting the guidelines coming out of this process when considering applications for dam projects.

Outside of the OECD, ECGD recently signed a Memorandum of Understanding with the Chinese ECA Sinosure. In the press release ECGD claimed that this would enable the two ECAs to share good practice. We would encourage ECGD to make the most of any opportunities to influence the procedures of non-OECD ECAs to improve environmental standards and other aspects of sustainable development policies and procedures. However, we are also concerned that collaboration under this MoU may enable UK exporters to receive support from Sinosure thus circumventing ECGD's environmental and social standards. Although when we requested to see the MoU to allay our concerns, ECGD indicated that it would provide us with a copy, we have yet to receive such information. The request was made in March 2008.

With regard to best practice, although there are unfortunately several ECAs which are less transparent and operate weaker policies on sustainable development than ECGD, there are several ECAs that have various policies which are stronger than either ECGD's or OECD recommended policies. We would therefore question whether ECGD does represent best practice in all areas. Aside from some aforementioned ECA practices there are a number of other examples. For instance, Ex-Im has a consultation period for interested parties in high impact cases of 60, rather than ECGD's 30, days. Given the time it takes to gather information on such projects, 30 days is insufficient. Canada's EDC has a compliance officer to ensure complaints about its projects are addressed without the need to resort to judicial review, which would be the procedure in the UK, and its sustainable development procedures and policies are being appropriately implemented. The Swedish ECA, EKN, has greater transparency than ECGD, publishing on its website details of the transactions it has supported on a monthly basis. Given the number of examples where other ECAs are outperforming ECGD on areas of sustainable development and other aspects covered in its Business Principles, ECGD cannot be said to represent best practice among its fellow ECAs. WWF recommends that ECGD seeks to at least match, if not exceed the standards set by its competitors in these areas.

## CONCLUSION

To summarise WWF's main concerns are that ECGD's policies are not coherent with the objectives and policies of wider government on issues of sustainable development. The current mandate of the ECGD is not fit for the 21st century and needs to be reviewed. The limited policies that ECGD currently has are not consistently implemented and the business principles framework should be improved and be made mandatory. In several cases other Export Credit Agencies demonstrate superior policies on issues of sustainable development and transparency. ECGD should seek not only to match these but set an example on enhanced best practice to other agencies and subsequently push for these higher standards internationally.

## Annexe I

### OUTSTANDING CONCERNS REGARDING ECGD'S HANDLING OF THE SAKHALIN II PROJECT

Following the withdrawal by Sakhalin Energy Investment Company Limited (SEIC) of its application for support from ECGD on 29 February WWF and The Corner House decided not to proceed with their application for judicial review relating to that support.

Notwithstanding that withdrawal, we consider that the issues raised by our application remain relevant and that our application raises serious questions about the manner in which ECGD executes its statutory duties.

These issues include the following:

#### 1. ECGD'S "FACILITATING" ROLE

It is common ground that in relation to the SEIC application, the secretary of state was purporting to exercise his powers under section 1(1) of the Export and Investment Guarantees Act 1991, namely to make financial arrangements "with a view to facilitating, directly or indirectly, supplies by persons carrying on business in the United Kingdom of goods or services to persons carrying on business outside the United Kingdom".

It appears to us that legitimate questions persist as to the extent to which ECGD can be said to be fulfilling this objective in this instance. Despite repeated requests in correspondence, we were never given a satisfactory explanation as to how, even at the time of the contested March 2004 conditional support letter and certainly thereafter, the support offered by ECGD could amount to "facilitating" British exports given the already advanced stage of the contracting and construction processes.

In the interests of future transparency, we believe that absolute clarity needs to be provided on what ECGD considers to be covered by “facilitating” and that any decision must include a clear appraisal of the application’s compliance with that fundamental statutory obligation.

## 2. ECGD’S LACK OF TRANSPARENCY AND CONSULTATION

The judicial review application arose because, in March 2004, ECGD gave a commitment to provide support for Sakhalin II subject to certain conditions being met, yet failed to disclose this fact or consult interested parties on what was clearly a significant stage in the application process.

ECGD is under legal obligations with regard to adequate disclosure and consultation. ECGD has been resistant to disclosing information, with many Freedom of Information requests regarding Sakhalin II unduly delayed or refused. It should be encouraged to review its disclosure, consultation and reporting policies and improve its performance in these areas.

## 3. THE NEED PROPERLY TO TAKE INTO ACCOUNT THE VIEWS OF OTHER GOVERNMENT DEPARTMENTS

For over three years stakeholders have requested the initial responses from other Government departments to ECGD’s notification of Sakhalin II Phase 2 as a potentially sensitive case. ECGD refused to disclose this information. Two court hearings subsequently confirmed that this was information which should be released in the public interest.

Upon disclosure we learnt that Defra indeed had serious concerns, stating in correspondence: “Our preliminary view on this project is that the potentially devastating effects of this project on the local environment and in particular on an endangered population of whales and biodiversity in a sparsely populated region are not compensated for by the positive effect of this project”.

As the court found, these concerns should have been disclosed. More to the point, there is little outward evidence that these views were given due consideration by ECGD in its subsequent handling of the application.

## 4. THE LACK OF CLARITY REGARDING THE STATUS OF APPROVALS WITH CONDITIONS SUBSEQUENT

ECGD maintained that no decision had yet been made on whether to support the Sakhalin project. Yet the March 2004 letter clearly amounted to more than simply a “minded to” indication of support. The conditional decision had more significance than was ever acknowledged and had “real world” effects. In the light of this, there is obviously a need for greater clarity with regard to the process from start to finish, with an explanation of when and why “minded to” or conditional support statements will be issued, and the differences between these. It should be noted that the current ECGD Case Handling Process—Information Note makes no reference to the category of legally binding but conditional support decision which was the subject of contention here. On the contrary, it remains ECGD’s stated policy in the Information Note that preliminary indications on cover “are given entirely without commitment”.

## 5. ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS (ESIA) SHOULD BE COMPLETED BEFORE CONDITIONAL SUPPORT GRANTED

As a matter of principle, and based upon European and domestic authority on ESIA, it is impermissible to take a binding decision to support a project while leaving ESIA to be dealt with as a condition subsequent. A decision-maker which applies an ESIA requirement cannot rely on conditions and undertakings as a surrogate for the ESIA process. But that is exactly what ECGD purported to do in the March 2004 letter.

Furthermore, we believe that the ECGD needs to consider carefully its application of ESIA procedures in situations, as here, where the developer has already begun construction on a project. The purpose of imposing ESIA requirements (as ECGD has chosen to do) is to ensure that adverse environmental impacts are prevented “at source, rather than subsequently trying to counteract their effects” (Environmental Impact Assessment Directive, first recital). In the present instance, with completion of the final Sakhalin ESIA delayed until over 90% of the project itself was completed, it should have been ECGD not SEIC that brought the application to an end.

## 6. EXCESSIVE DISCRETION

In the response to WWF’s letter before claim, it was argued that ECGD was not obliged to require ESIA before making a binding decision on the project (and/or before the project was carried out). That argument is put forward on the basis of general statements in ECGD’s Case Impact Analysis Process (“CIAP”) and Case Handling Process Information Note to the effect that, respectively, the CIAP is “not a statement of what will be done in every case as [ECGD] will exercise its professional judgment on the basis of the actual

circumstances of each individual case”; and (as to the Information Note) that “it is difficult to provide a succinct statement that will cover every circumstance”—although the Note adds that it “seeks to illustrate the general process adopted for handling cases”.

In general, but certainly in relation to something as fundamental as the ESIA, we do not believe that the degree of discretion which ECGD seeks to reserve to itself is acceptable or can be justified. Having chosen to impose ESIA requirements, these need to be implemented effectively and consistently. Some flexibility in process may be necessary but when discretion leads to uncertainty and possible abuses, such discretions can no longer be justified and should be curtailed.

## 7. ECGD’s “CONSTRUCTIVE ENGAGEMENT” POLICY

ECGD has never rejected an application on environmental grounds. The reason for this is set out in Para 2.8 of the ECGD’s Case Impact Analysis Process: “Projects that do not meet the relevant international standards will normally be considered unacceptable. ECGD’s approach in these circumstances is to engage the exporter and/or the project developer in discussions with the objective of raising the project standards to an acceptable level.”

While such an engagement policy may be laudable in many respects, it has to be questioned in circumstances in which there seems little prospect of the project reaching a standard which could ever be considered environmentally acceptable. The policy of constructive engagement made little sense in this case.

## 8. COHERENCE WITH CLIMATE POLICY

One final and vital issue which should be raised in light of the above is how ECGD’s continued support for carbon intensive projects overseas is coherent with the government’s climate objectives. ECGD does not even mention climate change in its policies, nor does it report publicly on the emissions associated with the projects it supports. This is despite the prevalence of carbon intensive projects in its portfolio.

The ECGD has a track record of supporting some of the most controversial and environmentally damaging projects of our time. Sakhalin would have fallen into that category had the application been approved and it seems that the forthcoming Jindal Steel project in Orissa, may prove equally controversial.

If ECGD is to continue playing a role in supporting such projects then it is absolutely imperative that its procedures are rigorous and above reproach.

## Annexe II

### SAKHALIN II BACKGROUND INFORMATION

Name	Sakhalin II
Project Type	Oil & Gas infrastructure
Country	Russia
Dates	Construction started and application to ECGD in 2003. Project 90% completed November 2007.
Amount	\$650 million being considered
Supported Description	The Sakhalin II Phase 2 offshore oil and gas project is a US\$ 20 billion project on Russia’s Pacific Coast. The Sakhalin Energy Investment Company (SEIC) <sup>10</sup> consists of Shell (the project operator (22.5.5%); Mitsui (12.5%); Mitsubishi (10%); Gazprom (acquired 50% plus one share at the end of 2006, with the other partners halving their stakes). SEIC has undertaken the construction of a new oil and gas platform, offshore oil & gas pipelines, onshore pipelines carrying oil & gas the 800 km length of the island, and a liquid natural gas (LNG) production plant and oil & LNG terminal at the south end of Sakhalin island.
Environmental Impacts	— The offshore components of the project are adjacent to the only known feeding grounds of the critically endangered Western Gray Whale (estimated 120 total population remaining). The risks posed by noise, collisions, and oil spills put the whales at risk of extinction. The winter ice cover poses a huge challenge to cleaning up any oil spills during operation. <sup>11</sup> SEIC has ignored the advice of a panel of whale experts, by installing a platform without keeping to the recommended noise limits. <sup>12</sup> Rick Steiner, an Alaskan oil spill expert quit the whale panel in July 2005 following Shell’s refusal to change its plans. <sup>13</sup>

<sup>10</sup> <http://www.sakhalinenergy.com/en/aboutus.asp>

<sup>11</sup> Offshore Oil Spill Response in Dynamic Ice Conditions. 2005, Nuka / WWF. [http://www.panda.org/about\\_wwf/where\\_we\\_work/europe/where/russia/sakhalin/news/index.cfm?uNewsID=67420](http://www.panda.org/about_wwf/where_we_work/europe/where/russia/sakhalin/news/index.cfm?uNewsID=67420)

<sup>12</sup> <http://www.iucn.org/themes/marine/sakhalin/index.htm>

<sup>13</sup> Letter from Rick Steiner to Jeroen van der Veer, 14 July 2005.

	<ul style="list-style-type: none"> <li>— The onshore pipelines crossed over 1000 rivers. SEIC did not identify all of the sensitive rivers prior to construction. The habitat of the endangered Taimen (a type of salmon) was not surveyed prior to construction and damage has resulted.<sup>14</sup> SEIC failed to implement many of its mitigation measures, such as crossing rivers with the two pipelines at the same time and avoiding spawning seasons.<sup>15</sup> The repeated failures have been documented by regulatory inspections, consultant reviews and NGO monitoring. In 2006, SEIC's environmental permit for construction was suspended by The Russian Ministry of Natural Resources.<sup>16</sup> SEIC has proposed restoring southern rivers to compensate for degraded northern rivers, which will not work, as salmon always return to the unique habitat of the river in which they were spawned.<sup>17</sup></li> <li>— The onshore pipeline construction has also impacted the nesting sites of endangered Steller's Sea Eagles. Construction workers ignored the required exclusion zone around the nest, with excessive traffic continuing close to it. The nesting pair had no offspring in 2007.<sup>18</sup></li> <li>— The dredging of Aniva Bay resulted in material being dumped close to shore, affecting the catches of local fishermen, resulting in a complaint to the European Bank for Reconstruction &amp; Development (EBRD); SEIC eventually paid some compensation. The community has also not been compensated for the loss of the recreation value of the beach in front of the LNG plant.</li> </ul>
Social Impacts and Human Rights	<ul style="list-style-type: none"> <li>— SEIC failed to recognise all of the indigenous peoples on Sakhalin Island, in breach of the World Bank policy. As a result an indigenous peoples plan was not prepared until 2006, by which time the project was two-thirds completed. These most vulnerable groups were not able to have meaningful input into the design of the project. The EBRD recognised the timing of this plan did not meet policy requirements.<sup>19</sup></li> <li>— Affected communities have not had claims for compensation resolved in a timely manner. As a result poor communities have lost livelihoods on which they depend.</li> <li>— Local communities made several protests at SEIC sites to raise the profile of their plight.<sup>20</sup></li> <li>— A report by CEE Bankwatch documents the harrowing rise of prostitution, trafficking, HIV/AIDS and violence against women in communities affected by Shell's Sakhalin II.<sup>21</sup></li> </ul>
Corruption Allegations	<ul style="list-style-type: none"> <li>— Allegations have been made by a whistleblower of inappropriate relationships between SEIC management and its contractors, in particular Starstroi and its subcontractor SU4.<sup>22</sup></li> </ul>

<sup>14</sup> AEA Lenders Review of Sakhalin II, October 2007, p117. [http://www.sakhalinenergy.com/en/documents/iec\\_ddr2007.pdf](http://www.sakhalinenergy.com/en/documents/iec_ddr2007.pdf)

<sup>15</sup> Mathiason, "Shell Consortium in New Pipeline Dispute," The Observer, May 21, 2006 <http://www.guardian.co.uk/oil/story/0,,1779620,00.html>

<sup>16</sup> <http://news.bbc.co.uk/1/hi/business/5355504.stm>

<sup>17</sup> Letter from the Wild Salmon Center to SEIC, 5 November 2007.

<sup>18</sup> AEA Lenders Review of Sakhalin II, October 2007, p160. [http://www.sakhalinenergy.com/en/documents/iec\\_ddr2007.pdf](http://www.sakhalinenergy.com/en/documents/iec_ddr2007.pdf)

<sup>19</sup> <http://www.ebrd.com/new/pressrel/2005/175dec14.htm>

<sup>20</sup> <http://www.sakhalin.environment.ru/en/detail.php?slice=8b4cb37fba47da1c76cf3e44aa940cd2&siteid=221211>

<sup>21</sup> Boomtown Blues, November 2006, CEE Bankwatch <http://bankwatch.org/documents/boomtimeblues.pdf>

<sup>22</sup> <http://royaldutchshellplc.com/2008/01/06/the-sakhalin-2-whistleblower-warnings-which-proved-100-correct/>



## RENEWABLE ENERGY PROJECTS FINANCED BY OECD ECAS UNDER THE EXTENDED OECD TERMS 2005–07.

Available at <http://www.oecd.org/dataoecd/13/20/39863611.pdf>

Year	Sector	Notifications			Commitments			of which Outstanding			Cancelled		
		Value (SDR Millions)		Number	Value (SDR Millions)		Number	Value (SDR Millions)		Number	Value (SDR Millions)		Number
		Contract	Credit		Contract	Credit		Contract	Credit		Contract	Credit	
<b>2005 (July–December)</b>		<b>5</b>	<b>204.5</b>		<b>4</b>	<b>166.6</b>					<b>1</b>	<b>30</b>	<b>30</b>
	Wind Energy	4	198.5		3	161.4					1	30	30
	Geothermal Energy												
	Tidal and Tidal Stream												
	Wave Power												
of	Solar Photovoltaic	1	6		1	5.2							
which	Solar Thermal												
	Bio-Energy												
	Water and Wastewater												
	Hydro-Power												
<b>2006 (January–December)</b>		<b>9</b>	<b>1,060</b>		<b>3</b>	<b>1,056.0</b>		<b>6</b>	<b>600</b>	<b>600</b>			
	Wind Energy												
	Geothermal Energy												
	Tidal and Tidal Stream												
	Wave Power												
of	Solar Photovoltaic												
which	Solar Thermal												
	Bio-Energy												
	Water and Wastewater												
	Hydro-Power	9	1,060		3	1,056.0		6	600	600			
<b>2007 (January–June)</b>		<b>3</b>	<b>175</b>		<b>1</b>	<b>62.0</b>		<b>2</b>	<b>75</b>	<b>64</b>			
	Wind Energy	1	100		1	62.0							
	Geothermal Energy												
	Tidal and Tidal Stream												
	Wave Power												
of	Solar Photovoltaic												
which	Solar Thermal												
	Bio-Energy												
	Water and Wastewater	1	15					1	15	4			
	Hydro-Power	1	60					1	60	60			

20 June 2008

## Memorandum submitted by The Corner House

### INTRODUCTION

1. The Corner House is a not-for-profit research and advocacy group, focusing on human rights, environment and development.

2. Over the past 10 years, The Corner House has closely monitored the policies and operations of the UK Export Credits Guarantee Department, submitting evidence to a number of parliamentary inquiries<sup>1</sup> and UK Government departments. In addition, it has participated in nine field missions to assess the social and environmental impacts of a number of projects for which ECGD support was or is being sought, notably the Ilisu<sup>2</sup> and Yusufeli<sup>3</sup> dams and the Baku-Tbilisi-Ceyhan pipeline<sup>4</sup>. It has also undertaken in-depth research into a number of ECGD-backed projects that have been tainted by allegations of bribery and, following court action, successfully argued for the strengthening of ECGD's anti-bribery rules.<sup>5</sup> Recently, it applied jointly with WWF for a judicial review of ECGD's decision to give a legally-binding, but conditional, undertaking to support Shell's Sakhalin 2 oil and gas project before the completion of a satisfactory environmental impact assessment.<sup>6</sup>

3. The Corner House welcomes the Environmental Audit Committee's current inquiry and is grateful for the opportunity to comment on a number of the issues that the Committee has chosen to examine, as set out below.

### A. ECGD'S DECISION-MAKING PROCEDURES AND SUSTAINABLE DEVELOPMENT

4. The ECGD has been charged by Ministers with ensuring that "its activities accord with other Government objectives, including those on sustainable development, human rights, good governance and trade."<sup>7</sup> This duty, however, is viewed by ECGD as "secondary" (its wording)<sup>8</sup> to the fulfilment of what the Department views as its primary purpose: the facilitation of UK exports.<sup>9 10</sup>

5. The consequences of this ordering of priorities are evident at every level of the ECGD's decision-making:

- Not a single application for ECGD support is formally assessed against the UK's stated sustainable development objectives. Although the Department seeks information on the environmental and social impacts of the goods for which applicants seek support, the case handling procedures<sup>11</sup> do not assess—or require to be assessed—the acceptability of support for a given export against the Government's current international priorities for achieving sustainable development.<sup>12 13</sup> The extent to which an export will assist in "eliminating poverty in poor countries"<sup>14</sup> or in "delivering sustainable consumption and production patterns" or in "reducing the rate of biodiversity loss" is not formally required to be assessed—and could not be reasonably assessed in most cases on the basis on the information gathered through the ECGD's environmental impact questionnaires.
- Even where the ECGD's Business Principles Unit (set up to implement the Department's Business Principles) makes a detailed assessment of a project, as in the case of "High Impact" projects such as the Baku-Tbilisi-Ceyhan oil pipeline, "international standards" (such as the World Bank's ten safeguard policies) rather than the UK Government's sustainable development objectives are the benchmark against which the acceptability of the project is assessed.<sup>15 16</sup> Such international standards do not embody either the UK's stated sustainable development objectives (as exemplified by Government statements and initiatives) or the UK's sustainable development obligations (as exemplified by international undertakings). ECGD's decision-making procedures thus entirely omit formal scrutiny of the compliance of projects with a key requirement imposed on ECGD by Ministers under the Department's current Mission Statement.
- Seventy-one per cent<sup>17</sup> (by value) of the guarantees issued by ECGD in 2006–07 went unscreened for any environmental or social impacts. Despite two parliamentary Select Committees—the Environmental Audit Committee<sup>18</sup> and the Trade and Industry Committee<sup>19</sup>—both recommending that all contracts being considered for support should be subject to environmental screening, the ECGD still excludes defence and aerospace contracts (which make up the bulk of its business) from its screening procedures.
- The environmental screening process adopted by the ECGD—described by the Select Committee on Trade and Industry as "the weakest form of environmental screening"—is not designed (let alone intended) to screen out unsustainable projects, but merely to collect information in order to categorise them by their potential impacts. No application for support, to The Corner House's knowledge, has ever been refused on environmental grounds as a result of the screening process. Moreover, analysis of documents released reveal that projects with potentially high impacts (such as nuclear power plants) have been categorised as "low impact", thus requiring no environmental impact assessment.

- Although ECGD requires all projects that it supports to comply “in all material respects” with the World Bank’s 10 safeguard standards,<sup>20</sup> these standards do not represent best practice in sustainable development and do not address many of the issues on which the UK Government has promulgated sustainable development objectives with which the ECGD is required to accord—for example, human rights, sustainable consumption and good governance. Indeed, the World Bank standards are now recognised as being wholly inadequate for safeguarding against the environmental and social impacts of dams, an issue which The Corner House has brought to the ECGD’s attention.<sup>21</sup>
- Although the Business Principles Unit is responsible for ensuring that cases being considered for support comply with ECGD’s Business Principles,<sup>22</sup> it has no powers that would enable that responsibility to be adequately or properly discharged. It can gather information on a project and it can relay its concerns, along with recommendations, to the ECGD’s Underwriting Committee. But it is for the Underwriting Committee to decide whether or not those concerns are acted upon, for example through recommending that the project be refused or that conditions are written into the project agreements. In The Corner House’s view, this institutional arrangement fatally deprioritises the ECGD’s sustainable development obligations.
- ECGD has reserved wide powers to derogate from its stated sustainable development and procedural standards, thus seriously weakening their effectiveness. Categorical policy statements (for example, that all projects should comply with World Bank safeguard policies) are hedged by other statements that allow ECGD to exercise wide discretion in their application (for example, that its procedures as laid down in its “Case Impact Analysis Process” paper are “not a statement of what will be done in every case”).<sup>23</sup> The ECGD does not normally disclose decisions to derogate or the nature of the derogations applied. However it has acknowledged to The Corner House that derogations were applied to the South Pars oil development in Iran (classed by ECGD as a high impact).<sup>24</sup> ECGD has refused requests from The Corner House for information on the specific derogations. However, the lawfulness of the ECGD’s claimed power to derogate from procedures that the Secretary of State has chosen to incorporate into ECGD’s decision-making practices (such as requiring an environmental impact assessment) has recently been the subject of an application for judicial review (JR) by WWF and The Corner House in relation to the ECGD’s decision to give a legally-binding but conditional commitment to support Shell’s Sakhalin 2 oil pipeline, despite the project’s environmental impact assessment being incomplete.<sup>25</sup> The JR application has now been withdrawn following Shell’s withdrawal of its application for support.
- Although the ECGD notifies other Government departments about “Sensitive Cases” and invites their input, the notifications that have been released to the public do not seek or even invite comment on compliance with the UK’s sustainable development objectives. In the case of the Sakhalin 2 oil and gas project, ECGD sent the following note:

“Dear All, I would like to brighten up your Friday afternoon by letting you know about two potentially sensitive cases that the ECGD is currently considering. The first is the Sakhalin II (Phase II) oil and gas project in eastern Russia... The assessment of the project is likely to go on for at least another six months but we are asking you to indicate your initial interest within the next two weeks... If anyone has any questions or would like to discuss either project, please feel free to get in touch.” (see Annex 1 for full text)

No specific questions are asked and no indication is given as to the areas of compliance with UK sustainable development policy on which ECGD would seek advice.

The Department of Trade and Industry (DTI) reply to this note focuses only on the Department’s strategic relations with Russia. Whilst this was a legitimate concern, given that accord with UK trade objectives also forms part of the Business Principles, the lack of any commentary on the project’s compatibility with those sustainable development objectives for which the DTI had responsibility<sup>26</sup> is of concern. Indeed, it is hard to see how the ECGD could properly assess such compatibility without reasoned input from the DTI:

“Thanks for this. Sakhalin II is of course well-known to us and features prominently in our Russian strategic thinking. We have no concerns at this stage, but we would like to be kept aware of the developments and discussions to avoid things going pear-shaped.”<sup>27</sup>

Although Department for Environment, Food and Rural Affairs (Defra) responded directly addressing policy concerns relating to sustainable development—expressing fears over the project’s “potentially devastating effects... on the local environment and in particular on an endangered population of whales” (see Annex 2)—ECGD nonetheless gave a legally-binding (if conditional) undertaking to support the project.

Departmental replies to other Sensitive Case Notifications that have been made public also raise questions over the adequacy of the information provided to ECGD as a basis for deciding whether or not a project complies with the UK’s sustainable development commitments.<sup>28</sup>

6. The Corner House views the decision-making procedures set out above as totally inadequate to the task of re-orientating the Department’s activities towards compliance with the Government’s sustainable development objectives, let alone ensuring such compliance. Although the Business Principles Unit has been

able to use the environmental screening procedures to bring some small improvements to projects,<sup>29</sup> overall the ECGD's portfolio remains as skewed as ever towards sectors, such as arms exports, and oil and gas infrastructure development, whose adverse impacts on sustainable development are well documented.

## B. INADEQUACY OF BUSINESS PRINCIPLES AND NEED FOR PROACTIVE APPROACH

7. The objectives of the ECGD's Business Principles are largely aspirational and, as documented above, their implementation discretionary. As such, they fail to provide the incentives, penalties and binding rules that would make them a suitable instrument for ensuring that the ECGD business practice accord with sustainable development objectives.

8. The Corner House believes that the ECGD's operations will continue to remain at odds with the Government's sustainable development commitments unless the Department takes proactive measures to exclude businesses that are unsustainable. At present, however, the ECGD is entirely passive in its approach to the sectors its supports, arguing that it is required under its founding Act of Parliament to consider all applications and that it "can consider supporting only that business which comes to us".<sup>30</sup>

9. The Corner House notes that the ECGD already operates what are in practice "exclusion lists", ruling out, for example, applications for countries that are off cover. Projects that involve child and forced labour are also nominally excluded from consideration for support (although recently the ECGD has weakened the wording of its commitment to this policy).<sup>31</sup> The Corner House sees no reason why ECGD should not institute such an exclusion list (as operated by the European Bank for Reconstruction and Development) for projects that it considers at odds with its sustainable development objectives. The Corner House believes that such a list could be instituted without exceeding its lawful powers under the 1991 Export and Investment Guarantees Act, from which the Department derives its statutory duties.

## C. ECGD'S DUE DILIGENCE AND MONITORING

10. The ECGD does not normally disclose the impact assessments that it makes of projects and has only ever done so in response to Freedom of Information requests. Despite initially acceding to multiple requests for assessments, the Department has recently refused to release more than two at a time, with requests being dealt with on a "first come first served basis".

11. Very few assessments have therefore made their way into the public domain. Those undertaken for the Baku-Tbilisi-Ceyhan (BTC) oil pipeline project; Shell's Bonny Island Nigeria LNG Project; the South Pars 9 and 10 project, Iran; and the P-52 oil production platform project, Brazil, have been released to The Corner House. However, the Business Principles Unit's assessments of the projects have, in all cases, been entirely redacted. It is thus impossible to know what their assessments were.

12. Attempts by The Corner House to obtain the unredacted minutes of the Underwriting Committee meeting at which the BTC project was considered (and thus to assess whether or not the recommendations made by the Business Principles Unit with respect to the project were accepted and what form any subsequent action took) have also been refused. However, from the material disclosed, it is clear that at the time the project was approved, a number of environmental and social issues remained unresolved.<sup>32</sup> These included:

- Return of land usage rights in Turkey;
- Ceyhan fisherman report and compensation;
- Oil spill response plan.

The failure to ensure that compensation and land rights issues had been resolved prior to approval constitutes, in The Corner House's view, a clear breach of the World Bank's safeguard policy on Involuntary Resettlement<sup>33</sup>—one of the standards against which ECGD assessed the project. It is also of concern that subsequent monitoring by non-government organizations, including The Corner House, record that compensation issues remain unresolved for many villagers. The Corner House understands that evidence to this effect has been submitted by the Committee by Green Alternatives (Georgia) and by PLATFORM and Kurdish Human Rights Project (UK).

The failure to secure an oil spill response plan prior to approval of the BTC project is also of great concern, the more so given the subsequent release (by the then Department of Trade and Industry) of a Foreign and Commonwealth Office telegram (dated 1 April 2004—thus after ECGD approval for the project) detailing the absence of any credible Emergency Response plan in Azerbaijan, one of the three countries through which the pipeline passes. The telegram reports on a "UK-US-BP stock-take" hosted by BP's Health and Safety team, and summarises the state of emergency planning in the event of a major accident involving the pipeline:

"The bad news is that there is no machinery for policy co-ordination or planning input from relevant ministries or agencies beyond the Presidential Aparat, and no link into the National Security Council. So in a major civil contingency or terrorist attack, apart from the purely military response there would be no civil command structure, no lead agency and probably no effective

communication between relevant ministries and agencies. This leaves BP's own crisis response team exposed, as they laconically put it, to "over- or under-enthusiasm" from the military and other interested agencies getting in the way of an effective response"<sup>34</sup>

13. The Corner House is also concerned that a number of projects with potentially high environmental, social, debt or developmental impacts, including the alleged use of child labour, have been classified by ECGD as being of medium or low impact. Projects classed as being of low impact are not scrutinised further by the Business Principles Unit; medium impact projects require a limited "impact questionnaire" to be completed; and both are exempted from requiring an environmental impact assessment.<sup>35</sup> Examples of concern include:

<i>Year</i>	<i>Market</i>	<i>Exporter</i>	<i>Project</i>	<i>Case Impact</i>
2005–06	Korea	Alstom Power Conversion Ltd	Shin Kori Power Station	Low
2005–06	Korea	Alstom Power Conversion Ltd	Shin Wolsuing Power Station	Low

Comment:

Although both projects are listed in the ECGD's Annual Report for 2005-06 as "power stations", they are in fact nuclear power stations.

After a number of refusals, The Corner House obtained the Case Screening form for the Shin Wolsuing Power Station. The original screening appears to have been undertaken by COFACE, the French export credit agency, with the export being reinsured by ECGD.

Although the case screening officer correctly responded "Yes" to the form's question as to whether or not the project was a nuclear plant, s/he (the officer's identity has been redacted) nonetheless classified the export as "low impact" despite a note in the form that states: "If "yes" to any of these [questions] then probably Medium or High impact".

No impact questionnaire was subsequently completed.

<i>Year</i>	<i>Market</i>	<i>Buyer</i>	<i>Project</i>	<i>Case Impact</i>
2005–06	India	Jindal Vijayanagar Steel Ltd	No. 3 Single Strand Slab Casters	Low

Comment:

Vijayanagar has been accused of using child labour in its mines.<sup>36</sup> Although the charge has been denied by the company,<sup>37</sup> The Corner House believes that the ECGD's absolute ban on the use of child labour in the projects it facilitates should have triggered enhanced due diligence.

The completed screening form has been released to The Corner House. Although one "yes" was given to a question where a "yes" response merits a probable "medium" or "high" impact classification, the project was nonetheless classed as low impact.

The completed screening form gives no indication that ECGD was even aware of the allegations of child labour.

An impact questionnaire was also completed for the project (although, technically, as a low impact project, this was not required). Many of the questions in the questionnaire are unanswered, including those relating to resettlement and whether or not the project would "cause, require, bring about or stimulate" child labour.

<i>Year</i>	<i>Market</i>	<i>Buyer</i>	<i>Buyer</i>	<i>Case Impact</i>
2005–06	Iran	Kala Naft Co	Dry compressors	Low

Comment:

Kala Naft is listed by the Japanese Ministry of Economy, Trade and Industry (METI) as a company suspected of involvement in procuring biological, chemical and nuclear weapons of mass destruction. The list, which is updated annually, is available at <http://www.meti.go.jp/press/20080610009/20080610009-2.pdf>.

The Wisconsin Project, a US organisation that monitors Iran's weapons programme, has also reported that that Kala Naft was "identified by the British Government in February 1998 as having procured goods and/or technology for weapons of mass destruction programs".

<i>Year</i>	<i>Market</i>	<i>Exporter</i>	<i>Project</i>	<i>Case Impact</i>
2005–06	Philippines	Mabey and Johnson	Highways, bridges and flyovers	Low

Comment:

The contract has been subject of corruption allegations.<sup>38</sup> In addition, concerns have been raised over its minimal development benefits. Many of the bridges, built for a two-lane highway, connected to single track dirt roads; others did not even connect to a road.<sup>39</sup>

14. Documents released to The Corner House also raise questions about the adequacy of the ECGD's due diligence on the choice of an experimental anti-corrosion coating for the Baku Tbilisi Ceyhan oil pipeline project, for which BP obtained ECGD support. The coating had never been used previously on a pipeline of similar design, nor had it been properly tested prior to its selection by BP.<sup>40</sup> In 2002—two years before the approved funding for the project—BP's own consultant, Derek Mortimore, warned that the chosen coating (known as SPC 2888) was “utterly inappropriate to protect the pipeline”.<sup>41</sup> As predicted by Mortimore, the SPC 2888-coated sections of the pipeline have been subject to extensive cracking. BP did not inform ECGD, which found out only after the problem was exposed in Britain's *Sunday Times* newspaper. Over one quarter of the pipeline in Georgia (through which the pipeline passes) was later found to have been affected.<sup>42</sup> In June 2004, the ECGD (and its responsible Minister) claimed that the coating had been widely used on similar pipelines.<sup>43</sup> The claim was repeated by the ECGD in a letter to Trade and Industry Committee of 19 July 2004,<sup>44</sup> despite the ECGD having informed the Minister office on 8 July 2004 that SPC 2888 “had not previously been used on a pipeline with polyethylene coating”.<sup>45</sup> Such confusion strongly suggests a lack of due diligence on the part of ECGD, which should have been aware whether or not such a major safety component of the pipeline was or was not experimental.

15. Reports released to The Corner House also reveal that the ECGD's consultants made no mention in their monitoring reports during the relevant period of the extensive cracking along the pipeline in Georgia.<sup>46</sup> Although BP's failure to report and remedy the cracking constituted a clear default of the environmental reporting conditions in the loan agreements, the default procedures were not invoked.<sup>47</sup> The failure of the US Overseas Private Investment Corporation (OPIC), one of the US lenders to the project, to invoke the default clauses has been the subject of a complaint to the agency's Accountability Office by Green Alternatives of Georgia.<sup>48</sup> OPIC's response confirms that BTC Co failed to disclose crucial information in a timely manner, but did not pronounce on whether the project was in default of OPIC's loan agreements. It recommended closer monitoring of the pipeline coating in order to prevent corrosion and leaks.<sup>49</sup> In 2006, a major investigation by Bloomberg, the financial news agency, reported that BP had given the monitoring contract for its Azerbaijan assets to Rasco International Ltd., a Baku-based building company with no previous pipeline monitoring experience.<sup>50</sup>

16. More generally, The Corner House is concerned that the arrangements used by ECGD to monitor projects are not sufficiently independent. In the case of the BTC pipeline, BTC Co blocks the release of environmental and social monitoring reports if it disagrees with their findings<sup>51</sup> but such findings are only made public after they have been presented to the BTC board.<sup>52</sup> In addition, the terms of reference for the Social and Resettlement Action Plan (SRAP) panel set up to monitor the social impacts of the project specifically state that its main role is not to identify areas of compliance and noncompliance but rather to provide guidance and troubleshooting advice.<sup>53</sup> As such, it is questionable whether it should be considered a source of definitive judgment on compliance.

#### D. INFORMATION DISCLOSURE

17. Under the Environmental Information Regulations (Regulation 4/1), the ECGD has a duty of proactive dissemination of environmental regulations, at least for information obtained after 1 January 2005. The Corner House's experience is that ECGD is failing to discharge that duty. Key documents which would enable the public to monitor (and improve) the effectiveness of ECGD's due diligence and other procedures are either denied to the public (for example, derogations from standards) or made available only after prolonged Freedom of Information requests. The Corner House believes that ECGD should adopt a policy of posting on its website all completed environmental screening assessments, impact questionnaires and other assessments of projects by the Business Principles Unit as a matter of course, albeit, if necessary, with redactions to preserve commercial confidentialities.

18. The Corner House also believes that, as a public institution supported by public funds, ECGD should make publication of basic project information—name, a short description of the project, its potential environmental, social and human rights impacts and its impact category—a precondition of appraisal for all projects, including cases involving insurance only.

19. The Corner House notes that documents released as a result of Freedom of Information requests have regularly revealed institutional failures and, in some cases, arguably unlawful decision-making by ECGD (for example, with respect to the weakening of anti-corruption procedures and to the granting of a legally-binding, if conditional, undertaking to support the Sakhalin 2 project). The Department's current approach to dissemination of information can only encourage the impression that its refusal to release documents reflects a desire to keep the public in the dark rather than to protect legitimate confidentiality.

#### **E. THE OECD AND ECA REFORM**

20. The OECD's Working Party on Export Credits and Credit Guarantees (known as the Export Credits Group) is the only multilateral forum addressing environmental and social standards for export credit agencies.

21. The Group operates at the pace of its most recalcitrant member, all decisions having to be made by consensus.

22. Since 2000, the group has been negotiating common environmental standards for OECD Export Credit Agencies, adopting an agreement (known as the "Common Approaches") in 2003. The Common Approaches was updated in 2007 and now has the stronger status of an OECD Recommendation. Although progress has been made in expanding the number of standards against which ECAs must now assess the projects they support, and with which projects are expected to comply, the Common Approaches retains a loophole allowing derogations. This loophole has widely been exploited by ECG member ECAs, bringing the Common Approaches (and indeed the ECG) into disrepute. Projects from which UK companies have withdrawn on environmental grounds (such as the Ilisu Dam in Turkey) have now been funded despite the financing ECAs acknowledging that the project violated 150 important World Bank/IFC Performance Standard requirements.

23. No mechanism currently exists within the Export Credit Group to hold member ECAs to account. Until such a mechanism is instituted, the Export Credit Group is unlikely to prove more than a talking shop for standards, rather than a mechanism for on-the-ground improvements in ECA-backed projects.

24. In 2007, non-governmental organizations set out proposals for independent peer assessment of member ECA as a mechanism, consistent with that employed elsewhere in the OECD, for improving the implementation of the Common Approaches. The proposals were sent to ECGD and to the Export Guarantees Advisory Council in March 2008.<sup>54</sup> No response has been received from either body, nor even an acknowledgment.

*June 2008*

**Annex 1 –**

**From:** @dti.gsi.gov.uk@internet@ecgd  
**Sent:** 04 March 2003 12:03  
**To:** Martin McKee  
**Subject:** FW: ECGD Potentially Sensitive Cases

Martin  
cc Brian, Simon, Christian, Mike

Brian's comment below sums up Sakhalin. No comment at this stage on the Steel Plant.

Graham

----- Original Message -----

From: [REDACTED]  
Sent: 04 March 2003 11:07  
To: [REDACTED]  
Subject: RE: ECGD Potentially Sensitive Cases

Graham,

Thanks for this. Sakhalin II is of course well known to us and features prominently in our Russian strategic thinking. We have no concerns at this stage, but we would like to be kept aware of developments and discussions to avoid things going pear-shaped!

Brian

----- Original Message -----

From: DTI  
Sent: 03 March 2003 18:21  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: FW: ECGD Potentially Sensitive Cases

Please see notification of potentially sensitive cases on Sakhalin II and a [REDACTED] Steel Mill attached.

If any comments at this stage let me know.

Graham

----- Original Message -----

From: Martin McKee



Sent: 03 March 2003 09:33  
Subject: FW: ECGD Potentially Sensitive Cases  
To: [REDACTED]  
Dear all

I originally sent the message below on Friday afternoon, but one of the attachments was large and it was blocked by several of your email systems (so apologies if you are getting this for the second time).

The message is about two potentially sensitive cases. The attachment was a scan of the environmental chapter of a feasibility study for a [REDACTED] steel mill that we are looking at. If anyone would like to see a hard copy, let me know and I will send one by post.

Regards

Martin

Martin McKee  
Business Principles Unit

----- Original Message -----  
From: Martin McKee  
Sent: 28 February 2003 16:37  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: ECGD Potentially Sensitive cases

Dear all,

I'd like to brighten up your Friday afternoon by letting you know about two potentially sensitive cases that ECGD is currently considering.

The first is the Sakhalin II (Phase II) oil and gas project in eastern Russia. This is very large project and I expect that some of you will want to be kept closely in touch with how it progresses. If departments are interested, I would anticipate circulating regular issue up-dates, similar to those some of you may have seen from David Allwood on the BTC project. For now I have attached a short summary and the overview of the ESIA. This second document was produced by the company and may read as being slightly positive towards the project, but it does give a decent description of what is involved and what the main issues are. The full Social and Health Impact Assessments are available at [www.sakhalinenergy.com](http://www.sakhalinenergy.com). The Environmental Impact Assessment, which has been independently written, should be posted on the site within the next week or two.

The assessment of this project is likely to go on for at least another six months, but we are asking you to indicate your initial interest within the next two weeks.

« Sakhalin – OGDs letter.doc » « Sakhalin executive summary.pdf »

The second project, which I'm hoping you will be happier for us assess by ourselves, is a steel mill in [REDACTED] [Again I've attached a short summary, and also the environmental chapter from the feasibility study. This is zipped as the scan was 8MB – {NB: as mention above this is no longer the case}. If anyone needs a hard copy, please let me know]. The timescale for this project is much tighter so, although the deadline for responses is also the 14 March, I would appreciate it if that response could be more detailed or definitive.

If anyone has any questions or would like to discuss either project, please feel free to get in touch.

Regards,

Martin

Martin McKee  
Business Principles Unit

1. See, for example, submissions to inquiries into the Ilisu Dam by the Select Committee on Trade and Industry and by the International Development Committee, into ECGD and Sustainable Development by the Environmental Audit Committee (2003), and on the Baku-Tbilisi-Ceyhan oil pipeline and ECGD's Anti-Bribery rules to the Trade and Industry Committee.
2. See, for example: Campaign to Reform the World Bank, The Corner House, Kurdish Human Rights Project, Ilisu Dam Campaign, Pacific Environment, WEED, *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, March 2001.
3. See: Amis de la Terre, Corner House, France Liberté, Friends of the Earth (EWNI), Ilisu Dam Campaign, *Damning Indictment: How the Yusufeli Dam Violates International Standards and Peoples' Rights*, July 2002.
4. Reports available at: <http://www.bakuceyhan.org.uk/missions.htm>.
5. See: "Corner House Double Victory on UK Government Department's Anti-Bribery Rules and Public Interest Litigation", 25 January 2005, <http://www.thecornerhouse.org.uk/item.shtml?x=107362>.
6. See: <http://www.thecornerhouse.org.uk/pdf/document/SakLegalGrounds.pdf>.
7. ECGD, Mission Statement, <http://www.ecgd.gov.uk/index/aboutecgd/ecgdmissionandobjectives.htm>.
8. ECGD, Sustainable Development Action Plan 2007, [http://www.ecgd.gov.uk/sdap\\_final\\_2007-3.pdf](http://www.ecgd.gov.uk/sdap_final_2007-3.pdf). Para 10: "ECGD also has certain secondary duties set for it by Ministers. These include compliance with its Statement of Business Principles..." (emphasis added).
9. The ECGD's statutory powers derive from the Export and Investment Guarantees Act 1991, under which the Department, acting on behalf of the Secretary of State for Business, Enterprise and Regulatory Reform, is required to "facilitating, directly or indirectly" the supply of British exports. SENTENCE NOT GRAMMATICAL RE FACILITATING.
10. It is perhaps of note that the ECGD does not even mention sustainable development objectives as part of its statement of aims on the Department's home web page. The ECGD's aim is stated as being "to help UK exporters of capital equipment and project-related goods and services win business and complete overseas contracts with confidence. See: ECGD, "Welcome to ECGD", <http://www.ecgd.gov.uk/>.
11. ECGD, Case Impact Analysis Process, [http://www.ecgd.gov.uk/ecgd\\_case\\_impact\\_analysis\\_process\\_-\\_may\\_2004-4.pdf](http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004-4.pdf).
12. The Government's international sustainable development priorities, "primarily arising from the World Summit on Sustainable Development, the Doha Development Agenda of the WTO, the Monterrey Consensus on Financing for Development and the Millennium Development Goals", are set out at <http://www.sustainable-development.gov.uk/international/priorities.htm>.
13. As Friends of the Earth note in a letter of 26 April 2006 to ECGD (available at [http://bankwatch.org/documents/Ltr\\_ECGD\\_280406\\_.pdf](http://bankwatch.org/documents/Ltr_ECGD_280406_.pdf)) with respect to the Sakhalin 2 oil and gas project: "In processing applications for support, ECGD will also take account of applicable Government policies and initiatives on the environment, sustainable development and human rights. We note from the above that the ECGD does not commit itself to determine the acceptability of the impacts of a project by comparing them with or on the basis of applicable Government policies and initiatives on the environment, sustainable development and human rights. This is not a semantic distinction. For example, we note that in the BPU Review of the BTC Pipeline Project, international standards, and not Government policies or initiatives (a fortiori/ not Government obligations), were specifically listed in the 'Main criteria for acceptability' section."
14. Although ECGD does not issue export credits for any expenditures that are not defined as "productive", its "productive expenditure test" applies only to Heavily Indebted Poor Countries and countries eligible for assistance from the World Bank's International Development Association. The productive expenditure test does not, however, consider whether or not a project will contribute to or undermine poverty eradication. Oil development, for example, would pass the productive expenditure test but may have major adverse impacts on poverty, particularly in countries where democracy is weak and the economy overly dependent on mineral extraction. (For the linkages between poverty and oil development, see: *Striking a Better Balance: The Final Report of the Extractive Industries Review*, December 2003, available at <http://www.eireview.org/eir/eirhome.nsf/b665a087e9e6b48085256acd005508f7/75971f6a8e5a111385256de80028bfee2?OpenDocument>).
15. ECGD, Business Principles Unit Review of Baku-Tbilisi-Ceyhan Pipeline Project, 3rd December 2003, redacted version released to The Corner House following Freedom of Information request, p.3.
16. Although a section of the Business Principles Unit (BPU)'s BTC assessment report raises issues related to unsustainable use of resources, it does so without any indication of the UK's objectives in this area and thus provides no basis for an objective assessment of compliance. From correspondence obtained under the Freedom of Information Act, it appears that the BPU raised concerns on the issue of unsustainable consumption to the ECGD's Underwriting Committee but it is unknown what the specifics of those concerns were since they have been redacted from the copies released to The Corner House. The Committee's response is also unknown, since ECGD has refused to release it.
17. ECGD, Annual Review and Resource Accounts 2006-07, p.17, [http://www.ecgd.gov.uk/ecgd\\_bus\\_overview\\_2006-07.pdf](http://www.ecgd.gov.uk/ecgd_bus_overview_2006-07.pdf).
18. Environmental Audit Committee, Seventh Report, Session 2002-03, <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmenvaud/689/68902.htm>.
19. Trade and Industry Committee, Third Report, Session 1999-2000, *The Future of the Export Credits Guarantee Department*, para 56, p.xcvi: "We can see no reason for defence equipment and aerospace to be exempted from the screening process and request and explanation for the exemption."
20. ECGD, Case Impact Analysis Process, May 2004, para 2.6, [www.ecgd.gov.uk/ecgd\\_case\\_impact\\_analysis\\_process\\_-\\_may\\_2004.doc](http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004.doc). "It is ECGD's policy that projects should comply in all material respects with the relevant safeguard policies, directives and environmental guidelines of the World Bank Group."
21. The World Bank safeguard policies do not embody international good practice and are lower in all major respects to the development standards now promoted by the United Nations and by the major hydro-industry trade associations. See: The Corner House, "Increased Export Credit Subsidies for Large Dams and Water Projects", Letter to Patrick Crawford, Chief Executive, ECGD, 23 August 2005. See also: The Corner House and Environmental Defense, "The OECD Arrangement and New Subsidies for Dams - The Case for Strengthened Standards", August 2005.
22. ECGD, "Case Handling Process Information Note", p.3, [www.ecgd.gov.uk/ecgd\\_case\\_handling\\_process\\_-\\_information\\_note\\_\(may\\_2004\).doc](http://www.ecgd.gov.uk/ecgd_case_handling_process_-_information_note_(may_2004).doc). "The Business Principles Unit is responsible for ensuring the case complies with ECGD's Business Principles."

23. At para 1 of its "Case Impact Analysis Process", ECGD states (categorically) that: "It is ECGD's policy that all cases supported are compatible with its Statement of Business Principles." At para 2.6, it states: "It is ECGD's policy that projects should comply in all material respects with the relevant safeguard policies, directives and environmental guidelines of the World Bank group." However, both these policy commitments are limited by the caveat at para 2.1 that the "case Impact Analysis Process" is "not a statement of what will be done in every case as the BPU will exercise its professional judgment on the basis of the actual circumstances of each individual case."
24. ECGD, Response to request for Internal Review, IR(06) [Original request EIR(06)01], 7 March 2007.
25. The arguments are set out at para 65ff of the detailed legal grounds submitted by WWF and The Corner House in their judicial review application, available at <http://www.thecornerhouse.org.uk/pdf/document/SakLegalGrounds.pdf>.
26. Departmental responsibilities for implementing the UK Sustainable development objectives are set out at <http://www.sustainable-development.gov.uk/government/department/index.htm>.
27. Email from Graham Rowcroft, DTI, to Martin McKee, ECGD, 4 March 2003, reproduced at Annex 1.
28. For discussion of concerns over the quality of the advice given by the Foreign and Commonwealth Office to ECGD on human rights impacts, see: "Correspondence between the Foreign and Commonwealth Office and the Kurdish Human Rights Project and Corner House", available at <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we08.htm>.
29. For example, environmental conditions were incorporated into the project agreements for a flexible oil pipeline contract in 2002 (see: <http://www.ecgd.gov.uk/cgacminutes/11december2002.doc>). In at least one case, the ECGD has also used its productive expenditure criteria – under which loans to Heavily Indebted Poor Countries and countries eligible for assistance from the World Bank's International Development Association must be "productive" – to refuse support for a project (see: Vivian Brown, Oral evidence, Environmental Audit Committee Inquiry into ECGD and Sustainable Development, 2003, question 90, <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmenvaud/689/3052104.htm>).
30. ECGD Annual Review and Resource Accounts, 2002/03, p.18.
31. The policy of an outright ban on supporting projects involving child labour, adopted on the recommendation of the Environmental Audit Committee, has now apparently been watered down to a commitment to "avoid" supporting projects where child labour is involved". See: Appleyard, B., "Britain's Dirty Business", *The Sunday Times Magazine*, 6 April 2008, <http://www.timesonline.co.uk/tol/news/environment/article3666273.ece>.
32. ECGD, Minutes of Underwriting Committee, file "UCMinsUC(03)30thmeetingfinal – 29.12.03", redacted version released to The Corner House following Freedom of Information request.
33. The World Bank's Involuntary Resettlement safeguard policy (OD 4.30) – listed as the benchmark standard against which ECGD assessed compliance – states in Paragraph 3(b)(i) that where resettlement takes place, those concerned should be "compensated for their losses at full replacement cost prior to the actual move". The more recent revised IFC Performance Standards published in 2006 also state that "cash compensation will be made available prior to relocation" (IFC PS 5.16). Finally, the project's own ESAP – referenced in the ECGD's contract – sets out in R18 that "Compensation payments for crops will be paid [...] prior to land entry".
34. Telegram from s=IGM-Baku, Restricted, to Priority PCO, "Subject: Azerbaijan – Pipeline Security and Crisis Response", 010615Z April 04, obtained by The Corner House through access to information request to Department for Trade and Industry.
35. ECGD, "Case Impact analysis Process", paras 6.3-6.4, [http://www.ecgd.gov.uk/ecgd\\_case\\_impact\\_analysis\\_process\\_-\\_may\\_2004-4.pdf](http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004-4.pdf).
36. See: <http://www.iicrd.org/cap/files/childlabourmines.pdf>
37. See: <http://www.business-humanrights.org/Links/Repository/789542/jump>
38. Trade and Industry Committee, Fifth Report, Session 2005-06, "Appendix 4: Further Memorandum from The Corner House", <http://www.parliament.the-stationery-office.co.uk/pa/cm200506/cmselect/cmtrdind/1124/1124we05.htm>.
39. See: Sinag Ng Bayan Foundation Inc., "Complaint to Office of the Ombudsman, Republic of The Philippines", August 2005; Leigh, D and Evans, R., "British family firm accused of getting rich by building bridges to nowhere", *The Guardian*, <http://www.guardian.co.uk/politics/2005/dec/20/uk.freedomofinformation>.
40. See: Gillard, M. Memorandum to Trade and Industry Committee, Ninth Report, Session 2004-05, <http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>; also, Gillard, M, Second Memorandum, paragraphs 33, 86 and 91.
41. "BP Caspian Developments, AGT Pipelines Project, Review of Field Joint Coating Specification No 410088/00/L/MW/SP/015 (issue 02.10.02)", unpaginated, Appended to Mortimore D., "Response from Derek Mortimore to ECGD submission" in Trade and Industry Select Committee, Ninth Report, Session 2004-05, 4 April 2005, *Implementation of ECGD's Business Principles*, Written Evidence, Appendix 4, <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we05.htm>.
42. WorleyParsons Energy Services, Desktop Study Final Report Field Joint Coating Review (Redacted Version), Section 5: Field Joint Cracking, para 5.1, unpaginated, /in/ Trade and Industry Select Committee, Ninth Report, Session 2004-05, 4 April, 2005, / Implementation of ECGD's Business Principles/, Written Evidence, Appendix 2, <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we03.htm>.
43. Mr O'Brien, the Minister responsible for ECGD at the time, told Parliament that SPC 2888 had been used extensively in North America on major pipelines where the pipeline is coated with a three layer, high density, polyethylene coating. Similarly, in a letter to the Trade and Industry Committee, Mr Weiss of the ECGD stated, "The coating . . . has a track record in similar conditions in a significant number of other pipelines". See: Minister of Trade, Response to Question 179981, Hansard, 28 Jun 2004 : Column 5. Simon Thomas MP asked: "What assessment has been made into the use of SPC 2888 by major pipelines other than the Baku-Tbilisi-Ceyhan pipeline where the pipeline is coated with a three layer, high density, polyethylene coating". Mr O'Brien replied (without qualification): "The WorleyParsons report on the field joint coating issue (SPC 2888), included a case history of use of SPC 2888 on other pipelines. It showed that SPC 2888 had been used extensively in North America." Hansard 28 June 2004: Column 50W, "SPC 2888".
44. John Weiss, Letter to Trade and Industry Committee, 19 July 2004, quoted in Gillard, M., See: Gillard, M., Second Memorandum to Trade and Industry Committee, Ninth Report, Session 2004-05, para 3, <http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>.
45. Hansard, 22nd March 2005, Col 670W, [http://www.publications.parliament.uk/cgi-bin/newhtml\\_hf?DB=semukparl&STEMMER=en&WORDS=simon%20thomas%20baku&ALL=Baku&ANY=&PHRASE](http://www.publications.parliament.uk/cgi-bin/newhtml_hf?DB=semukparl&STEMMER=en&WORDS=simon%20thomas%20baku&ALL=Baku&ANY=&PHRASE)

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L\_wqn17&URL=/pa/cm200405/cmhansd/v0050322/text/50322w12.htm#50322w12.html\_wqn17
46. Incident reports for November 2003-July 2004, released to The Corner House under Freedom of Information Act. ECGD has confirmed that the released reports are the only ones available and that they cover all three countries through which the pipeline passes.
47. The Common Terms Agreement for the Baku-Tbilisi-Ceyhan project, released to Pacific Environment under US Freedom of Information legislation, contains the following contractual obligations on BTC Co, the consortium constructing and operating the project:
- 20.5 Notice of defaults and certain other events**
- (a) BTC Co. must promptly notify the Intercreditor Agent upon its discovery of the occurrence of:
- (vi) any event which occurs during construction or operation of the Pipeline and is reasonably expected either to give rise to material environmental claims against BTC Co., or to constitute a material breach of the ESAP, the RAP or any OSRP by BTC Co.;
- (vii) any accident or incident that has a material adverse effect on the Environment (including social or community impact) or worker health and safety that occurs as a result of Project operations (and in any event no later than three days after becoming aware of such accident or incident), including an indication of when the incident investigation and report is expected to be finalised, and BTC Co. shall provide the Intercreditor Agent with a detailed written report of such incident promptly, in a manner consistent with the notice requirements under the Participants Agreement, after the incident report is finalised;
48. Green Alternatives, BTC Complaint, [http://www.opic.gov/doingbusiness/accountability/documents/opic\\_btc\\_complaint.pdf](http://www.opic.gov/doingbusiness/accountability/documents/opic_btc_complaint.pdf).
49. Office of Accountability Compliance Review of OPIC's Environmental Due Diligence and Monitoring of the Baku-Tbilisi-Ceyhan Oil Pipeline Project, OPIC, 2006, [http://www.opic.gov/doingbusiness/accountability/documents/compliance\\_review\\_opic\\_environmental\\_due\\_diligence0107.pdf](http://www.opic.gov/doingbusiness/accountability/documents/compliance_review_opic_environmental_due_diligence0107.pdf)
50. Simon Clark and Stephen Voss, "BP Ignores Warnings About Potential Leaks in Caspian Pipeline", Bloomberg, January 2006, <http://www.bloomberg.com/apps/news?pid=20601109&sid=aD6YpRvhoHA&refer=home>.
51. Annex K: Scope of Environmental Consultant Verification Visits During Construction, p4, [http://www.caspiandevlopmentandexport.com/Files/BTC/English/ESAP/ESAP/Content/Annex\\_K.pdf](http://www.caspiandevlopmentandexport.com/Files/BTC/English/ESAP/ESAP/Content/Annex_K.pdf). "If as a result of the monitoring, (i) the Consultant or the Senior External Finance Parties believe that BTC Co. is in material non compliance with the ESAP, applicable Environmental Laws or Applicable Lender Environmental and Social Policies and Guidelines, (ii) BTC Co. disagrees with that finding, and (iii) the disagreement cannot be resolved within the 10 working days comment period, then the Consultant's report will not be publicly released until the disagreement is resolved to the satisfaction of all parties. BTC Co or the Lenders may request that the disagreement be resolved through international arbitration in accordance with the provisions of the Common Terms Agreement for the BTC Project financing."
52. BTC Environmental and Social Documentation as agreed at Financial Closure, February 2004, Environmental and Social Action Plan, Annex L: SRAP Terms of Reference, Table 5.1 – Summary of SRAP Monitoring Reports for BTC/SCP, External Social and Resettlement Action Plan (SRAP) Monitoring Report, Column 3, p.12, [http://www.caspiandevlopmentandexport.com/Files/BTC/English/ESAP/ESAP/Content/Annex\\_L.pdf](http://www.caspiandevlopmentandexport.com/Files/BTC/English/ESAP/ESAP/Content/Annex_L.pdf). "Full findings to be made available publicly after presentation to the BTC Co. Board."
53. BTC, Environmental and Social Action Plan, Annex J, p.5, <http://www.caspiandevlopmentandexport.com>. "A management consensus was reached that the RAP monitoring process should be set up to provide practical guidance and troubleshooting advice to the project's monitoring teams as to how to solve problems that arise during the land acquisition and reinstatement process rather than simply to identify areas of compliance and non-compliance."
54. The NGO proposals are available at: [http://www.halifaxinitiative.org/npdir/ECAWatch\\_peer\\_review\\_proposal.pdf](http://www.halifaxinitiative.org/npdir/ECAWatch_peer_review_proposal.pdf).

*Witnesses:* **Mr James Leaton**, Senior Policy Adviser, and **Ms Daisy Streatfeild**, Researcher, World Wildlife Fund UK (WWF), and **Mr Nick Hildyard**, The Corner House, gave evidence.

**Q1 Chairman:** Good morning and welcome. We have until 11.45 and I hope we and you will bear that in mind when trying to pace the questions and answers. Would you like very briefly to introduce yourselves and tell us what your functions are?

**Mr Leaton:** My name is James Leaton and I work for WWF UK, focusing on the oil and gas sector and how that is financed.

**Ms Streatfeild:** I am Daisy Streatfeild. I also work for WWF UK and I am a researcher on sustainable finance.

**Mr Hildyard:** My name is Nicholas Hildyard. I work for a small NGO called The Corner House which focuses on human rights, the environment and development and we have spent the last 10 years or so monitoring particularly the ECGD, both aspects of its environmental and sustainable development policy but also corruption.

**Q2 Chairman:** Would you like to start by outlining what your main concerns are in relation to what the ECGD does?

**Mr Leaton:** We would like to raise our concern about the lack of accountability and transparency in terms of demonstrating how they incorporate environmental and social issues into the processes of the ECGD. We are concerned about a lack of coherence as a result with other government policy with regard to sustainable development. We believe all UK government departments have a responsibility to contribute towards the Government's targets and commitments on sustainable development but we do not see evidence of how that is being done through ECGD. In our experience ECGD sees sustainable development as secondary and discretionary, which is of concern to us. That has been clear on specific issues like climate change, which has risen up the political agenda, where ECGD denies any specific responsibility for tackling this issue.

**Mr Hildyard:** One of our concerns would be that very nearly 10 years after the Business Principles were introduced with a very clear statement that ECGD policy and practice would accord with UK Government sustainable development objectives there is really very little change or evidence of change in the sorts of projects that ECGD has historically assisted in financing and that the procedures that are in place are totally inadequate to enable the sort of shift in financing the types of projects that are financed that would enable ECGD to get anywhere close to being in accord with sustainable development policy.

**Q3 Chairman:** Does this affect the whole of ECGD activities or is it only a certain number of projects that they are involved in?

**Mr Hildyard:** ECGD's portfolio is heavily skewed towards civil and defence aerospace, and that is of concern. Its very small client base is a concern, but all the major development projects it has been involved in, particularly in the oil and gas sector but also other projects, are characterised by fairly minimal due diligence as to whether they accord

with sustainable development policies. It is of concern, certainly to The Corner House, that in assessing major projects like, for example, BP's Baku-Tbilisi-Ceyhan project, there was not any assessment at all against Britain's sustainable development objectives. There was an assessment against World Bank guidelines, against some other guidelines and so on, but these cannot be said to embody Britain's sustainable development objectives. I will give you two very short examples. One of our sustainable development objectives is to meet the Millennium Development Goals. One of the objectives of the Millennium Development Goals is the eradication of extreme poverty. With regard to the World Bank guidelines on resettlement, which the ECGD is nominally committed to meeting—I say “nominally” because there is a huge degree of discretion on the application of those safeguards—their safeguard policy is only to improve or at least restore livelihoods to their previous levels prior to resettlement. You do not eradicate extreme poverty by restoring poor people to their previous level of existence. There is a mismatch there. Similarly, there are no World Bank guidelines on climate change. There is no assessment of projects like Baku-Ceyhan or other oil and gas development projects against, for example, the objectives to which Britain has signed up under Article 2 of the UN Climate Convention, an article which is a commitment to trying to stabilise levels of greenhouse gases in the atmosphere such that they will not cause adverse climatic change. That objective is, we would argue, completely incompatible with funding further oil and gas development. There is no assessment of those two things. Where the Business Principles Unit has raised issues about, for example, the use of non-sustainable resources we have no idea what they recommended because where documents have been released to us that section has been entirely redacted and we have no idea how the Underwriting Committee, which is the committee that actually takes the decisions on these issues, not the Business Principles Unit, dealt with that issue. There is an opacity there which makes it difficult to see how these issues are really being dealt with. On the face of it, and given the sorts of projects that have been funded, we have grave concerns that the processes are not adequate to the task. I would like to say here that this is an institutional criticism; it is not a criticism of the personnel in the Business Principles Unit, for whom I have immense respect and immense respect for their integrity. I think they have tried within a very hostile institutional environment to move this sustainable development agenda forward but it is a very hostile institutional environment.

**Mr Leaton:** We would echo the fact that these are high impact sectors of aviation, oil and energy, but we would also look beyond the direct projects themselves in that these projects are very high profile projects. For example, in BP and Shell's largest infrastructure projects which they have undertaken in recent years, for example, the Sakhalin case was

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**8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard**

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the largest foreign investment in Russia ever, they are looking to set a standard for the region. They have responsibilities beyond those projects and furthermore they have responsibilities with regard to other finance from private banks that may come in behind the ECGD. They look to the ECGD in terms of how they are reviewing the environmental and social issues. There is a wider impact beyond just the projects themselves.

**Q4 Colin Challen:** What is the scale of negative environment impacts that can be traced back to lending decisions of the ECGD?

**Mr Leaton:** We have certainly seen on the larger projects, such as the oil and gas pipelines, that there are impacts on the ground in terms of the local communities not being treated with adequate respect, processes not being followed. For example, on Sakhalin there were impacts on fisheries, on protected areas, on endangered species. The problem we have is that the ECGD does not report on what their impact is, so whether it is positive or negative we cannot give them credit for positive impacts but equally it is not clear or accountable the extent of the damage caused, whether that is greenhouse gas emissions or impacts on the ground.

**Q5 Colin Challen:** They do not do it themselves then, but surely other independent NGOs perhaps do it. In the case of Sakhalin we have been able to keep pretty much up to date with all the environmental damage that that has been caused, so if somebody independent was doing these assessments what would be their view of the negative environment impacts of the department?

**Mr Leaton:** It is a case of what you hold them accountable for. They are claiming that they have a positive impact but we do not see that they have that positive, constructive impact.

**Q6 Colin Challen:** Are there no projects that they have supported which have had a positive environment benefit?

**Mr Leaton:** Not that I am aware of.

**Mr Hildyard:** ECGD is not involved in Sakhalin, because Shell withdrew its application but the BP Baku-Ceyhan pipeline the ECGD is involved in. The Corner House is deeply concerned by reports (and I think submissions have been made to the Committee by the Kurdish Human Rights Project and PLATFORM) about ongoing and continuing problems over compensation to those affected by the pipeline, ongoing problems about reinstatement, an apparent lack of compliance with the Environmental and Social Action Plan on reinstatement and concern over the potential impacts in the future. Another committee of the House of Commons three years ago was presented with quite a considerable amount of evidence, about which its remit did not allow it to look into or adjudicate on, on the potential for major leaks along the pipeline, because a coating that BP had been warned by its own consultant that it had not informed ECGD about was entirely unsuitable for the pipeline, and there are continuing issues with

that, so again a potential impact. Much more globally, ECGD's funding of oil and gas projects, not for sustainable development reasons but much more to do with securing energy supplies for Europe and so on, without consideration for those sustainable development impacts is a real concern, particularly given recent warnings about the imminence of potential global catastrophe because of climate change.

**Q7 Colin Challen:** Does this perhaps tell us more about the British economy than it does about the ECGD, because if the bulk of applications, for example, come from companies that are engaged in these activities and this is a stronger part of our manufacturing and engineering skills base,—we are now one of the world's largest, if not the largest, arms exporter, for example—does that not predetermine the kind of work that the ECGD will support? If we had Germany's renewables industry then perhaps the balance would shift. Is it fair to say that the ECGD should try itself to alter that balance?

**Mr Hildyard:** I think it is not only fair; it is part of their duty. They have now adopted a set of Business Principles which are supposed to accord with sustainable development policy. They say that that is just part of the business of promoting exports but it is a duty upon them and they have not put in place the sorts of policies—in fact, I would say they do not have a policy—that would reflect a mechanism for delivering what they have committed to under the Business Principles Unit. In terms of the structure of the British economy, ECGD has just introduced new rules on support for foreign content so they now can support 80% of foreign content, so it does not necessarily have to be manufactured here as long as it has got a British exporter involved. It could well involve 80% of components made abroad.

**Mr Leaton:** You could also argue that by focusing on those sectors they are perpetuating that situation by effectively giving a subsidy to those kinds of industries and, whilst we have heard from Gordon Brown that there are a lot of opportunities in terms of environmental businesses and clean energy that we could take advantage of globally if we had the sector that Germany has, perhaps that is a missed opportunity because of the way ECGD is operating.

**Q8 Colin Challen:** Would you accept there is a need for the ECGD or could we quite happily manage without it?

**Ms Streatfeild:** I suppose it is difficult to know without seeing what would happen without it in terms of competition. I am sure they would say that because other countries and other industries have the support of their export credit agencies we will automatically lose out. Obviously, without a counter-factual of the ECGD disappearing just to find out, it is difficult to know. I think you would have to look at the financial side, which is not our area of speciality, as to whether that is the case. Potentially they can have a role. As we said, government guarantees set the standard often for other finance coming into projects and if ECGD fulfil their Business Principles and ensure that these

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8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard

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projects they support are meeting the standards that they should, are consistent with the Government's sustainable development policy, potentially they can have a role in improving projects. What we have not seen yet is them managing to achieve that. It is unclear whether they have any positive effect on the projects that they support at all.

**Q9 Colin Challen:** So we are locked into this international situation where everybody else has one so we have to have one and we do not want to be the first to give anything up? Do other similar agencies elsewhere have better or worse sustainable development standards than we do or are you looking at it?

**Ms Streatfeild:** I think it is fair to say that it is quite variable. I would not be able to tell you that there is an export credit agency that is far and away the best, but when we are talking about things like sustainable development reporting on the effect you have on your projects, whether they have negative or positive impacts, I would draw your attention to the Danish Export Credit Agency which annually produces a 30-page report detailing the statistics on the negative and positive impacts of all their projects. In the same year, 2006, this sustainable development report which I have here was produced, which is one page in their annual report. From the point of view of at least being transparent about what the impacts of their projects are certainly they do not meet the best standards of some export credit agencies. No doubt there are others who are worse and they say rightly that they have better standards than some export agencies do, but we would advocate that they at least meet the best practice of other export credit agencies as a minimum and go beyond that where they have to if it is to be consistent with the Government's sustainable development policy.

**Q10 Colin Challen:** The Government has other agencies and departments which can target assistance in particular areas in relation to sustainable development. It sounds like you would support the suggestion that ECGD should have the ability to target such goals itself. Would that not create an overlap and a bit of duplication and perhaps reduce the need for something like the ECGD?

**Mr Leaton:** I think that is up to the Government. If they feel there are other ways of meeting those objectives that are more efficient and deliver on the sustainable development goals in a better way then that is a way forward. We just feel that the ECGD in its current form and with its current mandate is not fit for the 21<sup>st</sup> century and there seems to be an opportunity to either bring it up to date or look at alternatives, as you say.

**Ms Streatfeild:** Certainly other countries have seemed to use their export credit facilities slightly more creatively with links with other departments that may provide a certain element of subsidy for particular sustainable development goals. Again, the Danes—not that I want to harp on about them—have a system of mixed credits to support their renewable energy industry which is a subsidy that

comes from their development agency as part of the system. It appears that the Government is fairly unwilling to confer a subsidy in any way for industry and has tried to reduce that, and I think ECGD is probably one of the better agencies in limiting subsidy. However, at the moment we have an unhappy medium of no subsidy to help potentially positive industries with sustainable development, such as clean energy, but at the same time you are effectively offering a subsidy by reducing the risks to a very small proportion of British industry and some of the most environmentally damaging, such as oil and gas, so the halfway house that we have at the moment appears to be quite unsatisfactory.

**Mr Hildyard:** I do not see ECGD being able to fulfil a development role. I do not think it is set up to do that. Structurally I think it would not work. I do not think development goals are best served by subsidising western companies rather than by direct grant aid and loan aid to the developing countries. What I do think is essential is that where you have a public agency putting taxpayers' money at risk and having a nominal subsidy of about £150 million, according to the Treasury, that agency should be subject to very strict rules about how the money is used, and where it is committed to its activities being in accord with government sustainable development policy that commitment should be honoured and there should be mechanisms in place to ensure that that commitment is carried through. That is the problem at the moment, so I think it is more about trying to limit the harm done rather than giving a positive development mandate to ECGD. I do not think it is the agency for that. I have somewhat shifted my views on that in the 10 years that I have been looking at this.

**Q11 Chairman:** Could you leave us that Danish report you mentioned?

**Ms Streatfeild:** Absolutely.<sup>1</sup>

**Q12 Dr Turner:** What you are saying about the ECGD could be said about various other government agencies where there is a general pattern of primary duty and a series of secondary duties. Ofgem is another example. Agencies tend almost inevitably to focus on their primary duty and pay very little attention to their secondary duty and clearly this is the case with the ECGD. Would you agree that the fact that its primary remit is so very clearly focused on supporting exports is the nub of the problem and do you think you would see something different if we were to change that primary remit?

**Mr Hildyard:** I think changing the primary remit would help. It is probably essential in terms of any real movement towards fitting the ECGD more with government sustainable development objectives, and certainly at The Corner House we have always argued for a change in the remit that would, for example, impose a duty of care on the ECGD to take due regard of environment issues and indeed to have a duty of care to those affected by the financing, so

<sup>1</sup> <http://www.ekf.dk/financing—sustainable—devlp—2006>.



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**8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard**

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I think that primary legislation would help enormously. However, going through primary legislation is a major problem and I think there are things that they could do within the existing legislation which would enable them to take steps to better manage their portfolio. They could do a number of things within that scope and one of them is to introduce exclusion lists. They have a policy at the moment of constructive engagement. Unfortunately, it is constructive engagement which is bounded by no real rules. This is like having a school trying to bring in an anti-drugs policy. In the first years of an anti-drugs policy of course, you expect the staff to constructively engage with the pupils, perhaps supplying medical attention and psychological help and all those sorts of things in order to get a drug-free school, but this only works if you have got firmly bounded engagement where you can say “No” to certain things. The ECGD prides itself on never having said “No” on environment grounds to any project whatsoever. It would be quite possible to bring in exclusion lists, much firmer policies, albeit allowing for an element of discretion on the part of ministers. You obviously cannot fetter ministerial discretion, but they have introduced, at least on the face of it, a firm policy of not supporting child labour, although I notice that in recent statements to the press they have said that it is intended to avoid the use of child labour rather than banning it. There is an example of, where you have a firm rule, if there is departure from that then public law, policy and so on would expect them to justify that publicly and allow the potential for judicial review. There are things that could be done. Much firmer rules, exclusion lists, clear benchmarks and so on could be introduced.

**Q13 Dr Turner:** That is fine and in theory there is probably sufficient content in the secondary duty to be able to make a big difference if ECGD were to allow them to sufficiently influence the primary remit, if not override it, but can you actually see that working in practice without any change of culture in the people operating the agency or a change in the personnel themselves, and is it a workable proposition? Do you think so?

**Mr Leaton:** I think you are right that legally speaking the obligations that the Department has are set out in the primary legislation which stems from 1991 and I would argue that perhaps the priorities of the UK as a society have moved on since that time and therefore the primary duty should also move on. In our experience there is an issue there. When pushed on the exact standards or the exact processes that will be applied by ECGD with regard to these secondary duties the response we have had in writing has been that those powers are discretionary and they can be ignored.

**Q14 Dr Turner:** Quite so, and, of course, the parent department BERR is probably the only department which can exert adequate influence on them. Do you detect any willingness on the part of BERR to influence the ECGD to change its ways?

**Mr Leaton:** Not in my experience.

**Ms Streatfeild:** No, I have seen no evidence particularly that they have. Clearly we do not know what goes on behind closed doors. For example, we have offered to meet John Hutton, and that has been turned down, to discuss some issues that we would like to see improved in its operations and although we have recently received a letter and we are very grateful for that in terms of our engagement with BERR, we have seen little evidence that BERR are making ECGD consider sustainable development.

**Q15 Dr Turner:** But even if you could get ECGD and BERR to take on the environment responsibility do you think they have got staff with sufficient knowledge and expertise to do it effectively because it is quite a challenge to apply these principles in practice when there is big money at stake?

**Mr Leaton:** With any change in activity you obviously have to resource it adequately. Obviously, the current Business Principles Unit is quite small within ECGD and therefore we question whether they have the capacity to monitor and assess these huge projects, which takes up a significant amount of time, not just in the assessment phase but on an ongoing basis to ensure that the commitments that may have been made on environmental or social issues are being delivered on. Yes, we would argue that to do this properly you would need more resources.

**Q16 Dr Turner:** So the conclusion is that from the point of view of sustainable development the ECGD neither has the right structure, the right legal remit nor the capacity to deliver and is not fit for purpose in this respect?

**Mr Leaton:** That would be my view.

**Ms Streatfeild:** And to add to the issue of capacity, I think they would probably say that they have access to other government departments and the expertise within those, for example, say Defra or the FCO, but I would highlight the Defra submission where they say they have consulted in sensitive cases, of which Sakhalin was one when they were still considering the application before it was withdrawn, and Defra’s analysis of the project was that the benefits of it did not outweigh the danger to biodiversity in the area and yet, despite having that input provided to them, we have not seen any evidence. They carried on considering the project for a number of years after that submission and there was no evidence to us—

**Q17 Dr Turner:** They consulted and ignored the response?

**Ms Streatfeild:** We have no evidence that they took it on board and they were still considering supporting that project in spite of those criticisms.

**Q18 Jo Swinson:** If I may pursue this point about evidence of what difference it has made, earlier you said that there was very little evidence of change in the last 10 years. Is there any evidence from anywhere that Business Principles have had an impact on the way the ECGD does its business?

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8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard

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**Mr Leaton:** I think we supplied you with, appended to our submission, the Business Principles Unit assessment of the Baku pipeline in which all the assessment by the BPU was redacted,<sup>2</sup> so how can we tell? They may have made a very valid assessment that we agree with but the Underwriting Committee has ignored it, or they may have disagreed with everything we said and that is why the Underwriting Committee made its decision. We have no way of telling because a lot of this information which we consider is environmental information, is withheld for other reasons. It is very hard to get information on the actual decision-making process. We have tried to track it on things like Sakhalin in terms of going through long-winded processes to get the Defra submission, to get how the ECGD has interacted with the applicants. We got some more information just last week through environmental information regulations regarding how the ECGD has interacted on a report they commissioned from what were billed as independent consultants to review the Sakhalin project, and in the final three months of producing that report the main activity was sitting down with Shell (who managed the process despite it allegedly being independent) and their lawyers to go through it page by page. To me that is not constructive engagement; that is defensive engagement to try and make sure there are no liabilities or legal issues going forward. We do not see the positive side coming out.

**Mr Hildyard:** I think there are two levels in which one would be looking for change. One is in the portfolio—this is the big issue, in a sense; the test of how far the Business Principles have really seeped into the culture and practice of the institution—and there really has been no real change there. At the level of projects, where NGOs have been engaged on a project and that engagement has given the Business Principles' Unit some political stick to beat within the Department, I think the Business Principles' Unit has been able to make some small changes here and there that have been beneficial: adding things into the Environmental and Social Action Plan; putting some covenants in on specific issues on the environment on certain projects. But I think it is a very defensive approach. The main political purchase that the Business Principles' Unit seems to have is where there is a risk of a judicial review by NGOs, at which point they can go to the rest of ECGD and say, "Wake up. You need to take some account of these issues or you may well find yourself in court," but this is not coming from within the institution, if you like; it is more reacting to outside. Even where environmental clauses are put into the covenants, it is of grave concern to us that these clauses do not seem to be properly enforced. I would go back to the example of the coatings on Baku-Ceyhan. Regardless of whether or not the coating is a risk or is not a risk, it is of concern that BP never notified ECGD that there had been problems with this coating. ECGD was completely unaware and denied for some time that the coating was an experimental coating and it had never been

used on a plastic-coated pipeline of that type before. Although 26% of the joints joining up the pipe in Georgia failed after the project had been approved by ECGD, BP never notified ECGD of that at the time, within the timeframe they were supposed to under the project agreement. They did not notify that there had been a change in the application specifications for the coating. The problem was not rectified within 90 days—which is supposed to be required. The Trade and Industry Committee was supplied with evidence of internal BP memos showing that there were still problems with disbondment of the coating in June—so way beyond 90 days—and yet ECGD took no action. This is of concern. Where you have clauses within an agreement that allow you to act on breaches, to see these breaches being constantly rolled over is of concern. Of course it is very difficult for NGOs to police this. It takes two or three years through FOIA to get the environmental covenants—in fact, we obtained that through a US FOIA request—and it is very difficult to be able to react on that.

**Q19 Jo Swinson:** Do you think the Business Principles themselves need to be reviewed or is it the implementation or lack thereof that is the problem?

**Mr Hildyard:** I think the Business Principles have very mealy-mouthed language which needs to be tightened, but principles without procedures for enforcement are worthless. Absolutely worthless. They are not worth the paper they are written on. It is the lack of clear policy on sustainable development and, particularly, the lack of scrutiny against any of Britain's sustainable development objectives, that is of concern. How can you test whether or not a project accords with your sustainable development objectives if the Department does not have any statement of what those objectives are and its understanding of those objectives? Certainly, from what we have seen, it does not assess the projects against those objectives. There needs to be a very clear process by which that is done. It may be that part of that assessment is to assess against World Bank guidelines and so on, but, as I say, those World Bank guidelines do not and cannot be taken as a statement of UK Government policy on sustainable development. Our sustainable development objectives, as outlined by the Government, go way, way, way beyond the benchmarks that ECGD currently uses to assess projects.

**Mr Leaton:** I would agree that they are fairly meaningless as they are. ECGD confirmed to us in writing that ECGD can provide support even where a breach of international standards has been identified. That gives us no assurance that there is a minimum standard. To us the Business Principles should at least assure a minimum standard of performance. There is also an issue of timing here. We recognise that the ECGD may get involved in projects after they have been started, after construction has been initiated, but because there is lack of clarity over the exact bar that is going to be required, there seems to be a fudge later on; so that, rather than raising the standards of the project,

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<sup>2</sup> Not printed.

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**8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard**

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ECGD lowers its standards down to where the project is. Most businesses or investors, we feel, would like more certainty. If you are investing in a project, you want to know at the beginning: These are the standards I have to meet, this is how much it is going to cost, this is what I have to do going forward. We feel that giving more certainty and a clear level that they require would be better for business.

**Ms Streatfeild:** The principles themselves do not mention climate change. In the current climate, we feel it would be sensible for that also to be included.

**Q20 Jo Swinson:** Given that the amount of business that ECGD has been processing since 2000 has fallen off dramatically and it is much, much smaller than it was, how important is this in the grand scheme of things?

**Ms Streatfeild:** In terms of the benchmark it sets for other export credit agencies, and, where it does finance a project, the standards that it may then require other financiers to come up to or have to meet, from that point of view, as an exemplar, it remains important. Yes, you are right, the amount of business has decreased. We may see in the current economic climate that things change somewhat. But this is a Government Department giving guarantees to projects. I do not think you can overestimate the importance of not meeting standards and the message that sends to other private sector and public sector finance for what is appropriate. I would say it remains important despite the decline in ECGD's business.

**Mr Leaton:** It maybe raises a question around the ongoing role if there is less demand for ECGD's activities, as to whether it is appropriate to continue in the way it is and, also, whether having this Department is good value for money, as it were. I know the NAO has looked at that.

**Q21 Mr Caton:** You have already raised question marks about the assessment methods that the Department uses. Could we look in more detail at the Case Impact Analysis Process? The Department works on the basis of information provided by exporters and categorises these into low, medium or high impact, and requests more information for medium and high impact cases. For high impact applications, a full environmental and social impact assessment is required. It publishes details of these so that interested parties can make representations. On the face of it, that seems a reasonable approach. How could it be improved in terms of environmental issues and sustainable development?

**Mr Hildyard:** First of all, it does not have to publish these details for anything other than category A projects until after the guarantee has been given, so there is not much possibility of intervening on those other guarantees prior to the guarantee being issued. We have some concerns about that. We looked or tried to look at as many of the categories B and C or low and medium impact projects in 2005 and 2006 as possible. We had considerable difficulties in getting hold of the assessments that were made, the screening forms that had been filled in. ECGD

initially released to Friends of the Earth a batch of about seven. When we put in for the entire block that had been done that year, we were told it was too many; others put in for five and were told that was too many. They have been coming in dribs and drabs. But we do have some concerns for that particular year and we will be looking at later years as well. I raised these particular cases, not because we have analysed them in any great detail, but, having looked at the fact that they were classified as low impact and then done web searches and had some conversations with colleagues in the countries where they are taking place, there have been red flags that we certainly think ECGD should have picked up on, but on the forms that we have seen they do not appear to have done so. For Korea, you have two power stations listed in the guarantees, as published in the report, as simply "power stations"—in fact nuclear power stations—and classified as low impact. There may be good reasons for them being classified as low impact. Details were not given at the time of the export—it may just have been paperclips—but there was no real sense of analysis of the impact in the form that we saw. I have the form here—it was part of the evidence we put in<sup>3</sup>—and there is a question: "Is the project in one of the following potentially damaging business sectors, nuclear power generation and/or fuel processing?" and the box for nuclear power has been ticked. Against that, there is a remark as part of the form which says: "If 'yes' to any of these then probably Medium or High impact" and you would have expected some explanation on the form somewhere as to why that has not been put as medium or high rather than low. Another one that we looked at is in the Indian market. The buyer was Jindal. A very rudimentary web search revealed there were concerns expressed about Jindal using child labour in one of its sister mines that supplies its steel mills—this particular export was for a steel mill. Was this picked up? Were there any questions asked? When we received the form, Jindal had filled in not only the questionnaire but also an impact form, and none of the questions on child labour had been answered. Again, what was going on? Why were more questions not asked about that? Another that we looked at was for export to Iran. The buyer was a client called KalaNaft. Under a very simple web search, KalaNaft comes up as being listed by the Japanese Ministry of Economy, Trade and Industry as a company suspected of involvement in procuring biological, chemical, and nuclear weapons. What is this buyer? Why is it being classed as low impact? There may be very, very good reasons. The Corner House is a small group and we do not have the resources to look into all these things in detail, but I am saying that the forms that were filled in do not show any evidence that a red flag came up at any point and, as we see here, they were classified as low impact. The second thing I would say about the questionnaires is that they are not a screening process as most people would understand a screening process. They are not screening anything

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<sup>3</sup> See Ev 16.

out; they are only screening in terms of categorisation. I think that is problematic. If it is going to be a department that fulfils that duty that ministers have imposed on it of its activities being in accordance with Britain's sustainable development objectives, then an element of screening out is absolutely essential.

**Q22 Mr Caton:** You paint a very negative picture of the process, even when it is employed. What about coverage? Are all the projects subject to the process?

**Mr Hildyard:** That is, again, of concern to us. I think 71% last year was not screened at all. It was either defence equipment or aerospace. ECGD argues that one aeroplane is the same as another and there is no point going through the screening process, but one aeroplane is not the same as another. The cumulative impacts of aeroplanes are very different and that ought to be screened for. The climatic impacts should be screened for.

**Q23 Dr Turner:** I am looking at schematic representation of the project appraisal process. If projects have a high environmental impact, it is possible for them to be rejected. Can you think of any single case that has been rejected?

**Mr Hildyard:** No. ECGD is on record as saying that they never have rejected one. There is a project we are looking into at the moment, which is an application for category A, an application by Jindal for a steel plant in Orissa in India. It has been posted on the web site. The posting is supposed to be where concerned parties can get environmental information on the project, so that they can put in comments and alert ECGD to any problems. We wrote to the company which is listed as the source of environmental information and had no reply. We wrote to ECGD. ECGD says that they do have two assessments that—from what we have in their reply—they do not come anywhere near to meeting the World Bank's requirements, but it is not clear where those are available. Are they available in the local town? Are they available in the local language? ECGD does not seem to know that for sure. It is totally unclear where someone in Britain would be able to obtain the environmental information. Again, the system does not seem to be working. Our view would be that Jindal should be told, "Do not apply until you have an environmental impact assessment that meets the standards that we require of an environmental impact assessment; one of which is to make it publicly available in an accessible place."

**Q24 Mr Caton:** Is it fair to say, given the size of the remit of ECGD, that there is a limit to the level of information gathering and analysis that it can undertake? Are we making unreasonable demands for information gathering from the Department that should be the responsibility of exporters and companies involved in the project?

**Mr Leaton:** If it is a British company then you can expect certain responsibilities and that they should have environmental and social policies and undertake these processes—in which case it should

not be difficult for ECGD to refer us to the right information or pass the information on. Our concern stems from the fact that if we ask ECGD a question they do not seem to have the answers at their fingertips provided by the company. It is also of concern that the level of foreign contact has been increased to 80%. We feel this increases the potential risks to ECGD because it will open up increased offshoring of labour and materials. It could just be that you pay 20% as an arrangement fee to a UK-registered company and everything else happens overseas. One of the main reasons of ECGD is to benefit British business and develop the British economy, and yet 80% of the activities are going overseas.

**Ms Streatfeild:** Given their capacity to investigate the meeting of environmental standards in what already goes on seems quite limited, in imagining that they have the capacity to do that for a large amount of business that is taking place overseas in a supply chain that may be difficult to monitor, we would question whether they might not end up supporting further environmental and social damage as a result of that policy.

**Q25 Colin Challen:** Is this 80% a fairly recent thing? What was the figure before?

**Mr Leaton:** 50% before.<sup>4</sup>

**Mr Hildyard:** 50 plus 40% for the EU<sup>5</sup>. I would have to check those figures. It was last year that they brought it in. Interestingly, Corner House and WWF put in a submission to the consultation they had on this. We opposed the extension but proposed that if they were going to bring it in there should be procedures brought in to check the supply chains of companies that were being used abroad, particularly for the use of child labour but also for environmental procedures in the plants which were being used to manufacture the goods. Our understanding is that the minister picked up on this and asked ECGD to look into this specifically. We certainly met with ECGD—it was a helpful meeting—and we have supplied them with some information on the potential guidelines they can look at. I was disappointed to see in the recent ECGD Advisory Council minutes that the ECGD appear to have rejected introducing environmental supply chain standards. They might look into some labour standards, but they do not appear to have gone down that route. One of the arguments that they have used is that it might disadvantage British industry. The other argument is that it would be seen as colonialism, and I think that does pinpoint one of the problems with the culture of ECGD. It is not colonialist to impose standards on people who are asking for public money. That is a huge difference between that and Britain going out and imposing standards on other governments. If you come and ask for publicly guaranteed money, there is no reason on earth why Britain cannot impose whatever standards it wants on a company getting that money. If one of the sustainable objectives about

<sup>4</sup> Note by Witness: The figure before was 15%, not 50%.

<sup>5</sup> Note by Witness: The figures are, in fact, 15 plus 40% for the EU.

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**8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard**

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which a minister has expressed concerns is the use of supply chains that are not properly monitored, that do not have procedures in place, then I think it is of concern that those are not then fed into the procedures of ECGD.

**Q26 Colin Challen:** As you understand it, at the moment these procedures are not being made more rigorous.

**Mr Hildyard:** That is my understanding, and I am sure ECGD can answer that.

**Q27 Colin Challen:** Which leads to a question about this Jindal episode. Obviously that was an incomplete application form that you are referring to. Do ECGD, to your knowledge, routinely accept incomplete application forms?

**Mr Hildyard:** Perhaps I can clarify that. Because it was deemed a low-impact project, the exporter would only be required to fill in the environmental questionnaire but Jindal also filled in an environmental impact questionnaire. There are two different forms, but, because it was low impact, it was not required to fill in the impact questionnaire. It was incomplete but it would not have made any difference to the procedural requirements. My point would be that if staff in ECGD received a form on this, then it is a mystery to me why they did not pick up on these issues of child labour and Jindal—because they are widely publicised within India, they are a major concern—and if they saw the boxes on child labour were not ticked, why this did not raise a red flag. That is the issue. Whether rightly or wrongly, the allegations have been denied by Jindal, but the activists on the ground would say that they are very sure of their facts. I am not in a position to judge one way or another. The issue here is: What procedures were in place? Why was a red flag not raised? Or, if it was, what justification does ECGD have for putting it as low impact?

**Q28 Colin Challen:** ECGD employs the international standards of the World Health Organisation, the World Bank, International Finance Co-operation and so on to help them assess the potential environmental and social impacts of applications. Are these the right standards to use? I think I heard earlier on in evidence that the World Bank does not really have any environmental guidelines. Are these the right things or should we have something else?

**Mr Hildyard:** The World Bank does have environmental guidelines to safeguard policies, quite a number of them, and ECGD does benchmark against them. It does not have any climate policies and it does not have any human rights policies and it does not have any labour policies.<sup>6</sup> So there are the benchmarks that ECGD uses, but my point is that ECGD does not screen against UK development objectives. If one of those objectives is the Millennium Development Goals, with an oil and gas project I would expect ECGD to ask various questions: Is this project going to help in eradicating

absolute poverty? It is a simple question. What evidence has the exporter given to justify this? Not just in terms of maybe putting in a school here or a community development project here but in terms of the macro-economic effects of oil and gas. A big issue. There is a lot of documentary evidence that oil and gas developments can skew an economy in ways which have very large impacts in exacerbating poverty through the so-called Dutch disease. These sorts of issues do not appear to be assessed in the assessments that certainly we have seen.

**Mr Leaton:** The World Bank and IFC do have standards that are referred to by ECGD and we would see them as the minimum requirements, but it is the discretionary nature in which they are applied that concerns us. Equally, some of those other institutions like the IFC have other facilities, like an ombudsman, through which communities can go to seek compensation or redress or resolution if they feel the project is not taking into consideration their concerns or they are being dealt with unfairly. ECGD has no such mechanism for people impacted on the ground to come and say, “We don’t think you are following these policies,” or “We have a concern and we would like to raise it with you.”

**Q29 Colin Challen:** Do you have any evidence that ECGD has provided support to projects where exports have not met the international standards, even given that these international standards are not necessarily the best that we could have?

**Mr Hildyard:** ECGD has told us that at in least one project—which from memory is South Powers, a project in Iran, which I think is an oil and gas project—that there were derogations from the standards on that but they have not disclosed what those derogations were. It is of concern to us that the derogations are not publicly disclosed before the guarantee is given, in order that they can be commented on and tested by stakeholders. Certainly if it had gone ahead with Sakhalin, it would have had to have derogated big time from the listed standards very definitely.

**Q30 Mr Caton:** You have already made reference to the constructive engagement approach. Do you agree that ECGD should look at projects that do not meet their standards in the original impact assessment to try to bring them up to scratch?

**Mr Leaton:** I think it comes to the timing issue again. If you have already designed the project, if you have already commissioned major pieces of infrastructure, like platforms or pipelines, and half of it is already in the ground, it is very hard to change those bits of the project, so there is already a limit to what ECGD might be able to influence. If I were ECGD and I felt I had had such a positive impact, I would be shouting about it, yet I have never seen any examples of evidence provided as to what that positive outcome or constructive engagement has delivered. On the Sakhalin project, they could not find their way through the diagrams to reject the option and they had four years to try to bring it up to standard. During those four years, there was never a point at which they felt they could fund it because of

<sup>6</sup> See Ev 38.

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8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard

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the ongoing environmental problems. To us, that demonstrates that they could not bring it up to standard.

**Q31 Mr Caton:** Others quoted Sakhalin as a good example of positive impact of export credit agencies and financial institutions. Even the National Audit Office seems to have found that improvements were made as a result of the export and credit agencies' involvement. What makes you think they were wrong?

**Mr Leaton:** As Nick alluded to, they would not have been addressing those issues if NGOs like WWF had not raised them; if they had not taken them to the highest political level; if they had not lobbied other parts of government. My question is whether it is ECGD within that group of financial institutions and within government which took that initiative or whether it was NGOs that suggested potential solutions, and whether it was some of the other banks that did a lot more of the environmental work that ECGD maybe rode on the back of because they did not have the capacity to deliver on it. They may claim some credit for that, but I do not see how it directly ties back to them.

**Q32 Mr Caton:** The National Audit Office think they should take some credit. Is it not the fact that if they and other institutions had not intervened when they did, the Sakhalin project would have gone forward and it would have been much worse?

**Mr Leaton:** We raised live issues during that project. We had a monitoring team in Sakhalin, so we relayed back, for example, periods when the noise levels were excessive in the gray whale feeding area and sent that to ECGD within 24 hours of it happening, and we never even received a response of, "Yes, we are very worried about this, we will look into it," or "Yes, we'll get back to you on the action we have taken," so how do we know that they are acting on the information we provide?

**Mr Hildyard:** There are two issues. One is that at the project level and one is at the broader level of portfolio and so on. At the very beginning of introducing the Business Principles there was scope for quite a lot of constructive engagement. You need to bring people on board, you need to educate people about the Business Principles and so on and so forth, but we have had 10 years and it is not a policy that has resulted in a change in the portfolio. I think that highlights a problem which needs to be addressed. At the project level, certainly on BTC, the Baku-Ceyhan pipeline, as I have said there were some contributions that the export credit agencies generally and possibly the banks also brought in changing the project. There were concerns over the host-government agreements. Under pressure from NGOs, particularly Amnesty International, and I suspect from some export credit agencies, although I cannot say for certain ECGD was one of them, BP were put under enough pressure to be able to make some changes and some concessions on these host-government agreements. They brought in a deed poll which said that they would not invoke the most egregious clauses except under very specific

circumstances. So, yes, credit where credit is due, but I think James's point is essential: that most of these issues are raised by NGOs—and we are talking about constructive engagement in the context of issues having been raised outside of ECGD. I think it is very telling when you compare different assessments for projects. WWF have I think put in the Baku-Ceyhan assessment, and when you compare that to some other assessments that we have and which we can supply to the Committee, the number of issues that are dealt with by the Business Principles' Unit really does reflect the issues that are raised by NGOs. If they are not raised by NGOs, they are not dealt with. That frames the extent to which ECGD can and does make a difference.

**Q33 Dr Turner:** ECGD tell us that they have been quite active in international fora and discussions with other export credit agencies, particularly on the current use of international standards for the wider analysis and assessment of environmental and social impacts. How would you characterise their contribution?

**Mr Hildyard:** Corner House, along with a network of NGOs have been very active in monitoring the discussions within the OECD on the so-called Common Approaches. I think ECGD, along with a few other export credit agencies, have played a positive role in trying to push for, certainly initially, the adoption of the three World Bank standards and then the adoption of a broader range of World Bank standards. Indeed, I think they have pushed also for a tightening up on what is the biggest problem with the Common Approaches, which is the derogation clauses—and you can derogate from many of the standards. Also, on a particular initiative of the OECD on renewables, they did push, I believe, for inclusion of the reference to the World Commission on Dams in assessing dam projects. This is all commendable. However, that said, the OECD process and the extent to which it is making any difference internationally is extremely questionable. We, as Corner House but also ECA-Watch, are extremely alarmed by the extent to which, despite nominally committing ECAs to the 10 safeguard policies of the World Bank and so on, these are being derogated from left, right and centre. The Ilisu Dam project—which the Committee will probably be aware of because ECGD in the event did not fund it and after the applicant withdrew in 2001—is now picked up by three other ECAs; despite 150 derogations from World Bank standards, they are still going ahead and there is no process for holding these ECAs to account. The NGOs that have been monitoring this walked out of the ECGD process last December, partly because the engagement was a non-engagement. We would go along, we would express our concerns, the ECAs would sit around and say very little (and to its credit ECGD normally did say something) some of the ECAs representatives even slept during the process—and there is a limit to which one can go on spending money going along to these sorts of processes. We withdrew, saying that really we are not interested in going back into that process until there is some sort

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**8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard**

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of clearer review process within the OECD. We have written to ECGD outlining the recommendations for a peer review process but have heard nothing back from them. I regret that because it was a genuine attempt to move things forward. We do know that within the OECD there have been some discussions but we do not know where they have got to. To summarise: I think ECGD does play a positive role; I do not think it uses the extent of its veto to the extent that it could; the US has refused at times to sign up to some of these agreements because they are not tough enough. I think the ECGD could do more of that. It could also do more to use its role particularly as a signatory to one of the renewables initiatives to hold the other ECAs to account. They could say, "Look, you've signed up to this agreement, you say you are going to have the safeguard policies, how come you are funding this dam with 150 derogations?" That is in the interests of UK business, because this was a project that British companies withdrew from because of the outrage over the fact that it does not come anywhere close, even now, to meeting World Bank standards. I think it could do a lot more. I really do regret that there is seemingly no movement from the UK that we have heard of or been informed of or been invited to have discussions about on this issue of a peer review process, because, without a peer review process, that OECD Export Trade Working Group is just a talking shop.

**Q34 Dr Turner:** That is interesting because the OECD and the World Bank tell us that among export credit agencies ECGD is playing a leading role in helping to promote the sustainable development agenda. Should that be read as a comment rather more on the whole process and upon other export credit agencies? What is your impression?

**Ms Streatfeild:** I would agree with Nick that ECGD have taken a lead, beyond some of the export credit agencies, with what they have been advocating in the international process. We are not clear about the strategy ECGD has for what they would like to see as further improvements. They have obviously made some, but we do not know if they would like to see all export credit agencies reporting on a sustainable benefit impact, for example, and it would be interesting to know, in order to be able to hold them to account, what they are trying to achieve, to know what it is they go into the meetings looking for. For future years do they have a plan for what they would like to see in the international arena? Outside of the OECD there are obviously a number of other export credit agencies operating. Increasingly developing countries have them. We understand that ECGD has recently signed a memorandum of understanding with the Chinese export credit agency Sinosure. We did ask to see this document, because the press statement alluded to the fact that they were sharing best practice and also there may be some sort of products that could provide cover for UK and Chinese businesses from the other export credit agency. We are concerned about being able to see this, that this may allow UK industries to receive

support from a Chinese export credit agency which may not have equivalent standards. While the press statement did allude to ECGD and China sharing best practice, we do not know if this includes advocating particular standards to be used. As I say, we asked to see this document over two months ago now and we still have not received it. Outside of the OECD, there are also opportunities, as this may be, for influencing other export credit agencies and we would like to know what ECGD are doing in that respect to try to bring other export credit agencies up to the standards that they are advocating and have achieved in the OECD.

**Mr Leaton:** In terms of performance, as well, when you look around the western ECAs there are certainly examples of other ECAs going further than ECGD does; whether it is setting a target for reducing the greenhouse emissions in their portfolios, producing a sustainable report, funding renewables. This is all going on in other ECAs but not in ECGD, so for ECGD to take a leadership position we feel they need to be demonstrating much more than they are doing that in their own institution.

**Ms Streatfeild:** It has to be said that often within the OECD many of the changes that have happened have been as a result of individual export credit agencies improving their own standards, and then they are forced to try to create a level playing field and to lobby and be active in trying to achieve that. That happened with the UK productive expenditure rules. Subsequently, after they were introduced at ECGD here, similar rules were introduced at OECD level. The US had much higher environmental standards than other export credit agencies. Obviously the US fought very hard within the OECD to achieve those standards and subsequently these improvements have been made. While there is only so far that an export credit agency can go it alone, often standards are improved by one being a first mover and taking the lead, and it would be interesting to know what ECGD might be able to do in terms of taking and improving its own standards and then going to the OECD rather than just encouraging a fully multilateral agreement before making any change.

**Q35 Jo Swinson:** Could I confirm that it is your view that aerospace defence exports should go through the same environmental screenings as other applications have to go through.

**Mr Leaton:** Yes.

**Q36 Jo Swinson:** On aerospace, in particular, the Government's view would be that they already have to satisfy internationally agreed environmental standards anyway. In your view, why are these insufficient? Why should they have to go through additional environmental screening?

**Mr Leaton:** We have had a similar response, that, yes, the planes that are supported meet regulations on noise and emissions, but we would hope that the Government would not support planes that did not meet regulations. Surely that should be a given. What we are not seeing is where this supposed

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8 July 2008 Mr James Leaton, Ms Daisy Streatfeild and Mr Nick Hildyard

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constructive engagement takes what is supported beyond that. We have had responses like: “We do not know what the planes are used for.” We assume they are used for flying, and you could have some basic performance criteria for what is best practice and what are we going to support. I would say that some of the companies that receive support are already doing work along those lines, so you are not asking them to start from nothing and you can encourage what they are doing. There is certainly scope to demonstrate that you are requiring above just what enables planes to fly by meeting regulations.

**Q37 Jo Swinson:** What types of additional screening would you carry out? What would you have in the environmental appraisal, whether for engines from Rolls Royce or planes for Airbus?

**Mr Leaton:** We have not gone into that much detail. It is a question of whether that amount of support should be given to that individual industry and it should dominate the portfolio to that extent. But if it is going to, then I think the climate change issue is the big one for us that does not get addressed at all at the moment as far as we can see. There is obviously a recognition globally that aviation is a growing contributor to greenhouse gas emissions. It is not covered at the moment by international processes. We are not clear whether these planes are in addition to existing planes. Are you expanding fleets? Are you replacing older planes? There is no way of assessing if this is a benefit or just increasing the amount of emissions.

**Q38 Jo Swinson:** But you would accept that in cases where a new plane is replacing an old plane that gets retired, it could have positive impacts on the environment by being more efficient.

**Mr Leaton:** If there is a proper assessment done of that.

**Ms Streatfeild:** It can be the case that old planes may be retired from one fleet but then sold to another fleet, so in fact the net effect is expansion. But all of these issues can and should be investigated to determine, as we have asked for, that the overall sustainable development impact and the impact on climate is assessed.

**Mr Hildyard:** Just going through an environmental screening process such as the environmental screening process is at the moment, would be completely insufficient. The first tier of screening is: Does it accord with our sustainable development objectives? Does it accord with our objectives on sustainable consumption? Does it accord with our objectives on the Millennium Development Goals? Does it accord with our international obligations—indeed, international law obligations—under article 2 of the UN Climate Convention? Having asked those questions, you can screen out certain projects and then you can have your technical standards as to whether or not the noise levels are right or the emissions are better or whatever. If you do not ask those first tier questions, which are nowhere in any of the screening processes, you are never going even to begin to meet what you say you are intending to meet, which is our sustainable development objectives.

**Chairman:** We are out of time, I am afraid. It has been a very useful session. Thank you very much indeed for coming in.

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#### Supplementary Memorandum submitted by The Corner House

**Q28:** “[The World Bank] does not have any climate policies and it does not have any human rights policies and it does not have any labour policies.”

This is true for the World Bank’s International Bank for Reconstruction and Development (IBRD)—the institution most commonly referred to as “The World Bank”—but it is inaccurate for the World Bank Group as a whole, which includes the International Finance Corporation (IFC). The IFC recently introduced a Performance Standard on Labour and Working Conditions (Standard 2). Its Performance Standard on Pollution Prevention and Abatement also includes a clause requiring direct greenhouse gases from a project to be quantified and, where technically and financially feasible, reduced or offset. In making the remark, I had in mind the IBRD’s safeguard standards, which constitute a commonly-used benchmark standard for ECGD and other ECAs. I would also point out that, despite their recent revision, the IFC Performance Standards, like the IBRD’s safeguard standards, do not embody the UK’s full sustainable development objectives. The point being made therefore remains valid.

15 July 2008

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## Supplementary Memorandum submitted by The Corner House

### LEGAL OPINION AND COMMENTS ON ECGD EVIDENCE

In its oral evidence to the Committee on 16 July 2008, the ECGD referred to a legal opinion that The Corner House had submitted as part of a consultation on ECGD's anti-bribery procedures in 2005. In order to assist the Committee in its deliberations, the Opinion is attached.<sup>23</sup>

The Opinion examines the legal powers of ECGD to blacklist companies that have been involved in bribery and corruption. In the view of its authors, Lord Lester QC and Ben Jaffey, the ECGD would be perfectly entitled, under public law, to have a firm policy to refuse cover to companies that have previously engaged in bribery or corruption, provided that it also considered the exceptional circumstances of any particular case on its merits.<sup>24</sup> As pointed out in the Opinion (and in The Corner House's submission to the current EAC inquiry [para 9]) the ECGD already operates several clear exclusion policies with respect to other issues.

The Corner House believes that, for the reasons identified in the Opinion, it would be similarly within ECGD's existing powers to introduce a policy, subject to the procedures identified in the Opinion, of excluding from ECGD support specified activities that are incompatible with meeting the UK's sustainable development objectives.

The Corner House would also like to take this opportunity to comment on a number of unjustified or erroneous assertions made by ECGD in its oral evidence to the Committee:

#### A. World Bank Group Standards

The ECGD appeared to suggest that the World Bank Group has human rights standards. This is incorrect. The World Bank Group has two main sets of standards: the ten "Safeguard Policies"<sup>25</sup> operated by the Bank's International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA); and the recently introduced Performance Standards<sup>26</sup> operated by the International Finance Corporation (IFC), the private sector arm of the World Bank. Although both sets of policies cover a number of areas that involve human rights considerations (such as forced resettlement), the existing policies do not explicitly require adherence to binding international human rights Conventions. As a recent review of the IFC Performance Standards by the Centre for International Law (CIEL), the World Resources Institute (WRI) and the Bank Information Centre (BIC) notes for the IFC's Land Acquisition and Involuntary Resettlement policy, no reference is made "to the right to housing or other economic and social rights that may be jeopardized by forced displacement", nor does the policy incorporate "the corpus of interpretation and elaboration of those rights that has been developed by the Committee on Economic, Social and Cultural Rights or other authoritative bodies".<sup>27</sup>

Even where reference is made to internationally-agreed human rights principles and norms, these principles and norms are not fully incorporated into the World Bank Group's standards. In the case of the IFC's "Performance Standard 2 on Labour and Working Conditions", which was cited by ECGD in its evidence, the IFC states that the Standard has been "in part guided" by "a number of international conventions negotiated through the International Labour Organization (ILO) and the United Nations (UN)".<sup>28</sup> However, as the CIEL/WRI/BIC review notes, Performance Standard 2 "does not actually incorporate the ILO standards and clients are not expected to adhere to the requirements of ILO Conventions, interpretations and recommendations except to the extent that the [the Performance Standard has] implicitly adopted them".<sup>29</sup>

<sup>23</sup> Not printed.

<sup>24</sup> Lester, A. and Jaffey, B., "In the matter of the ECGD's Anti-Corruption and Anti-bribery Provisions: Joint Opinion", 16 May 2005. Lester and Jaffey write: "It is trite administrative law that a decision maker may not fetter his discretion. However, a policy is not a fetter on discretion, providing that: a) the policy itself is rational and justifiable (*Wheeler v Leicester CC* [1985] AC 1054 (HL)); b) each case is considered individually under the policy; and c) each case is considered in light of any representations that the person affected may wish to make (*British Oxygen Co Ltd v Board of Trade* [1971] AC 610 (HL) and *Fordham Judicial Review Handbook*, 4th Ed. para. 50.4)."

<sup>25</sup> World Bank, "World Bank Safeguard Policies", <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20094702~menuPK:224064~pagePK:220503~piPK:220476~theSitePK:228717,00.html>.

<sup>26</sup> International Finance Corporation, "Performance Standards", <http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards>.

<sup>27</sup> Centre for International Environmental Law, World Resources Institute and Bank Information Centre, "IFC's Performance Standards and the Equator Principles: Respecting Human Rights and Remedying Violations?", July 2008, page 7.

<sup>28</sup> International Finance Corporation, "Performance Standard 2: Labor and Working Conditions", paragraph 2, [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_PerformanceStandards2006\\_PS2/\\$FILE/PS\\_2\\_LaborWorkingConditions.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_PS2/$FILE/PS_2_LaborWorkingConditions.pdf). "The requirements set out in this Performance Standard have been in part guided by a number of international conventions negotiated through the International Labor Organisation (ILO) and the United Nations (UN)."

<sup>29</sup> Centre for International Environmental Law, World Resources Institute and Bank Information Centre, "IFC's Performance Standards and the Equator Principles: Respecting Human Rights and Remedying Violations?", July 2008, page 7.

Further, there are no requirements in either the IFC's Performance Standards or the IBRD's Safeguard Policies for an explicit assessment of the potential impact of projects on human rights. Issues of vital concern—such as the extent of freedom of expression (and thus the possibility of affected communities to be adequately consulted on projects) or access to effective remedies—thus go unassessed. Indeed, the CIEL/WRI/BIC review of the IFC Performance standards concludes that they fail “to address many critical human rights issues and address others only partially or in ways that do not meet international norms and standards”.<sup>30</sup> As such, they “do not provide project sponsors with a robust framework for meeting their responsibility to respect or remedy human rights”.

#### B. *Shin Kori Nuclear Power Station*

ECGD stated that it had classified an export intended for the Shin Kori nuclear power station in Korea as “low impact” on the grounds that the export was a diesel generator.

The Corner House notes that ECGD's stated case handling procedure is to analyse both “the impacts of the goods and services being exported” and “the project of which they form part”.<sup>31</sup> From the ECGD's evidence, it would appear that the export consisted of a back-up generator. Such generators are an integral part of a nuclear facility and form a critical part of the safety regime. It would therefore seem essential that a more comprehensive assessment of the entire project should have taken place.

The Case Screening Impact Form for Shin Kori has not, to The Corner House's knowledge, been released to the public. However, that for another export (also classified as “low impact”) to the Shin Wolsung Nuclear Plant in South Korea, is now in the public domain (see Appendix 3 of The Corner House's submission to the Committee).<sup>32</sup> There is no evidence from the completed Case Impact Screening Form for the Shin Wolsung export that the impacts of the nuclear plant for which the export was intended were analysed. The Corner House would therefore argue that classifying the Shin Wolsung export as “low impact”, without apparent consideration of the impacts of the project of which it would form a part, breached the ECGD's stated screening procedures.

The Committee may wish to seek to examine whether such impacts were considered in the case of the Shin Kori export and, if so, how the ECGD took them into account when classifying the export as “low impact”.

Should the Committee wish any further clarification of the above points, The Corner House will be very willing to assist.

21 July 2008

<sup>30</sup> Centre for International Environmental Law, World Resources Institute and Bank Information Centre, “IFC's Performance Standards and the Equator Principles: Respecting Human Rights and Remediating Violations?”, July 2008, page 1.

<sup>31</sup> ECGD, Case Impact Analysis Process, May 2004, paragraph 2.3, [http://www.ecgd.gov.uk/ecgd\\_case\\_impact\\_analysis\\_process\\_-\\_may\\_2004-4.pdf](http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004-4.pdf). “ECGD analyses the environmental, social and human rights impacts of all civil, non-aerospace transactions for which applications for support are received. Where possible, the impacts of the goods and services being exported, and the project of which they form part, are both assessed” (emphasis added).

<sup>32</sup> Not printed.

## Wednesday 16 July 2008

Members present

Mr Martin Caton

Mr David Chaytor  
Martin Horwood  
Mr Nick Hurd

Mr Ian Liddell-Grainger  
Dr Desmond Turner  
Joan Walley

In the absence of the Chairman, Mr David Chaytor was called to the Chair

### Memorandum submitted by Export Credits Guarantee Department

#### BACKGROUND

##### *Role, Ministerial Responsibility and Statutory Powers*

2. The Export Credits Guarantee Department (ECGD) is the United Kingdom's Official Export Credit Agency. It is a separate Ministerial Department which reports to the Minister for Energy (currently, Malcolm Wicks MP) and the Secretary of State for Business, Enterprise and Regulatory Reform (currently, The Rt. Hon. John Hutton MP)

3. ECGD conducts its functions on behalf of the Secretary of State under powers derived from the Export and Investment Guarantees Act, 1991 (the 1991 Act). These powers may be exercised only with the consent of HM Treasury. This is documented in a formal consent (the Consent) that, amongst other things, sets requirements for ECGD's financial objectives, risk and pricing policies, and reporting.

4. ECGD's primary role is the assumption of financial risk through issuing guarantees and insurance contracts in furtherance of its statutory powers to facilitate exports (of capital or semi-capital equipment and project-related goods and services) and to insure overseas investments. ECGD's Mission Statement, which sets out its aim and objectives, is at Annex A.

##### *Objectives*

5. ECGD has a number of non-statutory policy objectives set by Ministers. These are that ECGD should:

- (i) complement, not compete with, the private market. ECGD accordingly responds to demand for its services; it does not seek to create demand;
- (ii) operate at no net cost to the taxpayer. The individual credit risks which ECGD underwrites are, more often than not, long term and the outturn cannot be known for certain until the expiry of the risk. The performance of ECGD's portfolio, which is narrow in its composition, is inherently difficult to predict. Over most of its history, ECGD has operated at a surplus, although as a result of a significant number of sovereign payment defaults in the 1980s, ECGD had to borrow funds from the Exchequer to finance claims. ECGD has been a net contributor to the Exchequer on the business which it has underwritten since 1991. Currently, ECGD's total exposure to credit risk is £13.2 billion and its reserves are £2.7 billion;
- (iii) price to risk. ECGD charges a premium on each transaction that covers its estimate of 'expected loss', and to make an appropriate provision in relation to its administrative costs for the year in question and to possible 'unexpected losses' on its credit risk portfolio;
- (iv) achieve a level playing field internationally amongst official Export Credit Agencies (ECAs). Through the UK's membership of the EU and the OECD, ECGD engages with other ECAs with a view to sound policies and practices being set and applied uniformly, and the removal of trade-distorting practices, so that UK-based exporters can compete on the same basis as those from other countries; and
- (v) take into account the Government's wider policies in the exercise of its primary purpose. In this regard, ECGD has published a set of Business Principles that guides the operation of this objective.

## GOVERNANCE

*Accounting Officer and Management Board*

6. The Chief Executive of ECGD is the Accounting Officer and is responsible to Ministers and Parliament for the management of ECGD.

7. In discharging his Accounting Officer responsibilities, the Chief Executive is advised and supported by a Management Board, led by a Non-Executive Chairman, whose members comprise Executive Directors and Non-Executive Directors<sup>1</sup> (appointed under the rules of the Office of the Commissioner for Public Appointments). Its role is to advise the Chief Executive on:

- (i) ECGD's strategic and governance framework; and
- (ii) the management and performance of ECGD's operations, including the application of its Business Principles.

8. The Management Board is supported by two sub-committees whose membership consists solely of Non-Executive Directors:

- (i) Audit Committee, which provides advice on the responsibility of the Chief Executive as the Accounting Officer for ECGD's Resource Accounts and on issues of financial reporting and governance, internal systems and controls, risk, and associated assurance; and
- (ii) Remuneration Committee, which reviews recommendations by the Chief Executive for setting remuneration for ECGD staff who are members of the Senior Civil Service. It further decides on the remuneration of the Chief Executive following consultation by the Chairman with the Shareholder Executive.

*Export Guarantees Advisory Council*

9. The 1991 Act established the Export Guarantees Advisory Council (EGAC) to provide advice upon the request of the Secretary of State in respect of any matter relating to the exercise of his functions under the Act. In particular, the Secretary of State is required to consult the Council in exercising his duty under section 11(2) of the 1991 Act in relation to the provision of reinsurance by the Secretary of State, through ECGD. Specifically, EGAC advises the Secretary of State through ECGD on:

- (i) ECGD's policies deriving from its Business Principles;
- (ii) ECGD's approach to assessing project impacts and sustainable development issues. This is achieved by reviewing cases after ECGD support has been given; EGAC does not advise on cases under consideration for support, as the Chief Executive consults ECGD's Management Board where appropriate; and
- (iii) the current concerns and views of stakeholders, including exporters and NGOs with an interest in ECGD's activities.

10. The membership<sup>2</sup> of EGAC comprises individuals, appointed by Ministers under the rules of the Office of the Commissioner for Public Appointments, who have expertise in corporate social responsibility issues, sustainable development, and trade. Its members are unpaid.

11. EGAC usually meets four to five times per year. The minutes of its meetings are made public. It produces an annual report on its activities, which is published within ECGD's Annual Review.

*Shareholder Executive*

12. The Shareholder Executive in the Department for Business, Enterprise and Regulatory Reform (BERR), provides advice to its Secretary of State on the exercise of Ministerial responsibility for ECGD. While the Shareholder Executive does not have any executive powers over ECGD's operations, it monitors and reviews corporate governance and financial performance on behalf of the Secretary of State through shareholder review meetings, board/management effectiveness reviews, and strategy reviews.

13. Specifically, the Shareholder Executive:

- (i) advises on corporate governance matters, including the appointment and remuneration of ECGD's Chairman and Chief Executive;
- (ii) reviews ECGD's financial and operating performance and key performance indicators;
- (iii) comments on business planning and strategic direction; and
- (iv) mediates proposals for resolving any conflicting policy objectives between ECGD and BERR.

<sup>1</sup> Non-Executive Chairman: Graham Pimlott, Chief Executive and Accounting Officer: Patrick Crawford, Executive Directors: Nigel Addison Smith, *Finance Director*, Steve Dodgson, *Business Group*, David Havelock, *Credit Risk Group*, Nicholas Ridley, *General Counsel*, Non-Executive Directors: David Godfrey, David Harrison, Peter Haslehurst, Katherine Letsinger

<sup>2</sup> Chairman: Professor Jonathan Kydd, Members: Dr Robert Barrington, Professor Glen Plant, Martin Roberts, Anthony Shepherd, Paul Talbot, Andrew Wiseman.

## REPORTING

14. Under the Consent, ECGD is required to provide regular reports to HM Treasury on its business activities and financial performance. These are also provided to the Shareholder Executive. In addition, ECGD publishes an Annual Review with its Resource Accounts which includes, amongst other things, a list of guarantees and insurance policies issued during the year (except those where ECGD determines that it should not make a disclosure by reason of commercial confidentiality), the EGAC annual report, and comments on Sustainable Development issues.

## ORGANISATION

### *Structure*

15. To assist the discharge of his duties, the Chief Executive is supported by an Executive Committee which provides advice on the management and operations of ECGD and whose membership currently comprises:

- (i) the Director of the Business Group, who is responsible for the execution of all new business, the monitoring of issued cases, and the administration of claims and recoveries, and for the Business Principles Unit;
- (ii) the Director of the Credit Risk Group, who is responsible for all aspects of credit risk management, the pricing of risk, portfolio management, and the exercise of oversight of the management of recoveries and of treasury risk;
- (iii) the Finance Director, who is responsible for accounting procedures and processes, banking and cash management, financial controls and budgeting, financial performance and reporting, public expenditure planning and control, infrastructure and treasury risk management;
- (iv) the General Counsel, who is responsible for the effective management of legal risk;
- (v) the Head of Human Resources and Departmental Security Officer, who is responsible for staff, facilities, information management, procurement, and all aspects of security; and
- (vi) the Head of Strategy, Change and Operational Research, who is responsible for strategy and business planning.

### *Internal Roles and Responsibilities*

16. ECGD's organisational structure is based on functional responsibilities, and its adherence to the principle of separating business, risk and control functions, where practical, for the purposes of good governance. An organisation chart is provided at Annex B. In particular, there is a separation of credit risk assessment (country, obligor and project) and pricing for risk from exporter-facing business functions. Where separation of duties is not practical, risk is mitigated through compensating internal controls.

17. Under the oversight of the Executive Committee, the operations of ECGD are managed through a number of sub-committees, the main ones being:

- (i) Business Systems and Infrastructure Committee, which is responsible for ECGD's investments in business systems and infrastructure, including business continuity, and is chaired by the Finance Director;
- (ii) Information Management and Security Committee, which is responsible for information management and security, and is chaired by the Head of Human Resources and Information Security; and
- (iii) Risk Committee, which is responsible for the effective management of ECGD's policy on acceptance of credit risk and treasury risk, its portfolio of those risks, and its risk and pricing decisions in respect of support for new business and of the taking of recovery action. It is chaired by the Director of the Credit Risk Group.

## BUSINESS PRINCIPLES

18. In 2000, ECGD issued a statement of Business Principles, which guides its practice and policies. The following Business Principle is particularly relevant to sustainable development issues:

“We will promote a responsible approach to business and will ensure our activities take into account the Government's international policies, including those on sustainable development, environment, human rights, good governance and trade”.

## THE OECD AND ENVIRONMENTAL IMPACTS

19. The OECD established a framework, through its Common Approaches on the Environment and Officially Supported Export Credits, adopted in 2003, under which ECAs should address the potential environmental and social impacts of projects which they are asked to support. In particular, for those projects that appear to have potential significant adverse environmental impacts, an Environmental Impact Assessment and other relevant studies must be available to an ECA so that it can be taken into account when deciding whether or not to provide support. In screening projects for potential impacts, the ECAs are required to compare projects against international standards (normally those of the World Bank).

20. The OECD Council Recommendation of the 2007 Common Approaches, which revised those agreed in 2003, brought OECD standards and the stricter ones applied by ECGD into closer conformity. It provides for greater consistency in the process for identifying and categorising projects, a clearer definition of the minimum international standards that should normally be met, and more clarity on the extent to which social impact issues should be addressed than obtained under the 2003 Common Approaches.

21. OECD ECAs began recruiting specialist environmental practitioners in parallel with agreement on the 2003 Common Approaches. Led by ECGD, these specialists formed an informal group to share experiences. This group has now been recognised as an informal sub-group of the OECD Export Credits Group. It meets twice a year and provides a forum for technical discussions regarding the implementation of the Common Approaches and the technical aspects of any proposals for enhancements to the Common Approaches.

## CASE IMPACT ASSESSMENT PROCESS

22. ECGD's Business Principles state that:

“ECGD will, when considering support, look not only at the payment risks but also at the underlying quality of the project, including environmental, social and human rights impacts.”

ECGD's primary statutory function under the 1991 Act is to facilitate exports and to insure overseas investments; the implementation of environmental policies cannot become the overarching aim of the exercise of this statutory role without amendment to the 1991 Act.

23. In considering applications for support, ECGD's policy is to satisfy itself that its provision of support:

- (i) would be consistent with its statement of Business Principles; and
- (ii) has taken into account Government policies on the environment, sustainable development, and human rights.

24. ECGD has published a statement of its Case Impact Assessment Process (CIAP) which sets out how it determines whether or not the environmental and social impacts of any civil, non-aerospace, transactions for which it receives an application comply with its Business Principles.

25. The CIAP sets out the requirement that those transactions should normally comply in all material respects with the relevant international standards. In applying the CIAP, ECGD first assesses the impacts of the goods and services being exported and, where appropriate, of the project of which they form part and the degree to which they comply with the relevant international standards, after due consideration of the specific requirements of each project's actual site and location. ECGD may then engage with exporters and project sponsors in order to assess what improvements would be necessary in order to comply with those standards. If a project does not comply with those standards in all material respects even after that engagement, it is ECGD's policy to withhold support in accordance with the CIAP; thereafter either they do not proceed further with ECGD or the applicant withdraws its application to ECGD.

26. ECGD carries out its initial analysis of these impacts on the basis of the responses provided by exporters to questions which are included in its application forms. This enables ECGD to categorise each project for which support is requested as having a low, medium or high potential impact. These categories are consistent with the Common Approaches. The allocated classification determines the level of further assessment to be carried out by ECGD. For a low potential impact application, no further information is required by ECGD. For a medium potential impact application, an Impact Questionnaire must be completed by the exporter. For a high potential impact application, a full Environmental and Social Impact Assessment, or equivalent information, will normally be required. ECGD publishes details of all potential high impact applications on which its support has been requested. This notifies interested parties. If they make representations, ECGD will take them into account in its decision-taking on that application.

27. In making its further assessment, ECGD considers the potential environmental and social impacts by comparing them against the relevant standards, policies, directives and guidelines of the World Bank Group, in particular, the World Bank Group's Safeguard Policies, the Pollution Prevention and Abatement Handbook, and the International Finance Corporation's equivalent environmental guidelines. Other standards may be appropriate alternatives or supplements to those of the World Bank Group, such as those of the multilateral regional development banks (the Asian Development Bank, the African Development Bank, the Inter-American Development Bank or the European Bank for Reconstruction and Development), the World Health Organisation, or the European Union.

28. Where the project sponsor has agreed to meet certain standards, these may be reflected in specific covenants being included in the financing arrangements. A system for monitoring and reporting on compliance with these covenants will also usually be required

29. Civil aerospace and defence export cases are subject to separate screening arrangements. All new civil aircraft and aero engines supported by ECGD must meet EU and International Civil Aviation Organisation environmental and noise standards. Defence exports are subject to the export licensing procedure operated by BERR's Export Control Organisation with advice from the Foreign and Commonwealth Office, the Ministry of Defence and, where relevant, the Department for International Development (DFID). The criteria for considering individual applications for licences for strategic goods were set out in a House of Commons Statement by the Secretary of State for Foreign and Commonwealth Affairs on 26 October 2000 (Hansard/Official Report, Columns 199W/203W).

#### SUSTAINABLE LENDING

30. In 1997, the Chancellor of the Exchequer announced a new initiative that new ECGD-supported loans to heavily indebted poor countries (HIPCs) should be for 'productive expenditure' only. ECGD's Business Principles accordingly state that:

"ECGD will ... consider debt sustainability when deciding its cover policy for developing countries" and "restrict cover for the poorest countries to transactions which pass a productive expenditure test".

In 2000, ECGD extended the application of this test to all countries which the World Bank classifies as eligible for highly concessional loans and grants from the International Development Association (IDA-only countries).

31. Responsible lending to low-income countries has been a key aim for the Government following the Multilateral Debt Relief Initiative. ECGD, in coordination with HM Treasury and DFID, has worked with OECD members, the International Monetary Fund (IMF) and the World Bank to develop proposals to ensure that new lending does not lead to unsustainable debt burdens for former HIPCs and for IDA-only countries.

32. In 2004, ECGD, after consultation with DFID and HM Treasury, issued a statement in order to set out how it applies its productive expenditure test before deciding on whether or not to give support for a transaction in a HIPC or IDA-only country. For the purpose of this assessment, ECGD and DFID consider, where relevant, whether:

- (i) the buyer's country can afford any new associated debt on non-concessional terms;
- (ii) the amount and tenor of any proposed lending is consistent with the limits set in the country's IMF programme, including consideration of whether a project is consistent with the limits for non-concessional borrowing in a country's PRGF<sup>3</sup> or equivalent programme; and
- (iii) the export contract price represents value for money.

33. In parallel with ECGD developing and implementing its own related policies, the OECD issued a *Statement of Principles on Official Export Credit Support to Heavily Indebted Poor Countries (HIPCs) and Countries That Are Only Eligible for International Development Association Funds (IDA-Only Countries)*<sup>4</sup> in 2000. Under this *Statement of Principles*, OECD members agreed:

"Insofar as official export credits contribute to a country's overall debt burden, ... such credits should not be provided for unproductive expenditure in HIPCs and IDA-only countries. In this respect, unproductive expenditure generally refers to transactions that are not consistent with these countries' poverty reduction and debt sustainability strategies and do not contribute to their social and/or economic development".

34. Following efforts made by ECGD and others, OECD members agreed in January 2008 on further steps to bring loans to low income countries supported by their ECAs into line with sustainable lending practices, and accordingly issued a statement of Principles and Guidelines to Promote Sustainable Lending Practices in the Provision of Official Export Credits to Low-Income Countries, which was revised in April 2008. This agreement supports efforts by the IMF and the World Bank to help countries to avoid creating new unsustainable debt burdens following the substantial debt relief provided under the HIPC initiative and the Multilateral Debt Relief Initiative.

#### SOVEREIGN DEBT AND DEBT FORGIVENESS

35. ECGD holds approximately 95% of the sovereign debt owed to the UK Government. The remaining 5% is in respect of DFID financing. Sovereign debt restructuring is carried out under the auspices of the Paris Club, an informal group of official creditors whose role is to co-ordinate sustainable solutions to the payment difficulties experienced by debtor nations. Paris Club creditors agree to reschedule debts due to

<sup>3</sup> Poverty Reduction and Growth Facility

<sup>4</sup> Available at <http://www.oecd.org>.

them as a means of providing a country with debt relief through a postponement and, in the case of concessional rescheduling, a reduction in debt service obligations. HM Treasury is responsible for UK Government debt policy and heads the UK delegation at the Paris Club.

36. In 1988, Paris Club creditors agreed on a new concessional treatment of the debt of the poorest countries, named 'Toronto terms', which for the first time implemented a reduction of part of the debt of poor countries. The level of reduction was defined as 33.33%. In the 20 years since then, debt treatments have evolved to meet the debt sustainability needs of debtor countries. The levels of debt reduction have risen as high as 100% for the very poorest countries; reductions have also been agreed for such non-HIPC countries as Egypt, Iraq, Nigeria, Poland and Serbia. The UK debt written off in respect of such countries has amounted to approximately £3.78 billion. HIPC debt, which has been forgiven by the UK, amounts, so far, to some £1.23 billion.

37. Over time, ECGD has negotiated Paris Club debt agreements with 68 countries. Currently, there are agreements with 24 countries. Amounts owed to ECGD under such debt agreements peaked at £9 billion at March 2005 but have since fallen to £2.7 billion, achieved through a combination of:

- (i) the successful exit of countries from the Paris Club through early prepayment of their debts (in the cases of Algeria, Brazil, Gabon, Jordan, Macedonia, Peru, Poland and Russia);
- (ii) clearance of long standing arrears by Angola;
- (iii) exit of Nigeria with a concessional debt treatment and a large cash payment after many years of default; Nigeria alone had accounted for almost half of the £9 billion outstanding; and
- (iv) further concessional treatment for a number of HIPCs.

38. The applicable non-HIPC debtor countries are: Angola, Argentina, Bosnia, Croatia, Cuba, Ecuador, Egypt, Grenada, Indonesia, Iraq, Jamaica, Kenya, Pakistan Serbia, and Vietnam. Of these, Argentina and Cuba are in continuing default of their payment obligations to ECGD.

39. The remaining HIPCs to which ECGD has exposure are: Central African Republic, Congo Republic, Cote d'Ivoire, Democratic Republic of Congo, Liberia, Republic of Guinea, Sudan, and Togo. It is expected that in time most, if not all, of their debt will go through Paris Club procedures.

40. Where there is a possible conflict between ECGD's duty of 'proper financial management' of its portfolio under section 3(1) of the 1991 Act and the Government's debt forgiveness policy, a mechanism exists to enable this to be resolved. In these circumstances, ECGD is compensated by DFID for that portion of any debt relief which ECGD could otherwise not provide.

#### ANTI-BRIBERY AND CORRUPTION POLICIES

41. ECGD's Business Principles state that: 'ECGD will combat corrupt practices'.

42. ECGD implemented new and stronger anti-bribery policies in July 2006, following a Public Consultation, so that it does all that it reasonably can to avoid supporting transactions tainted with bribery and corruption. A number of changes were introduced including a requirement that the name(s) of agent(s) involved in helping to secure the relevant contract should be disclosed to ECGD; the introduction of internal Special Handling Arrangements for those exporters who wish to limit the number of ECGD staff who have knowledge of an agent's name, so as to minimise the risk of inadvertent disclosure compromising commercial confidentiality; and stronger audit rights. ECGD's new rules are consistent with the revised OECD Council Recommendation on Bribery and Officially Supported Export Credits, which was issued in December 2006.

43. The Trade and Industry Committee of the House of Commons published reports in July 2006 and in October 2006 on ECGD's new anti-bribery rules. The Committee commented that ECGD's procedures are in the vanguard of those countries tackling bribery and corruption, that they should be workable and that they should go some considerable way to reducing the risk of ECGD supporting contracts tainted by corruption. The Committee is due to review ECGD's experience in implementing its procedures in 2009.

#### SUSTAINABLE DEVELOPMENT ACTION PLAN

44. Consistent with the Government's Sustainable Development Strategy, Securing the Future, which committed all central Government Departments to produce Sustainable Development Action Plans (SDAPs), ECGD published a scene-setting document in 2005 which detailed the actions which it intended to undertake in order to produce a comprehensive SDAP. This document noted that ECGD's domestic operation is small, and that its impacts are generally confined to the use of such resources as water, electricity, and office supplies that are essential for the carrying out of its functions. The scope for ECGD to make a difference on sustainable development issues from its internal operations is correspondingly small. However, the document also noted that through its international role ECGD has an opportunity to influence sustainable development through working alongside other ECAs and lenders and in multilateral international fora.



45. ECGD published its first full SDAP in 2007. It includes goals and objectives that address ECGD's domestic footprint and its international activities. Since its launch, ECGD has sought to make internal improvements in a number of areas, including recycling, the use of paper and printing, and energy and water consumption. Internationally, ECGD contributed to the revised 2007 Common Approaches which, as noted earlier, has strengthened disciplines within the OECD in respect of the consideration of environmental and social impacts where ECA support is requested. ECGD also contributes to the wider analysis and assessment of environmental and social impacts against international standards by project sponsors and other debt providers in its own consideration of applications for support.

#### SUSTAINABLE DEVELOPMENT IN GOVERNMENT

46. Internal sustainable development targets have been set for all Government Departments. ECGD has met five of the nine targets set for achievement by 2010, although it will be necessary to maintain performance through to 2010 in order for the achievement to be recognised.

47. Of the remaining four targets, ECGD expects to meet two targets. It is unlikely that ECGD will be able to meet the target for sourcing 10% of its overall level of electricity from renewable energy sources, as electricity for ECGD's London office is now supplied through a low-carbon, 'good quality' combined heat and power (CHP) 'green tariff' contract; electricity for ECGD's records management repository in Cardiff is from matched renewable energy. ECGD also does not expect to meet the target for energy efficiency, expressed as energy use per square metre of office space, due to its reducing numbers of staff.

48. ECGD purchases carbon offsets for its air and rail travel.

49. The Sustainable Development Commission reported on ECGD's performance in its 2007 Annual Report.

#### TRANSPARENCY

50. ECGD's Business Principles state that: 'ECGD will be as open as possible, whilst respecting legitimate commercial and personal confidentiality'.

51. Members of the public may request ECGD to disclose information under the Freedom of Information Act or the Environmental Impact Regulations; ECGD does so subject to application of any relevant exemption and to compliance with the Data Protection Act. The issues raised by some requests can be complex and may require ECGD to take into account the views of such parties as exporters, project sponsors, debt providers, its own external advisers or consultants, or other Government Departments.

26 June 2008

#### Annex A

#### ECGD'S MISSION STATEMENT

##### *Aim*

ECGD's role is to benefit the UK economy by helping exporters of UK goods and services win business, and UK firms to invest overseas, by providing guarantees, insurance and reinsurance against loss, taking into account the Government's international policies.

##### *Objectives*

Consistent with the above Aim:

- to achieve the Financial Objectives set for it by Ministers;
- to operate in accordance with its Business Principles, so that its activities accord with other Government objectives, including those on sustainable development, human rights, good governance and trade;
- to promote an international framework that allows UK exporters to compete fairly by limiting or eliminating all subsidies and the adoption of consistent practices for assessing projects and countries on a multilateral basis;
- to recover the maximum amount of debt in respect of claims paid by ECGD in a manner consistent with the Government's policy on debt forgiveness;
- to ensure ECGD's facilities are, in broad terms, complementary to those in the private sector;
- to provide an efficient, professional and proactive service for customers which focuses on solutions and innovation; and
- to employ good management practice to recruit, develop and retain the people needed to achieve the Department's business goals and objectives.

Witnesses: **Malcolm Wicks MP**, Minister of State for Energy, Department for Business, Enterprise and Regulatory Reform, **Mr Patrick Crawford**, Chief Executive, and **Mr Steve Dodgson**, Business Director, ECGD, gave evidence.

**Q39 Mr Chaytor:** Minister, good afternoon. Welcome to the second and final session of our short inquiry into the work of the Export Credits Guarantee Department in respect of sustainable development. The clerk has just reminded me that some time ago one of our sessions was described by part of the media as the “horseshoe of dullness”. I recall your previous visit to the Committee when you were in a very boisterous, almost aggressive, mood and I am sure that it will not be a dull session this afternoon. I understand that you would like to start the session with a formal statement.

**Malcolm Wicks:** Mr Chaytor, thank you very much. I hope I was not in an aggressive mood. I was probably less aggressive than any other Member of the Committee. It is a pleasure to be here again so shortly after my previous visit. First, let me introduce my colleagues. Patrick Crawford on my left is the ECGD’s Chief Executive and Steve Dodgson on my right is the director of the ECGD’s Business Group. I last had an opportunity to speak about ECGD and sustainable development in a debate in Westminster Hall on 17 July last year called by the Hon Member for Ruislip-Northwood<sup>1</sup>. The Committee’s inquiry is a welcome opportunity to explore in more detail some of the issues that were then raised. ECGD’s primary statutory duty is to support exports and investments overseas. I should add that it is not a department for overseas development—that is DfID’s role—and it is not a department for the environment because Defra does that job, but ECGD does operate to a set of Business Principles which covers sustainable development. These are given equal weight with considerations of risk, pricing and not undermining market sources. If a project does not meet ECGD’s standards, it will not be supported. ECGD is valued by exporters. It takes due account of the Government’s sustainable development policies and continues to look for ways to be more effective and efficient in delivering the policies set for it. Today I am pleased to confirm that ECGD will, in line with agreed international standards and with effect from this year, report the emissions from high potential impact projects. From 2010 it will report the emissions of medium potential impact projects. This will make ECGD the first export credit agency in the world to report such emissions in a systematic way. ECGD is also exploring with other government departments the possible merits of supporting finance not tied to UK exporters for overseas projects that could have a positive impact on the climate. Later this year ECGD will review its Case Impact Analysis Process, including consideration of whether or not more information on its assessment of the cases it supports should be published, and next year the Select Committee on Business and Enterprise will review how ECGD’s anti-bribery and corruption rules, which were welcomed by the Select Committee on Trade and Industry in 2006, are working in practice.

**Q40 Mr Hurd:** Thank you for that statement. I welcome the move on disclosure of emissions which appears to be a response to an amendment to the Climate Change Bill that I tabled. My first question is why the change has occurred, however welcome it may be. According to the minutes of the meeting of the Export Guarantees Advisory Council on 18 February 2008 it was made clear by Mr Crawford that the position of the agency was that the responsibility for reporting carbon footprint belonged to project owners, not ECAs or debt providers; and in relation to an amendment tabled in the Lords very similar to the one I tabled in the Commons the government’s position was to resist it. Why the change?

**Malcolm Wicks:** I shall ask Mr Crawford to reply perhaps in a little more detail about the thinking within the organisation and its Advisory Committee. What I would say in a much broader way is that really all of us—bits of government, institutions and business—are thinking about how we can have a beneficial impact on global warming. More institutions and businesses are coming forward to say they want to measure their carbon emissions and seek to reduce them. I would have thought ECGD’s position is very much in line with that rather welcome move.

**Mr Crawford:** I think the position we took was that accountability lay with project owners and sponsors. However, we receive information on greenhouse gas emissions from high impact projects. These are published in the environmental impact assessments that sponsors put into the public domain at our request. We receive information in respect of the medium impact projects from questionnaires that we ask exporters to complete. We have taken the view that it is perfectly proper—indeed, I think it has been welcomed—that we should publish the estimates we receive.

**Q41 Mr Hurd:** For how long have you kept data on what might be called high impact projects? For how long has that been a policy of the agency?

**Mr Crawford:** The Case Impact Analysis Process of May 2004 set out in public a statement of how we would process applications. That set out the distinction between high impact, medium impact and low impact projects which is consistent with the OECD’s Common Approaches. Since then we have had access to the data in the way I have described. The actual volume of business in respect of such cases has not been large. We supported no high potential impact cases in the financial year 2007/08 and none to date. The last such case was in respect of a petrochemical project in Saudi Arabia in 2006/07 and it was estimated that when in production it would emit a maximum of 875,000 tonnes of CO<sub>2</sub> equivalent. We have very few high impact cases. We have data going back further which I do not have with me.

<sup>1</sup> *Note by Witness:* The debate, was in fact, in October 2007, not July 2007.

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16 July 2008 **Malcolm Wicks MP, Mr Patrick Crawford and Mr Steve Dodgson**

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**Q42 Mr Hurd:** That data goes back to 2004?

**Mr Crawford:** We can see whether we hold it for an earlier period, but we began to focus much more closely from around that period in line with developing international thinking.

**Q43 Mr Hurd:** Perhaps I may clarify what is meant by emissions resulting from projects. Are we talking simply about direct emissions from projects or direct and indirect emissions?

**Mr Crawford:** I would need to check. What the statement says is that we will take the definition in the IFC Performance Standards which looks at direct and indirect emissions arising from the supply of electricity to a plant.

**Q44 Mr Hurd:** Do you accept that that might be quite limited in the sense that the total carbon footprint associated with a project is likely to be wider than just the emissions resulting from the electricity that it consumes?

**Mr Crawford:** I think it is important that we have access to good quality data and we should act consistently with international standards. I have referred to the IFC Performance Standard. I also think that in order to encourage other export credit agencies to pursue the same course of action it is right to use relevant international practices, because it would be easier to make the case in favour of others following suit if we could refer to the relevant international practices.

**Q45 Mr Hurd:** Is the principle at play here that ECGD expects to report on all emissions, both direct and indirect, that it facilitates through the projects it supports?

**Mr Crawford:** The answer is that we will report direct emissions from the project in question and indirect emissions derived from the supply of electricity to that project. That is what we have announced we shall do and it is consistent with the relevant IFC Performance Standard.

**Q46 Mr Hurd:** You have talked about the high impact cases. Perhaps I may draw you out a little on the medium impact cases which you are to report from 2010.

**Mr Crawford:** That will start from 1 April 2009.

**Q47 Mr Hurd:** My impression is that you have already got a certain amount of information in aggregate form. Do you have information on all medium impact case since 2004, or is it spotty?

**Mr Crawford:** The impact questionnaire that we require to be completed for all medium impact cases requires disclosure to us. The fact is that we would need to verify it with the people who provide this information before we could look back. That is the reason we have proposed to start to report from 1 April 2009.

**Malcolm Wicks:** I think I can add some information. My understanding is that ECGD supported only two medium impact cases in the year 2007/08. I

understand that neither of these cases will result in an increase of direct emissions. There may be some indirect emissions, for example as a result of increased traffic arising from a new bridge, but I am advised that ECGD does not hold this information.

**Q48 Mr Hurd:** This leads to a wider concern which is that, although this initiative is very welcome in terms of disclosure, arguably it is of limited value because your portfolio is largely weighted towards aerospace and defence which are not subject to these definitions of case impact analysis. Something like 80 per cent of the book, if you like, will fall outside the scope of this initiative. Therefore, we will get only a very partial assessment of the impact on the environment of what you do supported by public money. Can I draw you a little on why that is the case and the agency's direction of travel in terms of being more accountable and transparent on the impact of emissions from its very large aerospace business?

**Malcolm Wicks:** I think the short answer—my colleagues may give you a more detailed one—is that civil aerospace must meet relevant international standards, so it is not without criteria.

**Mr Crawford:** The fact is that the International Civil Aviation Organisation and the European Aviation Safety Agency verify and approve aircraft types. That includes requirements for disclosure on their fuel efficiency and the production of emissions. We regard that as the relevant international standard.

**Q49 Mr Hurd:** I understand the position of the agency which is pretty clear, but I think you miss my point. I believe that the whole context of this discussion is a greater desire out there to be able to see what contribution the agency is making to global emissions because you are part of the UK effort. There is concern that a great deal of activity is going on to control domestic emissions and yet there is a small agency that plays an extremely important economic role in facilitating international trade. Therefore, what we may be gaining on the domestic front might be being given away in terms of facilitating the aerospace business. We all know that the aerospace industry is an extremely large contributor to global warming. The concern is: why should we not start to scrutinise and question that process rather than simply say we shall carry on doing this because others set the standards and it is up to them to report on the standards of aircraft? Why are we afraid to disclose the emissions that result from the sale of the aircraft whose production we have facilitated?

**Mr Crawford:** We do not have the emission information from airlines. You will be aware that the impact depends on the use to which the aircraft is put. These are also physical assets that can be traded between airlines. And all those factors mean that we do not get that information. The aircraft manufacturers, predominantly Airbus or Rolls-Royce as the engine manufacturer in this case, may well have no ability to predict the use patterns of the buying airline. Therefore, to determine the impact of a given set of deliveries that we might support is a highly conjectural exercise at the very best. The three

European export credit agencies of France, Germany and Britain support somewhere in the range of 15 to 20 per cent of Airbus aircraft annually. Historically, that is a slightly lower proportion than has been the case with our US counterpart in respect of its support for Boeing, so it is not as substantial a proportion of the aircraft fleet as you suggest. Finally, we are conscious that the Government's stance has been that the right way to bear down on airline emissions is by putting a price on carbon. You will be aware of the prospect of the industry coming into the EU Emissions Trading Scheme from 2012 and its impact on all aircraft landing or departing or operating domestically within Europe.

**Q50 Mr Hurd:** Your statement talks about setting thresholds for disclosure which I think relate to projects with a value of something like £8.4 million. For everything above that you will disclose the emissions. Why is a threshold necessary? Why can we not see all of it?

**Mr Crawford:** The origin of the threshold is 10 million SDRs which is approximately equivalent to £7 million.<sup>2</sup> It varies according to exchange rates. That is the threshold set in the OECD common approaches. It is not a very large sum. The thinking behind it was to rely again on an international standard. If we can work to persuade other agencies to follow the same suit we stand a better chance of doing so if we can rely on the same threshold as is used for the Common Approaches generally.

**Q51 Mr Hurd:** Would it not be simpler just to disclose all projects?

**Mr Crawford:** I think the view we took was that if we were to try to create a level playing field internationally and be able to persuade other agencies to follow the same course, it would make a lot of sense to use a practical threshold on environmental impact reporting that others use in other respects.

**Q52 Mr Hurd:** I do not understand why it is a practical threshold? How can it be any more practical than the threshold of saying that as of today all projects should be reported?

**Mr Crawford:** We are talking of quite small transactions. I think it is fair to have in mind the resource implications of processing a lot of small cases where the impacts will be very small. Let us focus first on reporting at the threshold level that the Government has suggested and then we can revisit that in the light of experience; but it gives us the ability to work internationally to persuade others to follow suit.

**Malcolm Wicks:** When I have been thinking my way into this issue, not for the first time and not least because of this Committee hearing, I suppose I have in mind what the endgame may be for those who are clearly critical of our existing practice. I look forward to reading your report to see what the basic propositions are. Some may argue—I understand

and respect it but I think it is wrong—that we should never export anything that may contribute to carbon emissions. It would be interesting to see whether your report subscribes to that rather extreme view; or is it that when we export we should be in the business of transparency and do our utmost where possible—not, I think, for every small project—to try to estimate the carbon emissions? I suppose I am interested in what the basic issues are. We also need to bring into the equation the fact that for some goods if Britain's ECGD does not offer support another company in another country with an ECA (export credit agency) that is not part of the OECD and therefore not signed up to any of this stuff about sustainability or anything else could well get the contract and contribute perhaps more carbon emissions than under our much tighter system. I think there are some fundamentals here to be considered. As the responsible Minister I would welcome the advice of the Committee.

**Q53 Mr Chaytor:** It would be unwise to pre-empt the outcome of the report, but I think there is a concern about transparency, consistency with the Government's climate change policy and the potential for setting international examples for other export credit agencies upon which Mr Crawford has touched.

**Malcolm Wicks:** We are the first ECA in the world to subscribe to what I have just said about monitoring.

**Mr Chaytor:** This session is not designed to bash the ECGD.

**Q54 Mr Hurd:** I do not think I was doing so. The premise of these questions is transparency and having better information about what we are actually doing. That leads me to the second part of my question, namely what we will do with this information. What change will this make, if anything, to the culture of the Department and the contribution it makes to the Government's targets in relation to carbon reduction, or is it simply a matter of getting out the information and you have done your bit? What will change? For example, do you contemplate refusing support of projects above a certain level of climate impact?

**Mr Crawford:** The Department will not use this information to decline support for applications that meet our standards; that is not the purpose of putting this information into the public domain. It is a move towards greater transparency and it responds to arguments that have been put to us, but it would be quite wrong in terms of the policies that have been set for the Department by Ministers to use this as a basis for declining to give support.

**Malcolm Wicks:** But if they do not meet our standards they will be declined.

**Q55 Mr Hurd:** Minister, do you contemplate any change of policy in relation to this? Mr Crawford said that basically the agency is fulfilling your orders. Are you inclined to consider changing the orders?

**Malcolm Wicks:** I have confirmed one change of policy today.

<sup>2</sup> *Note by Witness:* The figure should be £8 million, not £7 million.

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16 July 2008 **Malcolm Wicks MP, Mr Patrick Crawford and Mr Steve Dodgson**

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**Q56 Mr Hurd:** That is just about disclosure and putting the information out there.

**Malcolm Wicks:** Yes.

**Q57 Mr Hurd:** I am asking about how the agency responds to that.

**Malcolm Wicks:** I thought Mr Chaytor was saying that transparency was rather important.

**Q58 Mr Hurd:** It is, but the second question is: what do we do with the information, and is government policy likely to change in terms of the priorities?

**Malcolm Wicks:** Hence our earlier discussion in a sense about what endgame here. We repeat the fact that if they do not meet our standards we shall decline a project. At this stage however I do not see the sense of having such high standards that other ECAs and companies in other countries as a result may produce higher carbon emissions than under our stricter regime. I am not quite sure what the sense of that would be.

**Q59 Martin Horwood:** What is the stricter regime if it is not going to change in the light of the data that you collect or declare?

**Malcolm Wicks:** It is about transparency and the fact that we are now all interested in the carbon emissions produced by significant institutions. There has been a call for us to publish that data and we are going to do so. We are doing what we have been asked to do.

**Q60 Martin Horwood:** Surely, the only point of the transparency is that it enables you to take decisions on the basis of the data that is thereby publicly declared. If you never change the policy as a result of knowing what the carbon impact of various projects is, there is hardly any point to the transparency, is there?

**Malcolm Wicks:** I do not think that ECGD is the Department that should be saying we should never export anything because it produces CO<sub>2</sub> emissions. I do not think that is what we are about.

**Martin Horwood:** Nobody suggests that we do not export anything; nobody has even suggested—I appreciate we suggested that you do not pre-empt what might be in the report—that there is no threshold. I suppose it could be zero but it could be higher. But if there is no threshold above which ECGD will not support a project does it not undermine the whole point of collecting the data?

**Q61 Mr Hurd:** To put a rider which may help you to think of the answer, I take the specific example of Sakhalin. As I understand it, that had a carbon tag attached to it of something like 1.6 billion tonnes of carbon over its lifetime, which is more than three times the UK's annual emissions. As a result of these changes would ECGD feel it to be incumbent upon itself simply to publish the figure of 1.6 billion tonnes, or would government policy shift to say that it is not sure it should really support these types of projects because the climate change imperative is greater? That is just an illustration of what we are trying to get from it.

**Malcolm Wicks:** On your important example of Sakhalin, the fact of the matter is that ECGD did not complete its assessment of the project because it was withdrawn from the department. However, ECGD did have significant concerns about some aspects of the project, particularly its environmental impacts, but before a judgment could be made the project was withdrawn from support by ECGD.

**Q62 Mr Hurd:** That specific project was withdrawn but Sakhalin 2 could emerge tomorrow. I am trying to get to the principles at stake here.

**Malcolm Wicks:** We would have to assess it against international standards and our criteria.

**Q63 Mr Chaytor:** Accepting that the rejection of a project on the basis of the sustainable development assessment is not necessarily a decision for ECGD, you are saying that there may be circumstances in which Government would quite clearly say that a particular project is not something for which it wishes to give ECGD support because of greenhouse gas emissions?

**Malcolm Wicks:** Yes, and various environmental impacts. Sakhalin was about more than just emissions; there were other issues.

**Q64 Mr Chaytor:** There were other issues to do with biodiversity.

**Malcolm Wicks:** Are we prepared to say no in the right or wrong circumstances? The answer is yes.

**Q65 Mr Chaytor:** What about tar sands in Alberta? Would that be the kind of project where government might say no given the enormous amount of energy required to extract oil from it?

**Mr Crawford:** We have received no application for any tar sands project.

**Q66 Mr Chaytor:** I am just putting a hypothetical case.

**Malcolm Wicks:** If international standards require us to limit support then we would be obliged under existing policies to do so, but the World Bank Group standards we use do not; they require sponsors to seek to reduce greenhouse gas emissions, and if an applicant came to us with such a project we would be interested to find out how he would seek to do that. But there is no basis of policy today which would cause us to turn away business because of the establishment of some cap imposed on the Department that would not enable us to support the business.

**Q67 Mr Hurd:** Is there any government intention to try to develop an international process to raise the World Bank standards, if those are the constraints at the moment? The agency says that it complies with those standards. Are they adequate in the view of the Government's?

**Malcolm Wicks:** We are recognised as a leading agency in international fora and I think that gives us all kinds of opportunities to lead from the front on these issues. To return to Alberta and the oil sands, if one were assessing a project there it would be quite

a complicated matter. I am certainly aware that both the Canadian Government at federal level and the Alberta Government in particular are now putting considerable resource into the development of carbon capture and storage projects, so the arithmetic would be quite complicated.

**Q68 Mr Hurd:** In terms of broader environment impacts as a result of projects, now that the genie is out of the bottle on CO<sub>2</sub> are there any initiatives inside the agency to be more transparent about disclosing other environmental impacts? Have you looked at the precedents of the Danish export credit agency which produces an annual report of some 60 pages which set out both negative and positive sustainable development impacts of the projects they support? Why do you not do the same?

**Mr Crawford:** We have looked with great interest at the 2006 report issued by EKF, our Danish counterpart. I remind the Committee that it appears to rank projects by three criteria: one is CO<sub>2</sub>; the second is the creation of employment in the host country; and the last is a so-called third factor which appears to be a mix of environmental emissions in the form of sulphur dioxide and NO<sub>x</sub> and social impacts. The third factor is stated to apply to 17 out of 26 projects. Again, the SDR 10 million threshold is used. So we find the methodology unclear and it applies only to certain of the projects that EKF has supported in that period. But we are in the process of looking to amend our Case Impact Analysis Process to bring it into line with the new 2007 Common Approaches agreed in the OECD and we will look to see whether there is more informative information that we can put out and disclose as a matter of routine. We shall be taking that forward this autumn and will take into account the views that may be expressed by those who take an interest in ECGD's activities. I hope that we may be able to put more information into the public domain if it is useful and informative and we have the resources to be able to produce it. But I am not sure that the EKF precedent is one that we yet fully understand or one we might even seek to avoid using.

**Malcolm Wicks:** The Danish criteria show the complexity of the issue. To be blunt, I have not studied those criteria, but if one of them, perfectly understandably and properly, is to raise local employment levels then that will also raise CO<sub>2</sub> levels with increasing affluence and so on. It shows that some of these issues are quite difficult.

**Q69 Dr Turner:** Minister, you said in your opening statement that the ECGD took due account of Government policy on sustainability. Can you enlarge on that? Exactly how do you set out to make your policy sustainable?

**Malcolm Wicks:** I guess we have covered some of this ground. We make sure that the products we support and are being exported meet international standards and therefore are not the most polluting products and that, taking the very important example of civil aerospace—it is such a large chunk—it meets the relevant international

standards when it comes to sustainability issues. That is the major way in which we approach this part of it.

**Mr Crawford:** The Business Principles that we published in December 2000 set out five key elements, to one of which the Minister has referred. These collectively represent a consistent position with the UK's sustainable development objectives which are expressed broadly and at a high level. There are elements of the Business Principles other than in respect of the Government's environmental or social impacts that we take into account. I could elaborate if that would be of interest.

**Q70 Dr Turner:** Is this not a little difficult particularly with aviation? I am not aware of any emission standards for commercial or any other sort of aircraft.

**Mr Crawford:** Our understanding is that the ICAO continues to bear down on emissions from civil aircraft and approval of new versions takes into account the expected reduction of emissions. You may take the view that oil at \$145 a barrel will have a very significant impact on encouraging airlines to become more fuel efficient and may even reduce the number of airlines flying across our skies, and I suspect that will have a more dramatic impact than the suggestion that ECGD might impose caps in relation to the emissions of aircraft that it co-supports with its French and German counterparts.

**Q71 Dr Turner:** Do you see any way in which you can improve the way you communicate your performance in terms of sustainable development?

**Malcolm Wicks:** We have talked about the transparency of data and the need to produce that wherever possible.

**Q72 Dr Turner:** Is this routinely published?

**Malcolm Wicks:** We have just announced that we shall do this and it will be published. Aircraft is a particularly difficult issue.

**Q73 Mr Chaytor:** I appreciate that and understand the reasons for aircraft being taken out of the equation in one sense because of your reliance on the international standards of the aviation industry, but can you give a concrete example of how one of your case impact assessments has been carried out in respect of a high impact project? The highest impact project that you have dealt with perhaps is the Baku pipeline. How long would it take to do the case impact assessment? What is involved? Do you subcontract it or do it inhouse? A concrete example of how it is done and how accessible it is would be very useful.

**Mr Dodgson:** When we receive an application it comes to my Business Group. The case will always be submitted to our Business Principles Unit because that has the responsibility for doing the environmental and social impact assessment. The first task is to categorise the project. The categorisations that we use are low, medium and high and they broadly follow the OECD Common Approaches. The Common Approaches provide

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**16 July 2008 Malcolm Wicks MP, Mr Patrick Crawford and Mr Steve Dodgson**

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that, where it is a high impact project, an environmental impact assessment is produced. The project sponsor will do that.

**Q74 Mr Chaytor:** What proportion of applications in any one year would be high impact?

**Mr Dodgson:** Last year and thus far this year we have not done any. I believe the last one we did was the Yansab petrochemical project in Saudi Arabia.

**Malcolm Wicks:** That was in 2006/07.

**Mr Dodgson:** And Sakhalin was potentially a high impact project although no decision was eventually taken upon it as the application was withdrawn. There are not that many of them. But, in any event, we would require consistent with the Common Approaches, an environmental impact assessment to be undertaken by the project sponsor. For example, it may have to produce other documentation and a resettlement action plan if populations are to be moved off site. We will appoint independent consultants. For example, on the Sakhalin project the world-renowned consultancy, AEA Technology, supported us so it could examine and verify the environmental impact assessment.

**Q75 Mr Chaytor:** Who conducts the environmental impact assessment?

**Mr Dodgson:** The project sponsor is responsible for producing the environmental impact assessment.

**Q76 Mr Chaytor:** That is verified by the external consultants?

**Mr Crawford:** They are working for us and the other lenders. The answer is that we may have a very well prepared project put together by a competent and experienced sponsor whose environmental impact or equivalent is clearly one that meets international standards and satisfies us and our independent consultants that it is acceptable. The process might take a matter of six to 12 months. On the other hand, if we are approached about a project where there is no environmental impact assessment of such quality as to meet international standards, the process of reviewing what has been produced, specifying what needs to be improved and awaiting the sponsor's submission of one that does meet standards can take a long time.

**Q77 Mr Caton:** Given the distinction between ECGD's primary duty which is to promote exports and its secondary duty on Business Principles where environmental standards come in, could it legally refuse an application on the basis it was not consistent with Business Principles?

**Malcolm Wicks:** Yes. Although the primary purpose of the ECGD is to help exporters get credit and cover, not least in difficult locations perhaps, the Business Principles are central to the objectives of the ECGD. As we have said, if a project did not come within one of the criteria it would fail.

**Q78 Mr Caton:** You do not feel there is any danger of a decision being the subject of judicial review in those circumstances?

**Malcolm Wicks:** I have learnt that every breath one takes every minute of the day is now subject to judicial review by one NGO or another, so I cannot give you that guarantee.

**Q79 Mr Caton:** Some witnesses who have already given evidence to us have grave concerns. The Corner House told us that a change to ECGD's remit would be essential to any real movement on sustainable development. Is there any justice in that?

**Malcolm Wicks:** We have confirmed today a significant movement in terms of transparency of data. I think that is very important. I believe that we are now into an era which I welcome where more and more institutions recognise that they should account for their carbon emissions. Going forward, there are several ways in which we tackle this problem internationally. The Kyoto process is very important, and reaching a global agreement on carbon emissions at the Copenhagen conference will be absolutely vital. Many of us believe that, just as we have done in Europe albeit it is still in its infancy, we need to see other regions of the world develop cap and trade mechanisms as a way to bear down on carbon emissions. That plus the development of all sorts of new technologies and so on is the major way in which to tackle carbon emissions. No doubt agencies like ECGD have a role to play in that but I believe it is a fairly small one.

**Q80 Mr Caton:** If the remit was changed so that care for the environment became a primary duty would it improve things? Conversely, would it inhibit ECGD being able to fulfil its function?

**Malcolm Wicks:** There is a slight danger of semantics here—not on your part—in looking at what we mean by “primary”, “secondary” or “subsidiary”. As I have said, if a project failed on an environmental or sustainable development criterion, then it would fail—full stop.

**Q81 Mr Caton:** To refer back to what Corner House and others said—it may be a matter of semantics—since 1991 when the Act came into force clearly sustainability and climate change have become much more significant issues. Should we be looking again at the primary duty to see if we can improve the position?

**Malcolm Wicks:** I believe that at the moment we have the balance right—hence my looking forward already to the Committee's report on some of these rather basic issues. If the primary purpose of ECGD was nothing to do with facilitating exports but part of environmental policy, presumably we would not allow the export of anything because most things would probably contribute to carbon emissions. I think that would be absurd because British exports are very important and ECGD does a valuable job in facilitating them and we need to match that against issues of sustainability. But the point about aircraft is a very interesting one here. Just as we do allow, rightly or wrongly—I think rightly—a British company to sell aircraft to a British company, is it wrong to allow it to sell the same aircraft to a

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16 July 2008 Malcolm Wicks MP, Mr Patrick Crawford and Mr Steve Dodgson

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company overseas, albeit that contributes to carbon emissions? This is where we need guidance on some fundamental issues.

**Mr Chaytor:** I am sure the Committee will give guidance in due course.

**Q82 Mr Hurd:** Minister, you described Business Principles as central to decision-making processes inside ECGD. Can you give an example of where the concerns of the business principle unit have influenced a case?

**Malcolm Wicks:** My colleagues may wish to come in here.

**Q83 Mr Hurd:** I think it is a question for them rather than you.

**Malcolm Wicks:** I do know the odd one or two things but I agree my knowledge is relatively limited.

**Mr Crawford:** We use the Business Principles Unit as a source of internal expertise, but it would be quite wrong to characterise that as being an isolated unit that is not in the mainstream of the Department. I do not believe you should underestimate the way in which we spend time at all management levels, including our management board which has on it non-executive directors, addressing and weighing up the right decision on complex projects. We can certainly point to the examples of Sakhalin or the BTC pipeline where we worked multilaterally with other institutions, and the involvement of those institutions including ourselves led to significant improvements. On Sakhalin, however, it did not result in our being in a position to give approval at the time the application for our support was withdrawn, but there is no doubt that we made a significant contribution with other institutions to encourage higher standards to be used.

**Q84 Mr Hurd:** When will the Business Principles be subject to review? There is some suggestion that a review was under way but was dropped.

**Mr Dodgson:** I am not aware that the Business Principles in the past were under review. As of today there are no plans to do so, but a review will be undertaken of the case impact assessment process which is an integral part of fulfilling the Business Principles in terms of the sustainable development objectives. That work will start in the autumn. One particular piece of work that must be done is alignment with the new Common Approaches. As Mr Crawford said earlier, there may be an issue there around transparency and information reporting at which we might look.

**Q85 Mr Liddell-Grainger:** One matter that intrigues me is that the portfolio is still dominated by aerospace and defence. That goes back into the mists of time, but does it worry you that that activity still dominates the position?

**Malcolm Wicks:** If I understand the history, it was once a bigger business and there were many other customers than now and much of it has been, perfectly properly I would have thought, transferred to the private sector. It does worry me a little because it means that ECGD is over-dependent, if I can put

it like that, on some rather large companies. At the moment, because of the credit crunch, we are seeing quite a lot of interest in ECGD. I do not know whether that means it will become more diverse.

**Mr Crawford:** We would say that we hold ourselves out to those who want to come to us for business. We take it as read, since we are here to complement and not compete with the private sector, that the exporters who come to us for support do so because they cannot obtain or offer their buyers finance from other more attractive sources. Therefore, we are here to support the business that does need us. For those who use us we are important. I have cited the proportion of Airbus aircraft sales that the three European agencies support. One interesting question, which we are putting a lot of effort into at the moment, is whether there is an export market for renewable energy exporters that is currently not being tapped. The Committee may be aware that an announcement of £50 million was made at the Johannesburg summit by the then Prime Minister for which we have received no applications. To put that in context, in its 2007 report the US export credit agency US Ex-IM Bank stated that it had authorised the support of \$2.6 million of renewable energy technology exports out of a total authorised business of \$12.6 billion. I suggest that the fact we have not yet received an application that we have been able to support is not out of line with a country that has a very significant renewable energy technology industry.

**Malcolm Wicks:** It is however disappointing and we constantly think about it. Although ECGD is not really in the business of going out for business, I understand that contacts are being made with trade bodies and so on. I believe that part of this is to do with the relative infancy of the renewable technology industry in this country. If we think of the things we are good at then we are becoming good at marine technology, that is, wave and tidal energy. That is in its infancy; it has not been tried and tested in the water for very long. I think we are good at mini-hydro, and we could become good at some smaller wind turbines. Indeed, Clipper Windpower is about to establish some larger turbines in the North East as a major British base. I think the disappointment about the £50 million facility needs to be seen in the context of the early chapter of this industry. I am told however that some inquiries about the facility have been made in recent months.

**Q86 Mr Liddell-Grainger:** This body has been around since 1919 so you cannot even be blamed for setting it up. One of the problems may be that although ECGD has been around for all this time nobody really knows much about it. In part you have answered the question. Do you think you should be selling it more aggressively to bring in inquiries through BERR and maybe other people?

**Mr Dodgson:** My first point is to pick up Mr Crawford's comment. The policy position is that ECGD is to complement, not compete with, the private market. We are not a selling/marketing organisation in that sense, but our task is to ensure as far as we are able that people are aware of the



services we provide and we do that in a number of ways. One of the key links is through UKTI because it has contacts with industry. A number of my staff sit on some of the trade sector groups so we are linked with industry on those groups and they are aware of what we do. We also participate in conferences and exhibitions, and in some cases we will go out and visit exporters. The other arm of it is also to be known overseas because project sponsors are very influential in where they place business. These days they have options to place it more or less globally; it is a global market. Therefore, there is a role in making sure that our posts overseas are aware of our services and facilities, but, frankly, it is about awareness rather than selling.

**Q87 Mr Liddell-Grainger:** But you were a world marketing organisation and that has perhaps changed. Are you reinventing the original ethos?

**Mr Dodgson:** No. Clearly, the most significant change was in 1991 which was the genesis of the current Act. That paved the way for privatisation. Pre-1991 ECGD was supporting almost 40 per cent of UK exports. Since then our business domain is capital and semi-capital goods exports and we have seen shrinkage in the UK manufacturing base particularly in that slice of exports.

**Q88 Mr Liddell-Grainger:** One of the problems you are now left with is that you deal with probably the highest polluting industries one could have, that is, aviation and defence. Again, does it worry you that the portfolio is slightly out of sync of where you would like it to be?

**Mr Dodgson:** Ultimately, it is a function of the business that comes to us; it is a chicken and egg situation.

**Q89 Mr Liddell-Grainger:** But how do you break the yoke?

**Mr Crawford:** Is it worth saying that we support very approximately .5 per cent of UK exports<sup>3</sup> of goods and services and we are now a minor source of support?

**Q90 Mr Liddell-Grainger:** I am not sure that is something of which you should be proud; it should be the other way. It is a remarkable organisation that has gone down for various reasons and you are trying to bring it back up again, rightly so. You seem to be proud that it is only .5 per cent and yet you are left with the highest polluting activity. Will there have to be a major rethink on the way you operate as an organisation?

**Malcolm Wicks:** It was a long time ago that someone decided that much of the work should be privatised.

**Q91 Mr Liddell-Grainger:** I do not blame you. I cannot remember whose government it was!

**Malcolm Wicks:** Clearly, some of these very high-tech products are the most polluting and most difficult to get insurance and credit for and that is why they come to ECGD.

**Q92 Mr Chaytor:** Linking this line of questioning with the question put by Martin Caton about the impact of the duty of care for the environment on the organisation, given the long-term decline and remarkable changes in the liberalisation of finance and globalisation that have taken place in recent years and now the urgency in terms of our Government's policies and international leadership in responding to the climate change mitigation challenge is there a new role for ECGD in positively advocating British exports of renewable energy and energy efficiency technologies? Is the future of the organisation either just to sit back and accept continuing decline and the shrinkage of its share of the export guarantee market or a more proactive one in which ECGD becomes a central arm of government in promoting British climate change mitigation technology? You asked for some leadership from the Committee, so I make that suggestion.

**Malcolm Wicks:** That is absolutely right, and obviously I do not have to wait for the report. I still eagerly await it. That is an interesting proposition. We have to be careful because, rightly or wrongly—probably rightly—ECGD does not go out touting for business, but there is £50 million available. I think we could make more money available if there were customers. Clearly, we are trying to show global leadership and want to see the right kinds of projects worldwide. We have mentioned carbon capture and storage. I hope that we will become a world leader in that through our demonstration project and some years down the track it could be an issue that is very relevant to ECGD.

**Q93 Mr Hurd:** To be clear, is it the fact that Britain is not exporting renewable energy or energy efficiency technology or is it just not doing it through ECGD? What is happening in other countries? Is there a market? Are there companies which export renewable energy in the market to have these kinds of risks underwritten by ECGD or is there no market need because the private sector is taking care of it round the world?

**Malcolm Wicks:** Against the funds that we have available we have been finding it difficult to get customers.

**Mr Crawford:** Part of the answer is that renewable energy technology exporters focus on North America and Western Europe or Japan because those economies can afford to subsidise and offer attractive feed-in tariffs to enable those technologies to be brought to bear. The traditional territory of ECGD and its other ECA counterparts has been at the marzipan level between high quality credits where people can afford to invest in these early stage technologies and those poorer countries that are primarily dependent on donor flows. We are in the middle. I think it is early days for countries in that space to be able either to afford the subsidies required or to await the development of a global carbon market that enables them to tap into the price that would be set on carbon savings. This market will certainly grow but it is not to be expected that it will be available to the kind of exporters who

<sup>3</sup> *Note by Witness:* The figure should be 0.5 percent, not .5 per cent.

would come to an export credit agency for a few years hence. Those who would like us to play a role must bear in mind that we are a tied export credit institution and the terms on which we can provide support are set by international agreement through the OECD. To the extent these projects would not proceed without subsidy beyond those terms permitted by OECD agreements we would then fall foul of WTO and conceivably EU anti-subsidy rules. Therefore, the role that some might like us to perform would be one not necessarily tied to British exports at all in order to avoid the rules that bind us when we are tied to the UK trade and export effort. That would be a signal change that Ministers would have to think about very carefully before they changed our remit.

**Q94 Dr Turner:** I return to the assessment of projects. Does ECGD have a single definitive set of standards, and do they include the UK sustainable development objectives and obligations and the Millennium Development Goals?

**Mr Crawford:** There are five elements of our Business Principles, one of which is to bear in mind debt sustainability for poor countries which is absolutely consistent with the Millennium Development Goals to which the Government is very firmly committed. You may be aware that we played a leading role in lifting the standards set by the OECD for its members in taking into account debt sustainability when export credit agencies lend to IDA-only countries which include all the HIPC countries which have or will receive debt relief. The OECD agreement, which we shall be monitoring very carefully, states that export credit agencies are encouraged to take into account IMF and World Bank debt sustainability analysis when giving support for countries in that regard. I should say that the volume of business that ECGD supports in those countries is very limited; it has averaged £50 million a year over the past five years. Therefore, we are not a significant player in these markets. One of the key objectives of the G7 ECAs was to encourage non-OECD agencies, particularly from the new manufacturing economies, to come into line with, adopt or take into account OECD standards in this regard. There is a lot of concern that non-OECD agencies, not least those from China, may serve to undermine the hard-won debt sustainability that taxpayers in our countries have paid for and pre-empt the debt capacity that has thereby been created for those countries to raise concessional finance to support their development and achieve the Millennium Development Goals.

**Q95 Dr Turner:** Is it perhaps a pity that your stance has not totally uplifted, for instance, World Bank guidelines which may include environmental but not climate change or human rights considerations? Are there areas that need to be improved?

**Mr Dodgson:** The IFC standards include labour standards, if that is what you mean, and they will include issues to do with resettlement and so it touches on human rights.

**Q96 Dr Turner:** Do you believe that as a department you have a duty to adopt high standards and set the rest of the world an example?

**Malcolm Wicks:** Yes, and I hope we are. I think the ECGD has standards that are among the highest of any ECA in the world, if not the highest. As I said in my opening statement, our confirmation today about measuring carbon emissions is, we believe, the first time that any ECA in the world has set that new standard for itself.

**Mr Crawford:** We played a strong role in the new 2007 Common Approaches within the OECD. We did not achieve all the goals that we wanted and when that is revised and reviewed in 2010 we have some clear objectives that we would like to see incorporated. But in June of last year we had to make a decision whether or not to accept what we had been able to agree with other like-minded countries within the OECD. The Government took the view it was right to take what it had achieved although it did not fully reflect all our goals, in particular the fact that countries can derogate from the Common Approaches and announce that they have done so after the event. We do not believe that is a good discipline and it is one we would like to revisit in 2010. I believe that we have a good record of leadership internationally. We worked hard on a revised set of terms for supporting aircraft in what is known as the Aircraft Sector Understanding. That included the introduction for the first time of risk-related premia. We shall continue to try to work internationally to encourage other like-minded countries to work with us. These bodies work by consensus and it may take time to achieve those goals, but it means that the UK is playing its part in raising standards internationally. I believe that we have a record of which we can be proud.

**Q97 Dr Turner:** You have never turned down a project. There may have been projects that you would have turned down had they been pursued. Can you envisage circumstances in which you would not take on a project?

**Malcolm Wicks:** Yes.

**Q98 Dr Turner:** Sakhalin is possibly one but can you think of others?

**Mr Crawford:** It is the case that we have not formally turned down an application for a high impact project and one of the reasons for that is that we are known to have high standards. If a project sponsor is concerned to implement a project based on poor standards, it will not come to us. I can understand the Committee questioning why it is that we have never turned one down. Indeed, NGOs constantly cite this as evidence that we are not taking our principles seriously. I have to say that they are quite wrong in doing so. The commitment to our Business Principles and the policies that we apply in implementing them is one that is deeply held in this department and civil servants throughout the organisation take it very seriously. I think that accusation does us a disservice.

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16 July 2008 **Malcolm Wicks MP, Mr Patrick Crawford and Mr Steve Dodgson**

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**Q99 Dr Turner:** Talking about NGOs, The Corner House called on you to establish an exclusion list setting out conditions under which support would not be offered. Why are you unwilling to do that?

**Mr Crawford:** Corner House tabled a legal opinion before the Select Committee on Trade and Industry which recognised that the statute under which ECGD operated gave the Secretary of State discretion. That opinion recognised that where Parliament gave a discretion it was only Parliament that could remove it. We agree with that principle.

**Q100 Dr Turner:** So, you blame Parliament?

**Mr Crawford:** I do not blame anybody. We operate within a set of rules that you set and our ministers apply.

**Q101 Dr Turner:** Do you not think it would be desirable to have a clear set of rules so that conditions which could not be waived could not be derogated from and it was clear to all parties?

**Malcolm Wicks:** The short answer is that the international standards apply. It is a question of whether this Committee feels that we should go further than that.

**Q102 Dr Turner:** You have been accused of exercising too much discretion in applying the standards. What do you say to that?

**Mr Crawford:** I do not accept that statement. I think there is some confusion about the use of the word “discretion”. The fact of the matter is that we have no discretion but to apply the policies set for us by ministers. The fact that in applying those policies we may have to make judgments is a quite different use of the word “discretion” and it does not imply that we subvert the policies set for us by ministers.

**Q103 Dr Turner:** You have an approach of constructive engagement with applicants in order to improve their projects. What would you do if you found that that process was not delivering the improvements that you needed?

**Mr Crawford:** We would turn down the business. Constructive engagement is not a term that indicates we do not apply policies. I believe that in 2003 your predecessors welcomed the concept of constructive engagement because it shows that we are not going to sit back and wait but will tell applicants where their applications fall short, identify the international standards that they ought to meet and leave them the option of seeking to do so or not applying to us for support. If I may correct one matter, the legal opinion to which I referred was in the public consultation undertaken on our anti-bribery and corruption rules; it was not submitted to the Committee. I apologise for getting that wrong.

**Q104 Mr Chaytor:** Minister, in terms of the operating framework of ECGD, would it be useful if Parliament did decide that a set of conditions under which support would not be given to ECGD projects should be established? This is an issue for Parliament. Should it be something that Parliament ought to consider?

**Malcolm Wicks:** I am not sure. At the moment I believe that the Business Principles we have discussed are sufficient guidance. They are broad criteria which seem to me to work, but as ever I am open to advice.

**Mr Crawford:** One of the attractions of the Business Principles for ministers is that they can adapt and change, so as international standards are lifted our Business Principles can incorporate that result. One difficulty about putting it in statute is that one would be codifying a state of affairs that itself might be subject to change. I think the benefit of the Business Principles as set is that they are at a high level and the Secretary of State can set policies in accordance with them and they can be changed over time.

**Malcolm Wicks:** It is not for mere ministers to ask questions of Select Committees, although one is tempted so to do. Overhanging the whole discussion is the question whether or not ECGD should be in the business of supporting projects which contribute carbon emissions that damage our planet. Should we be doing that or not? We have said we now recognise a duty wherever possible to present publicly data on what the carbon emissions are, but should we be enabling a fleet of aircraft to be produced and sold? We believe that given the importance of British exports that is a sensible thing for Britain to do, but others may feel that we should never export anything that contributes to global warming. Overhanging the discussion is that fundamental question.

**Mr Chaytor:** I think you are right, but we have probably exhausted that topic and pushed it to its limit.

**Q105 Mr Hurd:** How can you guarantee that a project undertaken on the basis of constructive engagement will consequently meet your standards?

**Mr Crawford:** We cannot. We are clear about the standards and, where any proposal is deficient, the obligation is on the applicant and project sponsor to respond if they wish to get ECGD support.

**Q106 Mr Hurd:** What do you do to monitor projects once you have given them the green light?

**Mr Crawford:** As to high impact projects where generally we are working with other financial institutions, there will be an agreed set of common terms which will incorporate covenants under which monitoring takes place, generally by an independent firm of consultants which reports accordingly. There will be a set of legal arrangements under which the nature of any breach of covenant and the required actions to remedy that breach are monitored, and in extreme cases it can lead to the financial institutions having the right to call a default and accelerate the loan.

**Q107 Mr Hurd:** What level of comfort do you have about the information on projects that you hold? Some NGOs, in particular WWF, told us they were concerned that sometimes you did not seem to hold adequate information to assess a case effectively. How extensive is the assessment undertaken by ECGD? For instance, does it assess the environmental credentials of supply chains?

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16 July 2008 Malcolm Wicks MP, Mr Patrick Crawford and Mr Steve Dodgson

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**Mr Crawford:** We receive the information that is set out in our impact questionnaire and is required under our Case Impact Analysis Process. The fact is that the issue of the impact of supply chains was a matter raised in the course of a public consultation on our foreign content policy. In its response the Government said that it would consider how to take that forward. It is a novel area for export credit agencies internationally and one to which the international financial institutions and multilateral development banks are beginning to pay attention. They have not yet developed policies. Ministers have charged us with considering what might be done in this area and we are engaged in that process.

**Q108 Mr Hurd:** How are judgments made about whether a project has high or medium impact and what is your process for dealing with that? We were given the specific example of a project linked to the Shin Kori nuclear power station in Korea which was classified as low impact. How did that come about?

**Mr Crawford:** That came about because we received an application from an Alstom UK company that was supplying to a sister company in France in respect of the delivery of electrical components, equipment and services for a diesel-fired standby generator to support a nuclear power plant in South Korea. We were providing cash insurance by way of reinsuring the French export credit agency COFACE. We took the view that this equipment and its use for a standby generator was not such as to require us to look at the nuclear power station and therefore we categorised it as low. I believe that I took the right decision then and I would take it today.

**Q109 Mr Hurd:** Do you accept that disclosing more information about these decisions would improve confidence in your procedures?

**Mr Crawford:** I think it could do so, and that was why I mentioned earlier that when we review the Case Impact Analysis Process this autumn we shall consider whether we can properly put more information into the public domain. I appreciate that building confidence in our decision-making equal to that which we hold internally would be helpful.

**Q110 Joan Walley:** I apologise for being late for this session. My understanding from the National Audit Office is that about 87 per cent of what is approved through ECGD relates to aerospace and defence contracts. How can you justify excluding these sectors from the assessment procedures, or maybe I am wrong in assuming that they are not so included?

**Mr Crawford:** The defence side is covered through the Export Control Organisation and its licensing processes. There are a number of factors taken into account in that process for defence equipment. We rely on that process and those decisions.

**Q111 Mr Hurd:** Does it include an environmental assessment?

**Mr Crawford:** We are not party to that assessment. It looks at debt sustainability in the buying country.

**Q112 Mr Hurd:** Are you saying that it does not include an environmental assessment?

**Mr Crawford:** The Department for International Development gives advice in that licensing process. My understanding is that it does not look directly at environmental impacts, but it is not a process in which this department is involved and I think that question should be put to the Department for Business.

**Joan Walley:** How long can we go on playing musical chairs? Is there not a responsibility to make sure that the whole criteria for sustainable development assessment are included?

**Q113 Mr Chaytor:** It seems that what you are saying is that because the ECO is firmly located within the Department for Business, Enterprise and Regulatory reform it is an issue for that department.

**Mr Crawford:** That is the lead department and it takes into account the views of the FCO, Treasury and the Department for International Development.

**Malcolm Wicks:** What is the question about export control?

**Q114 Mr Chaytor:** It is the ECO process to which Mr Crawford is referring in response to the question about the sustainable development criteria.

**Malcolm Wicks:** Is the question whether the ECO process takes account of environmental considerations?

**Q115 Joan Walley:** The concern is the extent to which the ECO process for defence exports particularly does not appear to take into account sustainable development appraisal and environmental concerns.

**Mr Dodgson:** It focuses principally on debt sustainability.

**Q116 Mr Hurd:** But there is no environmental assessment of defence exports, and we wonder why.

**Mr Dodgson:** For many that will be difficult because the impact almost is to affect the environment.

**Malcolm Wicks:** I think that takes one into some interesting ethical and environmental questions. As my colleague says, what are these things used for sometimes?

**Q117 Joan Walley:** But in the evidence we received last week both Corner House and WWF suggested to us that the future use of these exports should be rated against the sustainable development criteria.

**Mr Crawford:** I believe that the Export Control Organisation takes into account the future use of the equipment in question in its decision-making and approves those that are in line with the Government's international policies.

**Malcolm Wicks:** I am not quite sure what we are discussing now. If there is any risk in terms of human rights and so on, or the potential usage is not one of which we approve, we do not give the export order

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**16 July 2008 Malcolm Wicks MP, Mr Patrick Crawford and Mr Steve Dodgson**

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the go ahead. I have responsibility for this and I can assure you that quite often the answer is no, but it is not to do with the environmental issues that we have been discussing; it is more to do with peace in the region, human rights issues, abuses by military police or whatever it might be.

**Mr Chaytor:** Minister, you have been very forthcoming in your contributions. We thank you and your two colleagues. This is the second of two sessions in a short inquiry and our report will be produced in due course. Thank you for bringing a glimmer of excitement to our proceedings.

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# Written evidence

## Memorandum submitted by the Association Green Alternative, Georgia

1. Association Green Alternative was registered in 31 July 2000. As the membership organization Green Alternative includes 47 active members nowadays and eight staff person. The organization was formed from the group of leading campaigners of Friends of the Earth Georgia and accordingly activities carried out by organization are continuation of previous work. The Association Green Alternative's mission is to create a framework for economically viable and socially desirable alternatives to protect the environment; to protect Georgia's unique biological and cultural heritage; and to be an advocate for social justice and public participation.

It pursues this mission through public awareness-raising campaigns, challenges to environmentally and socially destructive programs and projects, the promotion of the principles of equity and justice in society and through support to local industry and community development. The Association tries to increase public participation in decision-making process through the capacity-building of local NGOs and grassroots, help in know-how transfer and developing easily replicable visible pilot projects benefiting local peoples.

2. Green Alternatives has been monitoring the impacts of the ECGD-backed Baku-Tbilisi-Ceyhan (BTC) oil pipeline since 2001, working directly with affected communities to bring their concerns to the companies and governments involved. The project has worked to increase the knowledge and understanding of local communities of the pipeline project, and to increase direct access for communities to decision-makers and high-level staff of the pipeline construction company. To protect the rights of pipeline-affected peoples, seven committees comprising local NGO and government representatives. Community members have been set up in the seven districts traversed by pipeline route (Rustavi, Marneuli, Gardabani, Tsalka, Tetritskaro, Borjomi and Akhaltsikhe). In addition to providing free legal consultation to affected communities, Green Alternatives has identified important acts of abuse and taken steps to obtain redress, including using BTC Co's grievance mechanism and submitting complaints through the internal redress mechanism of the International Finance Corporation, the European Bank for Reconstruction and Development and the US Overseas Private Investment Corporation, respectively three of the international financial institutions that funded the project.

3. The BTC pipeline runs from Baku in Azerbaijan, through Tbilisi in Georgia to a new marine terminal at Ceyhan on Turkey's Mediterranean coast. The project has been developed by BTC Co., a consortium of companies led by the British oil multinational BP. Other members of the consortium include: Unocal, Statoil, Turkish Petroleum, ENI, TotalFinaElf, Itochu, Inpex, ConocoPhillips, Delta Hess and the Azerbaijan state oil company SOCAR.

4. ECGD support of US\$150 million was approved in 2003<sup>1</sup> and final contracts signed in 2004. Other public funds were secured from International Financial Institutions (IFIs) such as the European Bank for Reconstruction and Development, the World Bank's International Finance Corporation and from the export credit agencies of Japan, the USA, France, Germany and Italy.

5. The BTC pipeline was completed in 2006—a year late and a billion dollars over its projected cost of \$2.9 billion. The pipeline will eventually carry 1 million barrels of crude oil a day: all the oil will be shipped to west markets, even though many of the territories through which it passes are energy-poor.

6. This note is submitted to update the Committee on the continuing environmental and social impacts of the project. Green Alternatives hopes it will be of assistance in answering question 1, 2 and 3 of the Committee's remit (How effectively does decision making by ECGD take into account sustainable development concerns? Do ECGD's Business Principles make adequate provision for sustainable development? What evidence is there that the Business Principles are carried through into practice, and cover all aspects of ECGD's work? How satisfactory are the case screening procedures and impact assessments carried out by ECGD? Do environmental and social concerns receive appropriate consideration in these assessments?)

## ECONOMIC IMPACT

6. Georgian government officials, as well as IFIs always pointed to the BTC pipeline as the model that would support the economic prosperity of country and energy security. After two years of operation the pipelines (both gas and Oil) still running in the energy poor areas, while there is no long term impact on improving livelihoods and increased energy security for the country.

7. According to some experts although the BTC project injected huge sums into the Georgian budget, the actual long-term impact could be negligible. "BTC is not 'sustainable' in the sense that it created a small construction boom, with BTC in operation, the 'backward-linkages' to the local economy are limited",<sup>2</sup>

<sup>1</sup> ECGD, Annual Accounts, 2003–04 gives the total figure for ECGD's liability as £81,703,893 ([http://www.ecgd.gov.uk/ecgd\\_review\\_accounts\\_2003-04.pdf](http://www.ecgd.gov.uk/ecgd_review_accounts_2003-04.pdf)). In a statement issued at the time the credit was approved, ECGD gave the dollar figure as \$150 million (ECGD, Note of Decision, 17 December 2003).

<sup>2</sup> Michael Schmidt, an economic expert for the Georgian-European Policy and Legal Advice Center (GEPLAC), "Georgia: does the BTC pipeline promote hoped-for local economic growth?", 18 April 2007, <http://www.eurasianet.org/departments/insight/articles/eav041807final.shtml>.

as it does not create massive employment. While the pipeline's indirect impact on the economy—and the direct impact on average Georgians—depends on how Tbilisi spends the money that BTC is generating for the state budget.

8. BP estimates that at the peak of construction, over 4,000 Georgians were employed in some facet of pipeline work. However, locals argue that too few locals were hired to make a real impact on the local economy.

9. Monitoring groups have found that a significant share of the money generated by BTC—in the form of taxes, grants and other social outlays—is not making it back to the affected communities. This means that transparency remains an issue. Another problem appears to be rooted in a communications breakdown.

10. An example of miscommunication is connected with a \$1 million credit that BP offered the government to help relocate the village of Dgvari, which is located along an active landslide area. The government declined to avail itself of the \$1 million for the relocation project, and it was ultimately reallocated to a program that had no impact on Dgvari. Villagers, however, still believe they are entitled to the funds, and have refused to leave the area despite the fact that some buildings have already been destroyed by landslides.

11. One of the most ambitious programs that BP has created for Georgia is a 40-year grant program, under which BP agreed to give the Georgian government money, including \$40 million to be allocated over a five-year period starting in 2005, to stimulate growth, including an employment programs in the Borjomi region. According to a 2006 report from the Georgian Young Lawyers Association, it is impossible to ascertain how those earmarked funds are being spent on the desired programs since the money is injected into the country's general budget, and the government is not required to list which programs received what funds.

#### EVALUATION OF OVERALL SUCCESS

12. During the 2008 AGM of the European Bank for Reconstruction and Development (one of the project's funders) in Kiev, there were civil society meetings between Bank staff and NGO community. During the meeting with the Evaluation Department, Frederik Korfer, EBRD's head of project evaluation, and Dennis Long, Senior Environmental Evaluation Manager, presented the outcomes of an evaluation of BTC, undertaken jointly with the World Bank's International Finance Corporation (IFC), also a backer of the project.

13. The BTC pipeline project was rated partly successful (insufficient). The rating was based on the three following indicators:

- technical performance (construction of pipeline takes a place);
- regional development program—the promises to create regional development program and setting up SMEs still have no concrete results, despite promises made by BP and by the EBRD; and
- transparency (royalties, revenues)—money from revenues on Azeri account but from it disappears.

14. According to the evaluators, the BTC evaluation would be soon available on EBRD web site, as well as the decision was taken that BTC project reevaluation in two years to see if there has been any change.

#### COMPENSATION

15. In theory, the largest source of income for the villagers located along the pipeline was the land compensation paid for use of their property. According to the BTC Co, BP paid more than \$22 million in land compensation countrywide—more than twice what was originally budgeted for land acquisition. It also claims that from registered 4,000 complaints into the company's grievance mechanism only half concerned land compensation and BP was able to resolve 60% of these.

16. The additional 40%, together with other types of the problems, still represent a headache for a number of Georgian citizens. Even now there are ongoing court cases around the country with regards to the BTC pipeline.

17. To give an indication of the problems that villagers have encountered, and for which they are still seeking redress, a number of detailed cases, which were submitted by Georgian Citizens to EBRD's Independent Recourse Mechanism (IRM), are set out below.

#### 18. *Complaint of Akhali Samgori Villagers to EBRD IRM*

Submitted: 5 October 2006.

Closed: 12 November 2007.

Ten complainants from Village Samgori raised complaints under the EBRD IRM against the BTC Co. The complainants stressed that they have problems with compensation of damage since 2003 and despite numerous requests the company has never taken into account their problems. The complainants have

different problems including: inadequate compensation of their land plots, incorrect calculation of damage, damaging of irrigation channels, permission to construct the houses on the household land and etc. Despite raising these complainants repeatedly over a number of years to different governmental bodies and to BTC Co itself, the cases were not solved. In their joint complaint, villagers stressed that they choose EBRD IRM due to the fact that they have no money to carry court costs, as well as the fact that they do not believe in the independence of the courts and because of the court's long procedures (the court cases have lasted in some case more than three years).

#### INDIVIDUAL COMPLAINTS

19. In addition to the complaint submitted jointly by the 10 villagers, a number of individual complaints have also been made via the EBRD's Internal Recourse Mechanism. According one of the complainants, Taniel Apsiauri, he only found out during the construction of the pipeline that his land would be within the pipeline corridor. The Complainant requested compensation for the lost crop and land plot. He underlined that he was not the only one in a village in a similar situation. Based on his and his co-villagers requests in 2004, a State Commission was established to examine the complaints. The commission included representatives of Georgian Oil Corporation (Georgian Government representative in BTC) and local Gardabni municipality representatives. The act of 4 February 2004 of commission recognized the fact that during the construction 32 square meters of the land that belonged to Mr. Apsiauri was damaged. However, no compensation has yet been paid.

20. Another complainant, Isaak Obgaidze, stressed that from the beginning, the calculations of the company were wrong and also during the construction the company damaged more land than was acknowledged in the compensation package. In February 2004, Mr Obgaidze filed a complaint to the BTC Co grievance mechanism, as well as to above-mentioned State Commission. Official documents confirm that extra 900 square meter of land that belongs to complainant was damaged but compensation has still not been paid.

21. Both complainants stressed for the last two years they could not get permission to construct the house on their plot (designed as household one), in adjacent areas to the pipeline.

22. Complainants Elguja Apsiauri, Anzor Tsiklauri, Makvala Mamuladze, Nino Apsiauri, Tina Apsiauri, Amiran Tsiklauri and Robinzon Kavtarsadze highlighted problems of orphan land (that is land that has not been physically damaged by construction but cannot be farmed because construction impeded access) and the fact that the company does not compensate for it. In addition Mrs Nino Apsiauri underlined that company does not compensate the extra damaged land plots, as well as stressing the problem of damage to irrigation channels.

23. Complainant Gia Gogishaishvili complained about non-compensation of extra damaged land. Complainant M Kavtaradze complains about the fact that BTC Co instead of the three square meter of the land eventually damaged 250 m<sup>2</sup> land and cut eight walnut trees without any compensation.

24. All complainants stressed that there was no response from the company.

#### COMMON PROBLEMS

##### *Damage of Irrigational Channel*

25. The problem of irrigation channel was raised also by local elected council chair for Akhali Samgori village in 13 May of 2005. Despite numerous attempts by the council chair to obtain redress, there was initially no response from the company. On 30 May 2005, a village commission that includes also BTC Co land officer Mr Irakli Mamaladze was set up. The Commission checked the irrigation system and concluded that during construction work damage was caused to the main irrigation channel on 44 meter length, and to the internal network on 50 meters length. Except for the BTC Co representative, all members of the commission signed the conclusion. Despite the attempts to solve the problem, BTC Co argued that it was responsibility of Spie Petrofag, subcontractor of BTC Co, and when the village council applied to Spie Petropag they pointed to BTC Co and vice versa. The result is that people could not use the irrigation channel since the pipeline's construction.

#### LAND ISSUE

26. The problems with non-compensation is also common for villagers and despite requests from wider group of villagers to meet the BTC Co's land problems manager, the manager never visited the village. The only document villagers have is a letter (dated 12 July 2005) from the association for protection of land owners (BP subcontractor) stating that complaints had been sent to BTC co in February, May and June 2004.



**EBRD IRM PROCESS**

27. The complainant was acknowledged by EBRD as eligible. In April 2007 the IRM independent expert conducted a site visit and prepared the Terms of Reference for commenting.

28. The IRM process is intended to help complainants reach an amicable settlement of their problems. However, in August 2007 the BTC Co refused to participate in the process, known as the “Problem Solving Initiative” [PSI], based on the two reasons:

“1. BTC recognizes that compensating for land rights is not finalized as BTC has not fully compensated for servitude rights in relation to the operating period. BTC still intends to revisit the region and make additional payments for these rights. However, BTC cannot finalize compensation until the government of Georgia has reviewed and confirmed land registration rights and determined whether any of the Government’s land registration records needs to be amended or revised. Until that process is complete, BTC risks making multiple or inappropriate payments for the same parcel. For that reason alone, problem-solving initiative is pre-mature.

“2. As you are also aware, 107 Akhali Samgori villagers have brought claims against BTC in the Georgian Court raising issues identical to issues raised in the EBRD complainants. They seek compensation of US\$1.8 million. In fact, two of the EBRD complainants are also claimants in the court case. Although these two claimants submitted withdrawal papers, the Court did not accept the papers and they remain parties in the civil case.<sup>3</sup> The court case is active, with the next hearing scheduled for 11 September 2007. Although EBRD has proposed an attempt to restrict the admissibility of any findings, it would not bind either the courts or the 105 court claimants that would not take part in PSI process. Thus, despite the best intentions of EBRD, it is likely that the summaries would find their way to the court and potentially influence the court’s decision.”

29. Based on BTC Co rejection to participate in PSI, the EBRD IRM “determined that a Problem-solving Initiative should not be initiated due to the fact that that complaint (claiming compensation for, inter alia, the impact of construction work on the village irrigation system, the lack of viability of tree crops and ‘orphan land, excess encroachment, and for servitude rights/Zone 3 restrictions on land use) cannot be de-linked from the ongoing court action or the Government’s ongoing review of the land registration records in the affected area.”

**RESULTS FOR JUNE 2008**

30. As of the time of writing, the cases remain unresolved:

- The people of Akhali Samgori stayed without any compensation until 2008.
- The irrigation system is still damaged.
- The court case with 107 complainants is continued.
- Villagers do not have any information about ongoing review of land registration.
- The Georgian International Oil and Gas Corporation in its letter states they have no information about re-registration and revision process of land registration rights.<sup>4</sup>

**30. Atskuri villagers’ complaint to EBRD IRM**

6 July 2007.

Status: ongoing.

Six complainants from the village Atskuri submitted a claim to EBRD IRM with regard to damages from BTC pipeline.

31. The complainants raised a number of cases relating to inadequate compensation. These included: cases where the company used more land than was estimated (eg people initially received compensation for 1,240 square metres, while in addition 420 square metre was also damaged); problems related to improper compensation of cut trees (less trees in documents than was in reality); problems with orphan land use; and problems which the villagers experienced in 2007 when they were prevented from gaining access to their land by security guards and were thus unable to start sowing in their lands. It should be mentioned that some complainants also raised the issue of vibration damage that previously was raised with IFC ombudsman, however, these claims from the beginning have been rejected as ineligible.

32. According to the latest information BTC Co agreed to participate in PSI, after EBRD IRM Chief Compliance visit on spot. According to the IRM’s Problem-solving Facilitator (letter, 25 March 2008):

“Following constructive meetings held during the week beginning 10 March 2008, with the members of the Affected Group and their Authorised Representatives in Atskuri village and subsequently with representatives of BTC/BP in Tbilisi, in connection with the ‘fact-finding’ stage of the problem-solving Initiative, I can confirm that BP has undertaken to review the complaints

<sup>3</sup> Green Alternative has the papers of withdrawal of these complainants.

<sup>4</sup> Letter from Georgian Oil and Gas Corporation to Green Alternative, 27 November 2007.

where appropriate, and to carry out further investigations as may be warranted with a view to attempting to resolve all of the outstanding issues. Indeed, BP may contact complainants individually with updated position statements and/or offers, as appropriate.”

33. The Problem-solving Completion Report would come out soon and make clear exactly how PSI process goes on and whether the people in Atskuri received compensation for their damaged properties or not.

34. These complaints are just a few of many hundreds that remain outstanding and unresolved.

35. Villagers have not submitted the complaints to the ECGD because the ECGD lacks a grievance mechanism similar to that of the EBRD. Seeking redress through the ECGD is thus not possible.

*June 2008*

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### **Memorandum submitted by British Exporters Association**

Most of the issues raised by the Committee in their paper of 13 May can only be responded to in depth by ECGD who will have the data available to support their answers. However, UK exporters do clearly have an interest in how the debate on this topic develops, and the British Exporters Association would like to make the following points:

The issues raised by the Committee cover much of the same ground as that examined when the Committee last considered this subject in 2003. In that report at paragraph 37, the Committee recognises that “ECGD is a reactive organisation, dependent upon the applications that it receives to determine the shape of its portfolio.” This remains the case and although ECGD can “send out appropriate signals” to exporters to encourage the use of ECGD support for specific types of projects, ultimately the make up of ECGD’s portfolio will reflect the most active export sectors in UK industry.

That being the case, the key questions are those listed under number 3 in the current set of issues raised by the Committee. In summary are ECGD’s processes effective and consistently applied, irrespective of the type of business presented to it? The Government response to the 2003 report concluded: “We would contend that the Business Principles have led to an improvement in the environmental and social impacts of individual projects, particularly the larger ones.”

On renewable energy projects, reference is made in the previous Government response to offering 15 year repayment terms (as offered by US Exim for such projects). If ECGD were to offer such terms it would have to promote this capability specifically into the renewables sector to ensure that potential exporters were aware of the terms on offer. Even then, although the number of renewable energy exports may rise, the percentage of the total value of all exports supported by ECGD attributable to exports of renewable energy, will remain small for the foreseeable future, given the relative value of such projects when compared to the value of the larger civil, defence and aerospace projects which account for the large majority of ECGD’s portfolio.

The Committee refers in its issue number 6, to the possibility of limiting ECGD involvement in fossil fuel and aerospace projects, both currently significant users of ECGD’s services. Leaving aside the obvious commercial considerations and potential impact on the UK economy of such a step, a limit seems illogical, given that fossil fuel projects will have to pass ECGD’s impact tests, as other projects, and (as noted in the Government response to the Committee’s previous report) all relevant aerospace projects will have to meet ICAO standards. Having agreed the standards which must be met, on what grounds could projects which meet those standards reasonably be rejected?

The Committee’s issue number 4 relates to the level of information made available by ECGD on its current and proposed projects, and asks “how can the commercial interests of industry be reconciled with the need for transparency?” From an exporter’s perspective their first challenge is to ensure that their projects pass ECGD’s various screening tests so that ECGD support can be secured. The requirement to provide information for publication should not compromise commercial confidentiality or ECGD’s speed of response to the exporter’s application. It would be regrettable if a move for more transparency were to jeopardise exporters’ willingness to use ECGD support because of their unwillingness to have details of their contracts publicized against either their, or their customers’, wishes.

An additional point that we would bring to the attention of the EAC is that ECGD support for second-hand goods is more limited (in terms of tenor and percentage of support) than for new goods. However, on environmental grounds recycling equipment by selling it on to someone else and so increasing its usage life should be encouraged rather than penalised. Therefore, we feel that the same support should be available from ECGD for second-hand goods as long as all the usual conditions are met and as long as the exporter can prove to ECGD that the equipment life will be as long as the loan offered.

In response to the underlying issue in the EAC enquiry, in members’ experience sustainable development is given a high priority by ECGD.

Any modifications to ECGD's practices should be viewed in the context of the internationally competitive marketplace in which both ECGD and exporters operate. Neither should be put at a competitive disadvantage compared, respectively, to other ECAs and to exporters from competitor countries. Any such changes should be undertaken on a multilateral basis through OECD.

In summary, ECGD has to play the hand which it is dealt by its customers. Trade bodies continue to encourage ECGD to promote its capabilities to a wider audience with the aim of achieving a broader customer base (beyond aerospace and defence) than exists at present.

ECGD should apply its screening processes thoroughly and consistently across all applications, and avoid duplication of comparable processes already in place applicable to aerospace and defence exports.

The interests of the exporter as regards confidentiality and the need for a quick response need to be given due weight when considering how much information on commercial transactions should be released into the public domain.

*20 June 2008*

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### **Memorandum submitted by the Confederation of British Industry (CBI)**

1. The Confederation of British Industry (CBI) is the premier voice of UK business, speaking for around 240,000 companies and 150 trade associations. Our membership stretches across the UK, with businesses from all sectors and of all sizes. Through their worldwide trading activities, UK businesses contribute 25% of UK GDP.

2. The CBI welcomes the opportunity to provide input to the Committee's inquiry into ECGD and sustainable development.

3. We have formed our comments on the issues that are most relevant for business. Some companies and organisations that are members of the CBI will also be making their own submissions so as to give a specific company or sector focus.

#### **OVERVIEW**

4. Business seeks to comply with the comprehensive and often complex requirements related to seeking ECGD support. It does this as part of a responsible approach to meeting sustainable development criteria.

5. British business operates in a global environment and it is vital that the support that ECGD gives should be at least as good as export credit agencies (ECAs) of other countries. Changes to the sustainable development environment in relation to ECAs should be agreed at OECD level, although UK business also faces a competitive disadvantage from competitors supported by non-OECD ECAs.

6. If ECGD were to add further bureaucracy or indeed limit support for aerospace and fossil fuel projects, it would put UK business in those sectors at a competitive disadvantage and it could have a negative impact on the economy.

7. The interests of the exporter as regards confidentiality and the need for a quick response require due weight to be given in considering how much information on private commercial transactions should be released into the public domain.

#### **SUSTAINABLE DEVELOPMENT**

8. Business is committed to ensuring that it conducts its activity in a way that takes full account of sustainability issues. At the very least, responsible business complies with the legal and regulatory framework on environmental, social, labour and human rights duties. Additionally, many companies seek voluntarily to go beyond required minimum standards and implement initiatives that build on these standards. This is especially true for exporters because they will have a particular interest in ensuring that their activity stands up to the intense scrutiny that is often the case in markets where the legal base on sustainability issues is either insufficiently developed or inadequately enforced. CBI is committed to working with member companies and external partners to ensure that sustainable development remains at the heart of wealth creation.

#### **COMPLIANCE WITH ECGD'S SUSTAINABLE DEVELOPMENT CRITERIA**

9. The Government response to the Committee's 2003 report (Seventh Special Report, 2002-03) concluded, "We would contend that the Business Principles have led to an improvement in the environmental and social impacts of individual projects, particularly the larger ones."

10. CBI believes that ECGD's application of sustainable development criteria to its activity—covered in the Department's Business Principles, Case Impact Analysis Process and Sustainable Development Action Plan, for instance—are adequately rigorous and comprehensive.

## DISCLOSURE OF INFORMATION

11. Business believes that the level of information supplied to ECGD is currently sufficient for it to assess whether the support it is being asked to give complies with its Business Principles. Indeed, business is already concerned that it has to devote more resource to comply with ECGD's procedures than with those of other ECAs, for example in France and Germany.

12. Information supplied to ECGD may be commercially confidential but business is faced with the fact that it has no certainty that the information will not be released at some point in time under the Freedom of Information Act. An exporter's requirement to provide information to satisfy ECGD's various screening tests should not compromise commercial confidentiality or ECGD's speed of response to the exporter's application.

13. The Trade and Industry Committee looked in detail at ECGD's anti-bribery and corruption procedures, (see Trade and Industry Committee's Fifth Report of Session 2005–06). ECGD has stated that it will review its anti-bribery and corruption procedures in 2009. Business believes that ECGD now has in place a workable system and that there is no value in looking at these procedures ahead of this review, not least because of the resource implications in undertaking such a review, both for business and ECGD itself.

## FOSSIL FUEL AND AEROSPACE PROJECTS

14. The Committee refers to the possibility of limiting ECGD involvement in fossil fuel and aerospace projects, currently significant users of ECGD's services. This would have serious consequences for businesses located in the UK and could have a negative impact on the UK economy. All fossil fuel projects have to pass ECGD's impact tests, and, as noted in the Government response to the Committee's previous report, all relevant aerospace projects have to meet ICAO standards. Having agreed the standards which must be met, it is unclear on what grounds projects which meet those standards could reasonably be rejected.

15. New aircraft are more fuel efficient than older planes that they replace. Reductions in CO<sub>2</sub> could also be obtained by other measures, for instance Lufthansa Chairman and CEO Wolfgang Mayrhuber said at its AGM this year that "better air traffic control and the Single European Sky are the greatest efficiency-related and environmental project in Europe, but also one that has now been being discussed for 48 years. The time has come to finally implement the project. It would immediately reduce CO<sub>2</sub> emissions by about 12%. The politicians must act."

16. In the context of fossil fuel power generation, the role of new technologies such as clean coal and carbon capture and storage should be recognised. The UK is leading the world in these technologies, which are especially relevant for emerging markets with large fossil fuel reserves.

## RENEWABLE ENERGY

17. In the Committee's previous report (seventh report of Session 2002–03) it recognised that "ECGD is a reactive organisation, dependent upon the applications that it receives to determine the shape of its portfolio" (paragraph 37). This remains the case and although ECGD can "send out appropriate signals" to exporters to encourage the use of ECGD support for specific types of projects, ultimately the make up of ECGD's portfolio will reflect the most active export sectors in UK industry. CBI and other trade bodies continue to encourage ECGD to promote its capabilities to a wider audience with the aim of achieving a broader customer base than exists at present.

18. Other parts of Government are responsible for export promotion. Interestingly, the lead responsibility for export promotion of renewable energy falls to BERR rather than UKTI, though UKTI work closely with BERR on a joint programme of activity.

19. Although the volume of renewable energy exports may rise in the future, the percentage of the total value of all exports supported by ECGD attributable to exports of renewable energy is likely to remain small for the foreseeable future. This is due to: (a) the relatively low unit value of such projects when compared to the value of the larger civil defence and aerospace projects, which account for the majority of ECGD's portfolio, and (b) the nature of the entities that currently tend to develop renewable energy projects (in that they often have access to alternative funding sources and therefore do not have a requirement for ECA-supported export finance).

## THE INTERNATIONAL DIMENSION

20. British business operates in a global environment and it is vital that the support that ECGD provides should be at least as good as export credit agencies of other countries. Changes to the environment in which ECAs operate are best negotiated in the OECD in consultation with the Business and Industry Advisory Committee to the OECD (BIAC). The CBI inputs to BIAC but it is essential that OECD committees consult BIAC in good time and give full information about any proposals so as to ensure a comprehensive business view. However, even then UK business faces a competitive disadvantage compared to business supported by non-OECD export credit agencies.

## ECGD's ROLE

21. ECGD serves a vital role in supporting business success in overseas markets. The CBI believes that ECGD should apply its sustainable development and other rules fairly to all applicants and not seek to limit business or treat certain projects as less of a priority by introducing further criteria.

*June 2008*

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### **Memorandum submitted by the Society of British Aerospace Companies (SBAC)**

1.1 SBAC is the UK's national trade association representing companies supplying civil air transport, aerospace defence, homeland security and space markets. Together with its regional partners, SBAC represents over 2,600 companies across the UK supply chain.

1.2 Aerospace is a globally competitive and successful component of the UK's manufacturing base supporting 276,000 jobs throughout the UK regions. The sector is one of the UK's highest investors in R&D, collectively investing £2.5 billion per annum in innovation and new technology. R&D spend on environmental technology can account for as much as 75% of this total for major aerospace manufacturers.

1.3 SBAC has several members who are customers of the Export Credit Guarantee Department (ECGD) and who are leaders in developing environmental and sustainability improvements. We therefore welcome the opportunity to contribute to the Committee's inquiry on ECGD and Sustainable Development.

## **2. UK AEROSPACE, INTERNATIONAL LEADERS IN SUSTAINABLE AVIATION**

2.1 By providing support to UK aerospace and defence companies, ECGD is supporting one of the UK's most innovative and high-tech sectors. Aerospace is a global sector in which some UK companies export up to 85% of their final equipment. In such a global market, where customers can purchase equipment from other nations with the support of alternative Export Credit Agencies, the competitiveness of both UK operations and the process of applying for ECGD support is an important consideration.

2.2 In addition to providing highly skilled jobs, UK aerospace and defence companies are also international leaders in driving forward sustainability goals and the development of new more efficient technology that will be used by airlines throughout the world.

2.3 In 2005 the UK aviation industry took an international lead in driving forward the development of better sustainability practices with the launch of the world's first sector wide Sustainable Aviation strategy. This strategy commits the UK aviation industry (airlines, airport, aircraft manufacturers and air traffic controllers) to deliver improved sustainability performance against clearly defined targets. For manufacturers, these commitments mean demonstrating continual improvements in the performance of new aircraft entering into service in 2020, by committing to challenging targets set by the Advisory Council on Aeronautics Research in Europe (ACARE) Vision 2020, which seek to reduce CO<sub>2</sub> emissions from aviation by 50%, reduce perceived aircraft noise by 50% and lower NO<sub>x</sub> emissions by 80% from 2000 levels.

2.4 To achieve these goals the industry is investing heavily in the development of new technology and specifically, in technologies that lead to reduced fuel burn and CO<sub>2</sub> emissions. These programmes include:

2.4.1 aerodynamics improvements (improved modelling, laminar flow control technology, etc);

2.4.2 weight reduction (advanced materials such as lightweight alloys and composites, new manufacturing methods, more electric aircraft);

2.4.3 new aircraft concepts (from new tailplanes to entirely new, radical aircraft designs such as the "flying wing" or "lifting body"); and

2.4.4 improved and new engine concepts (from more fuel efficient turbofan engines to new open rotor engines, engines will be designed to reduce both CO<sub>2</sub> and NO<sub>x</sub> emissions)

2.5 Other examples of projects underway in the industry to reduce the impact of aviation on the environment are listed in the following paragraphs.

### *Technology investment programmes leading to improved performance*

2.6 The Environmentally Friendly Engine (EFE) programme, is a five-year, £95 million UK funded programme aimed at delivering significant reductions in CO<sub>2</sub> and NO<sub>x</sub> emissions. Rolls-Royce is leading the consortium of five UK aerospace companies and six universities participating in the project. EFE will produce and run two validation platforms, a gas turbine core and a nacelle/engine vehicle which will be tested in a wind tunnel. The gas turbine core is based on the Rolls-Royce Trent 1000 engine (designed to power the Boeing 787 Dreamliner) however the "hot end" of the engine (combustor and turbine systems) comprises almost entirely new technologies.

2.7 Clean Sky Joint Technology Initiative (JTI) (EU): A €1.6 billion, seven-year project aiming to develop and validate technologies and operating practices that will minimise the environmental impact of air transport whilst ensuring that the competitiveness of Europe's aeronautical industry is maintained. This programme will integrate the results of many earlier research programmes, hence enabling a faster entry into service for new technologies. The Clean Sky JTI is a collaborative project which was launched in Brussels on 5 February 2008.

2.8 The EU and industry-supported Single European Sky Air Traffic Management Research (SESAR): One of the goals in the Sustainable Aviation Strategy is to eliminate up to 12% of aviation's CO<sub>2</sub> emissions through reducing airport and airspace inefficiencies. SBAC would like to see the UK Government exert greater pressure for a restructuring of European air paths and air control systems to enable the full benefits of more efficient point to point travel to be realised.

2.9 Airbus has been working on alternative fuel research, and this February launched alternative aviation fuel trials to investigate the applicability of Gas to Liquid fuel technology in Airbus' aircraft currently in-service. The Airbus A380 became the first commercial aircraft to fly with one of its four Rolls-Royce engines powered by an alternative gas to liquid fuel.

2.10 In a separate trial, 20kW of electrical power, with a by-product of only water, was successfully generated for an A320 using fuel cell technology. At this year's Berlin Air Show, it was announced that fuel cells will be integrated into the A320 design.

2.11 A further Airbus collaboration within the aviation sector has pursued the development of a sustainable second-generation bio-fuel for use in commercial aircraft, which Airbus believes could provide up to 30% of all commercial aviation jet fuel by 2030.

2.12 Wing Optimisation—Aerodynamic optimisation of the wing directly reduces fuel consumption. For this reason, Airbus UK is contributing to new research projects to specifically develop technologies to provide the most eco-efficient wing design and manufacture.

2.13 From an operational viewpoint, UK aerospace and defence has done much to improve its overall environmental footprint in recent years. The widespread adoption of environmental management systems (EMSs) coupled with improved manufacturing techniques and the removal of certain chemicals from manufacturing processes has been highly significant for our industry.

2.14 SBAC's Environmental Working Group (EWG) is keen to encourage the adoption of ISO14001 (the international environmental management systems' standard) throughout the aviation sector and for companies to seek third party certification to this where appropriate. A number of prime contractors are working with their supply chains in this area and offer help and encouragement on this process.

2.15 SBAC members are also in discussion with the Ministry of Defence on the implementation of its Sustainable Procurement programme. Activity has focused on agreeing a "charter" of sustainable procurement principles to be included in all future MoD contracts. Carbon emissions are top of the agenda. Whilst signing up to this process will lead to a reinforcement of many of the good practices already underway in defence manufacture, any additional benefits derived would also apply to defence exports which are supported by ECGD.

### 3. INFORMATION PROVIDED TO ECGD ON SUSTAINABLE DEVELOPMENT

3.1 As customers of ECGD, SBAC's members are very active in driving environmental improvement in their operations and products and in investing significantly in new technologies that reduce the environmental impact of aviation. Information on improved operations is reported publicly, as is much information about the products and technology programmes. In addition, SBAC has been involved in briefing ECGD on the Sustainable Aviation initiatives underway in the industry as part of its stakeholder engagement process.

3.2 The examples of initiatives underway to reduce the impact of aerospace and defence products, contained in this response, have been provided to SBAC by companies that would either indirectly or directly apply for support from ECGD in certain overseas contracts. This type of information is produced in the publicly available Sustainable Aviation strategy reports. It is not clear what additional information, or benefit could be derived from ECGD separately collecting data for specific applications. It would be a duplication that would be cost prohibitive, affect the competitiveness of ECGD and UK industry and would not instigate further research and development over and above that which is already underway. An additional requirement on industry to provide information would impact on the competitiveness of the support ECGD provides and its standing in the eyes of international airlines. Airlines are at liberty to apply for the same support from competitor export credit agencies and to buy (potentially less efficient) equipment from other nations.

3.3 Aerospace and defence projects are very international in nature and some SBAC members tend to export as much as 85% of final assembly equipment. These exports provide highly skilled UK jobs and also provide an opportunity for UK companies to export the most efficient technology on global markets.

3.4 When a UK company is working with an international airline, it is competing with suppliers in other nations. It is a highly competitive market and the complexity of applying for ECGD support can tip the balance in favour of other international aircraft, engine and equipment suppliers.

3.5 SBAC is anxious that the introduction of additional requirements on both industry and ECGD in the process of applying for export support (that is not required in other nations) will affect the competitiveness of UK equipment without delivering any environmental benefits. Such an outcome would impact on the competitiveness of the whole industry and would affect hundreds of supply chain companies throughout the UK regions.

3.6 Changes to the manner in which Export Credit Agencies approach business should be negotiated at an international level, through the OECD and in consultation with the Business Advisory Committee.

#### 4. LIMITING SUPPORT FOR AEROSPACE PRODUCTS WOULD BE COUNTERPRODUCTIVE

4.1 Demand for new more efficient aircraft is projected to grow over the next 20 years. SBAC anticipates that global growth will call for 24,000 new passenger and freighter aircraft. The demand will be not only to accommodate growth, but also to replace older equipment with more efficient, comfortable and lower cost aircraft. Most importantly, up to 95% of the current world fleet will be either replaced or recycled into other airlines, with 8,135 older, aircraft ceasing passenger service, and over 4,000 aircraft recycled back into passenger service to replace much older models.

4.2 In addition, rising oil prices, currently at \$135 a barrel and the demand for reduced emissions is placing pressure on manufacturers to develop a step change in technology that will deliver a revolutionary new aircraft. As already outlined in this response, UK manufacturers are rising to this challenge and investing significant resources in the development of new technologies. New equipment derived from this investment will be sold on the international market.

4.3 It would be counterproductive to make ECGD and thereby UK industry less competitive through both introducing new requirements in ECGD's application process and through restricting the level of support provided to aerospace and defence projects. This would result in making the equipment of UK competitors financially more attractive even if it is less efficient and more environmentally damaging.

#### 5. RATIFICATION OF THE CAPE TOWN TREATY WOULD SUPPORT THE UPTAKE OF NEW MORE EFFICIENT ENVIRONMENTAL TECHNOLOGY

5.1 In the context of encouraging the uptake of more efficient aircraft throughout the globe, SBAC would welcome the support of the Environmental Audit committee in advancing the EU and UK ratification of the Cape Town treaty. This treaty facilitates international financing and leasing of large aeroplanes and engines by establishing a legal framework and rights to protect financiers' interests in aircraft. The aims of the treaty are of benefit to both the aerospace sector and airlines particularly those in less developed countries, who might otherwise find it difficult to raise capital for new, safer and more fuel efficient aircraft.

5.2 The Cape Town Convention was designed to facilitate asset-based financing and leasing of high value mobile equipment. Investment in aircraft has previously been hindered by the variety of approaches by local legal systems to security and title reservation rights, which either do not protect lenders in the event of a default or are unpredictable. This increases the risk profile of some countries and impacts upon the ability of lenders to make finance available and the price at which it is provided.

5.3 The benefits that would arise from ratification are as follows:

1. Reduced risk for lenders who finance aircraft purchases through the provision of a clear legal framework for the recovery of assets.
2. Increased ability of airlines to purchase newer, more environmentally friendly and efficient aircraft.
3. New markets that were previously deemed too risky by financiers will be more accessible.
4. A growth in the market of new aircraft, boosting UK job opportunities.

5.4 The EU is currently preparing a new draft decision on the Convention to be put before the Council of Ministers in Autumn 2008, with a view to completing the process by early 2009. SBAC would welcome swift ratification of this important piece of legislation, so that its full benefits can be realised.

#### 6. AEROSPACE AND DEFENCE INNOVATION BENEFITS OTHER SECTORS OF THE UK ECONOMY

6.1 SBAC would like to draw the attention of the committee to the benefits that a successful, internationally competitive and innovative aerospace and defence industry brings to the UK economy. It has been estimated by Oxford Economics that technology spillovers from aerospace and defence provide a greater benefit to GDP in comparison to other areas of UK manufacturing. It is estimated that for every £100 million invested in aerospace, a benefit to GDP of £70 million per annum is derived, in comparison to manufacturing which initiates a return on investment of £50 million per annum. Some of the spillover

technologies have been developed into equipment in other arenas that provide wider economic benefits, some examples of such technology include Satellite Navigation equipment, flat screen TVs and wind turbine technology.

24 June 2008

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### **Memorandum submitted by the Joint Nature Conservation Committee**

The Joint Nature Conservation Committee (JNCC) is the statutory adviser to Government on UK and international nature conservation, on behalf of the Council for Nature Conservation and the Countryside, the Countryside Council for Wales, Natural England and Scottish Natural Heritage. Its work contributes to maintaining and enriching biological diversity, conserving geological features and sustaining natural systems.

#### **QUESTION 1**

*How effectively does decision making by ECGD take into account sustainable development concerns?*

1.1 The ECGD Business Principles Unit (BPU) is responsible for impact analysis of “cases” presented to ECGD for support. Having worked with the BPU over the last two years, JNCC has had cause and opportunity to review the BPU’s screening processes and observe its attitude to sustainable development issues, in particular in respect of biodiversity.

1.2 Key features of ECGD’s Case Impact Analysis Process are:

- i. the consistency with international standards, in particular those employed by the World Bank, ensures best practice and an analytical process that is comparable to that employed by other export credit agencies;
- ii. there is a clear statement that ECGD will take into account the UK Government’s sustainable development commitments, including the global target to reduce the rate of biodiversity loss by 2010;
- iii. the policy is to engage with the exporter/developer to raise project standards when necessary;
- iv. when the exporter/developer agrees to meet standards covenants, reporting and monitoring may be required.

1.3 JNCC believes that ECGD has in place a potentially effective process for taking account of sustainable development in case impact assessments. However, full integration of sustainable development principles into ECGD’s work remains to be achieved. In this respect, ECGD is in a similar position to many other Government organisations. Further integration will be dependent on the intended review of the Case Impact Analysis Process and effective implementation of ECGD’s 2007 Sustainable Development Action Plan.

1.4 Specific enhancements that JNCC would like to see made to the Case Impact Analysis Process include explicit recognition of the importance of biodiversity impact analysis and a greater commitment to consult global or local bodies which either have expertise or a stake in project outcomes.

*What evidence is there that sustainable development is treated as a priority?*

1.5 See 1.2 and 1.3 above.

*Where should sustainable development rank in ECGD’s priorities?*

1.6 JNCC believes that sustainable development should be at the heart of the ECGD case assessment process. ECGD supports only 2% of the UK’s annual exports<sup>5</sup> but this support is typically for large projects involving other export credit agencies and financial institutions. ECGD involvement in such projects provides an opportunity to influence a range of national and global organisations by demonstrating best practice. To be consistent with the UK Government’s sustainable development strategy, ECGD should be seen to be setting high standards for sustainable development.

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<sup>5</sup> ECGD 2007 Sustainable Action Plan



*How successfully is Government policy on sustainable development communicated to ECGD and implemented in its work?*

1.7 ECGD's Sustainable Development Action Plan fully recognises the UK Government's sustainable development objectives but this plan remains to be fully implemented.

## QUESTION 2

*Do ECGD's Business Principles make adequate provision for sustainable development?*

2.1 One of ECGD's Business Principles refers to sustainable development:

*"We will promote a responsible approach to business and will ensure our activities take into account the Government's international policies, including those on sustainable development, environment, human rights, good governance and trade."*

2.2 JNCC's view is that this provides a sufficiently strong and explicit basis for integrating sustainable development into all aspects of ECGD's work. However, making adequate provision for sustainable development within any business or government body does not solely involve the organisation developing policy and taking action in respect of its own activities nor can it be limited to policies/action solely in respect of its own customers. Such provision requires wider involvement with stakeholders. As noted in 1.6 above, ECGD involvement in global projects provides an opportunity, which we urge ECGD to take, to influence a range of national and global organisations, including project proponents, other export credit agencies and financial institutions and local stakeholders, by demonstrating best practice. In this respect, another of ECGD's Business Principles is relevant:

*"We will, in developing our services, consult widely and take account of the legitimate requirements and expectations of our customers and other interested parties."*

*What evidence is there that the Business Principles are carried through into practice, and cover all aspects of ECGD's work?*

2.3 See our response to question 1 above.

*Does the ECGD have any targets for sustainable development and what form should these targets take?*

2.4 ECGD's Sustainable Development Action Plan includes a set of action points and associated measures relating to improving organisational performance on sustainable development. In relation to integrating sustainable development into ECGD's business, there are four key actions:

- *Progress SD standards on a multilateral basis.* This is critical to spread best practice beyond the UK.
- *Consider SD on a project-by-project basis.* This will ensure thorough analysis of individual projects.
- *Review ECGD's Case Impact Analysis Process.* This is important for integrating sustainable development issues into processes and to ensure ongoing improvements in performance.
- *Communicate progress on SDAP actions.* The communication of progress in implementing the Action Plan will be essential for ECGD to demonstrate it is using best practice.

## QUESTION 3

3.1 Our general observations on ECGD's assessment procedures are summarised in our response to question 1 above. Specific comments in relation to the Sakhalin II gas development are given below.

*How satisfactory are the case screening procedures and impact assessments carried out by ECGD?*

3.2 In the case of the Sakhalin II gas development, ECGD supplied JNCC with all available documents relating to potential environmental impact. JNCC examined these and commented on their quality (generally good, but with some shortcomings). These shortcomings were evident to others involved in the evaluation of the project and the issues were addressed. It was difficult to know the proportionate effect of ECGD's representations to the company compared with those of others, but JNCC believes that ECGD did have an effect.

*Do environmental and social concerns receive appropriate consideration in these assessments?*

3.3 In the experience of JNCC, both environmental and social concerns were considered appropriately in relation to the Sakhalin II development.

*Are the environmental assessment procedures accurate and consistent?*

3.4 The procedures followed in the Sakhalin II case seemed accurate and consistent.

*What evidence is there that the results of impact assessments have a significant bearing on ECGD decisions?*

3.5 In the case of the Sakhalin II development, the quality of the initial impact assessment delayed an ECGD (and the EU equivalent) decision to support the project until various features of the assessment were corrected. Decisions subsequent to this were appropriate.

#### QUESTION 4

*How satisfactory is the level of information disclosed by ECGD about existing projects and projects under consideration?*

4.1 JNCC is aware that ECGD has been criticised for not adequately disclosing information in relation to its decision-making processes, including environmental impact assessment information. We understand that commercial considerations make full disclosure difficult or in some cases impossible but we believe that this constraint should not be used as a reason to avoid maximising information disclosure. JNCC believes that current levels of disclosure by ECGD are not sufficient to avoid criticism of its procedures.

4.2 The level of information provided to JNCC by ECGD on the Sakhalin II development was very satisfactory.

*What information should be disclosed, and how and where should this information be made available?*

4.3 JNCC believes that adequate information disclosure is essential in the context of project impact assessment and decision-making. Disclosure of information *after* impact assessment and after decisions have been made is not adequate. We recommend that the following principles should apply to information disclosure by ECGD:

- i. ECGD should adopt a policy of maximum information disclosure in respect of project assessment and subsequent decision-making. This policy should make it clear under what circumstances information cannot be disclosed;
- ii. the policy should stress early disclosure of all relevant information to ensure interested stakeholders (project proponents, financial institutions, other export credit agencies and local parties) are aware of the range of information being used and have an opportunity to contribute additional information;
- iii. on completion of an environmental impact assessment, the full assessment, and other documents, should be made available prior to making decisions;
- iv. post-decision, monitoring and reporting should be sufficient to ensure impacts and any remedial measures can be tracked.

*How can the commercial interests of industry be reconciled with the need for transparency?*

4.4 JNCC accepts that ECGD has an important role in supporting UK industry in its export activities, and that it will be required to respect commercial confidentiality in the context of some projects. However, the department needs to ensure a balance is achieved between supporting the commercial interests of UK exporters and ensuring that this support does not conflict with UK Government objectives in respect of sustainable development. Integrating sustainable development into the work of ECGD will require clear principles to be established to avoid such a conflict and must make explicit when and why information will be withheld. Clear policy and guidelines will be essential to avoid future criticism of the department and ensure that ECGD can promote best practice within its own work and within the wider export credit agency community.

#### QUESTION 5

*How effective is ECGD's "constructive engagement" approach?*

5.1 JNCC has been collaborating with ECGD's BPU over the last two years to help the department gain access to biodiversity-specific information that can be used to assess project impacts. In the course of this collaboration ECGD has taken a constructive approach to using biodiversity information for its own project assessment and promoting wider use of this information through the OECD.

*Are ECGD's standards in line with international standards?*

5.2 See 1.2.i above.

#### QUESTION 7

*What impact has the OECD (Organisation for Economic Co-ordination and Development) had on making sustainable development a priority for Export Credit Agencies?*

7.1 As noted in 5.1 above, ECGD has taken a positive approach to using the OECD as a means to encourage consistent use by export credit agencies of relevant environmental information. JNCC believes that the OECD provides a good forum through which to encourage use of consistent and openly available data sets for project screening. Such use will significantly contribute to consistent and open decision-making by the global community of export credit agencies. It is important that the ECGD continues to encourage and collaborate with the OECD to promote this approach.

7.2 JNCC's experience of collaboration with ECGD indicates that the department takes environmental and sustainable development issues seriously, and is committed to improving standards within its own work and globally. It is important that this momentum for integrating sustainable development issues into its own and others' work continues.

19 June 2008

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#### Memorandum submitted by OECD

Question 7: *What impact has the OECD (Organisation for Economic Co-ordination and Development) had on making sustainable development a priority for Export Credit Agencies? What more could it be doing? Can we be satisfied that ECGD represents best practice and is pushing for higher standards on the world stage?*

1. Sustainable development is an issue addressed widely throughout the Organisation for Economic Co-Operation and Development (OECD); it encompasses OECD Members' policies and practices for providing official export credits and has led to collective agreements, some in the form of OECD Recommendations<sup>6</sup>.

#### I. ENVIRONMENT

2. In 2007, the OECD Council adopted a Revised Recommendation on Common Approaches on the Environment and Officially Supported Export Credits<sup>7</sup> to take into account the potential environmental impact of projects that may be the subject of official export credits. The Recommendation is part of the OECD *Acquis*.

##### (a) Background:

3. In 1998, the Members of the OECD's Working Party on Export Credits and Credit Guarantees (ECG) agreed a Statement of Intent on Export Credits and the Environment,<sup>8</sup> reflecting the desire of Members to strengthen consideration of the potential environmental impact of projects during the risk-assessment phase for official export credit support.

4. In 1999, ECG Members decided to strengthen their exchange of information process for large projects located in sensitive sectors.<sup>9</sup>

5. In 2000, ECG Members continued their cooperation efforts through the adoption of an Action Statement<sup>10</sup> which aimed, *inter alia*, to develop a framework of Common Approaches and to exchange information with interested stakeholders.

6. In 2001, a draft OECD Recommendation<sup>11</sup> which set out common approaches to reviewing export projects for their potential environmental impacts, was implemented voluntarily by most ECG Members.

7. In 2003, ECG Members negotiated an OECD Recommendation which was adopted by the OECD Council in December 2003;<sup>12</sup> responses to a survey to map Members' implementation of the Recommendation have been made publicly available *via* the OECD web site.

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<sup>6</sup> An OECD Recommendation is legally non-binding, it expresses the common position or will of the whole OECD membership and, therefore, may entail important political commitment for Member governments.

<sup>7</sup> [http://www.oecd.org/olis/2007doc.nsf/linkto/tad-ecg\(2007\)9](http://www.oecd.org/olis/2007doc.nsf/linkto/tad-ecg(2007)9)

<sup>8</sup> [http://www.oecd.org/document/15/0,3343,en\\_2649\\_34181\\_1888847\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/15/0,3343,en_2649_34181_1888847_1_1_1_1,00.html)

<sup>9</sup> [http://www.oecd.org/document/49/0,3343,en\\_2649\\_34181\\_1888817\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/49/0,3343,en_2649_34181_1888817_1_1_1_1,00.html)

<sup>10</sup> [http://www.oecd.org/document/21/0,3343,en\\_2649\\_34181\\_1888341\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/21/0,3343,en_2649_34181_1888341_1_1_1_1,00.html)

<sup>11</sup> [http://webdomino1.oecd.org/olis/2000doc.nsf/Linkto/td-ecg\(2000\)11-rev6](http://webdomino1.oecd.org/olis/2000doc.nsf/Linkto/td-ecg(2000)11-rev6)

<sup>12</sup> <http://www.oecd.org/dataoecd/26/33/21684464.pdf>

8. In 2006, ECG Members reviewed the 2003 OECD Recommendation in light of experience, with input from CSOs (including the OECD Business and Industry Advisory Committee, the OECD Trade Union Advisory Committee and NGOs) as well as the EBRD, the IFC, the World Bank and UNEP.

9. In mid-2007, a revised Recommendation was adopted by the OECD Council; it sets out strengthened environment-related requirements for export transactions to qualify for official export credits. Responses to a survey to map Members' implementation of the 2007 Recommendations will be made publicly available *via* the OECD web site.

## II. BRIBERY

10. In 2006, the OECD Council adopted a Recommendation on Bribery and Officially Supported Export Credits<sup>13</sup> to deter bribery in transactions that may be the subject of official export credits. The Recommendation is part of the OECD *Acquis*.

### (a) Background:

11. Under the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions<sup>14</sup> and its related instruments, governments are obliged to take action to deter and sanction bribery of foreign public officials in international business transactions supported by official export credits.

12. Since 2000, the Convention has been complemented by specific common undertakings for official export credits agreed by ECG Members and set out in their 2000 Action Statement on Bribery and Officially Supported Export Credits.<sup>15</sup> Responses to a survey to map Members' implementation of the Action Statement have been made publicly available *via* the OECD web site.

13. In 2006, based upon experience in implementing the Action Statement and informed by the Phase II reviews under the OECD Convention and input from CSOs (including Transparency International), the ECG strengthened the Action Statement, which was subsequently adopted as an OECD Recommendation by the Council at the end of 2006. Responses to a survey to map Members' implementation of the 2006 Recommendations have been made publicly available *via* the OECD web site.

## III. SUSTAINABLE LENDING

14. In 2000, the ECG adopted a Statement of Principles on Unproductive Expenditure to Heavily Indebted Poor Countries (HIPC),<sup>16</sup> the intent of which was to support low-income countries in their efforts to achieve the Millennium Development Goals (MDGs) without creating future debt problems. Additionally, in 2008, the ECG adopted Principles and Guidelines to Promote Sustainable Lending Practices in the Provision of Official Export Credits to Low-Income Countries,<sup>17</sup> in support of the World Bank and the International Monetary Fund Debt Sustainability Framework for Low-Income Countries (DSF).

### (A) BACKGROUND

15. Insofar as official export credits may contribute to a country's overall debt burden, the ECG agreed in 2000 that such credits should not be provided for unproductive expenditure to the HIPC, later extended to IDA-only countries. The term "unproductive expenditure" refers to transactions that are not consistent with these countries' poverty reduction and debt sustainability strategies and do not contribute to their social and/or economic development.

16. In 2007, the ECG considered ways to support the IMF and World Bank's Debt Sustainability Framework for Low-Income Countries (DSF), with the aim of avoiding a renewed build-up of debt following substantial debt relief provided under the HIPC Initiative and the Multilateral Debt Relief Initiative (MDRI), and of adhering to sustainable and transparent lending practices to low-income countries.

17. Subsequently, at the beginning of 2008, the ECG concluded the agreement on Principles and Guidelines to ensure that the provision of official export credits to public and publicly guaranteed buyers in low-income countries reflect lending that supports a borrowing country's economic and social progress, without endangering its financial future and long-term development prospects.

<sup>13</sup> [http://webdomino1.oecd.org/olis/2006doc.nsf/Linkto/td-ecg\(2006\)24](http://webdomino1.oecd.org/olis/2006doc.nsf/Linkto/td-ecg(2006)24)

<sup>14</sup> <http://www.oecd.org/dataoecd/4/18/38028044.pdf>

<sup>15</sup> [http://www.olis.oecd.org/olis/2000doc.nsf/LinkTo/td-ecg\(2000\)15](http://www.olis.oecd.org/olis/2000doc.nsf/LinkTo/td-ecg(2000)15)

<sup>16</sup> [http://www.oecd.org/document/27/0,3343,en\\_2649\\_34179\\_2675739\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/27/0,3343,en_2649_34179_2675739_1_1_1_1,00.html)

<sup>17</sup> <http://www.oecd.org/tad/xcred/sustainablelending/>

18. In order to assess their progress towards ensuring that official export credits to HIPC and IDA-only countries are not provided for unproductive purposes, ECG Members report and review, on an annual basis, transactions supported to these countries; the related data are, and will continue to be, made publicly available *via* the OECD website.

20 June 2008

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### **Memorandum submitted by The United Kingdom Delegation to the Organisation for Economic Cooperation and Development (OECD)**

#### **RELEVANCE TO THE INQUIRY**

The United Kingdom Delegation is responsible for supporting UK government departments in the pursuit of their interests at the OECD. This includes the Export Credits Guarantee Department in the context of the OECD's broad agenda on export credits. One part of this agenda relates to environment and sustainable development. Item seven of the Committee's list of issues on which they are seeking particular input is focussed specifically on the OECD's role in this regard.

#### **SCOPE OF THE MEMORANDUM**

This Memorandum provides evidence with regard to the role of ECGD in OECD export credits work, and how the OECD's work on export credits is viewed by OECD members more broadly.

#### **ECGD'S ROLE AT THE OECD**

Export credits work at the OECD takes place in the Working Party on Export Credits and Credit Guarantees, the Arrangement on Officially Supported Export Credits, and various technical subgroups. ECGD takes a full and active part in all aspects of this work, including in those discussions relevant to environmental and sustainable development issues. ECGD's own Memorandum sets out in more detail some specific instances in which it has sought to shape and influence the export credits agenda at the OECD on these issues. The UK Delegation can support those assessments. In particular, it should be borne in mind that the OECD works on the basis of consensus. It is not therefore always possible for ECGD to achieve what it is seeking as rapidly as it would wish on matters of interest to this Inquiry. However, the Delegation can confirm that the UK is viewed as a leading player in OECD fora on export credits.

#### **VIEW OF OECD MEMBERS OF OECD WORK ON EXPORT CREDITS**

The OECD's main tool for assessing the quality and impact of its work is its Programme Implementation Report. This consists of the major survey carried out every two years. All 30 OECD member states are asked to rate specific outputs on a scale of one to five (five is highest) for both quality and impact. The last such survey covered the period 2005–06. Export credits work scored particularly highly. The average for quality of its outputs was 4.09 in 2005 and 4.11 in 2006 (average for all OECD outputs in those periods was 3.73 and 3.74 respectively). For impact, export credits scored 4.00 in 2005 and 3.96 in 2006 (OECD average 3.42 and 3.45 respectively). These ratings are significantly above the OECD average, and reflect a broad view of OECD members. The ratings are unfortunately not broken down sufficiently to be able to identify the issues of specific interest to the Inquiry.

20 June 2008

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### **Memorandum submitted by PLATFORM and Kurdish Human Rights Project (KHRP)**

1. PLATFORM and the Kurdish Human Rights Project have been monitoring the Baku-Tbilisi-Ceyhan pipeline project since 2002, evaluating social and environmental impacts, contribution to sustainable development and compliance with international standards set out by the financial institutions involved, including the ECGD.

PLATFORM & KHRP would like to focus on responding to this subset of questions in section (5) of the Committee's remit:

- How effective is ECGD's "constructive engagement" approach?
- What evidence do we have that ECGD intervenes on environmental or social grounds as a matter of priority?
- Are ECGD's standards in line with international standards?

## SUMMARY

2. Following participation in Fact Finding Missions to the Baku-Tbilisi-Ceyhan pipeline, PLATFORM and KHRP have major concerns over the effectiveness of the ECGD's "constructive engagement" approach. Further, although the ECGD committed to ensuring the BTC project would be in line with World Bank standards and met the standards laid out in the project's Environmental and Social Action Plan, the reality is that four years after the ECGD provided financial support, compensation issues related to resettlement remain unresolved and the reinstatement process has not been completed adequately, in violation of the standards set out.

## THE BAKU-TBILISI-CEYHAN PIPELINE

3. In December 2003, the ECGD agreed to provide cover for a USD\$150 million line of credit to finance UK contractors involved in the Baku Tbilisi Ceyhan Pipeline Project. The BTC pipeline runs from Azerbaijan through Georgia and Turkey to the Mediterranean, and was constructed by the Baku Tbilisi Ceyhan Pipeline Company (BTC Co)—a consortium led by BP plc. Construction was completed in 2006, with the pipeline's official launch in July 2006.

## INTERNATIONAL STANDARDS

4. In the ECGD's Note of Decision dated 17 December 2003, it stated that "Host governments will benefit from the establishment of high quality operations to international standards." The same Note identified the international standards used to determine the acceptability of the impacts of the Project as those of the World Bank Group (WBG) including the International Finance Corporation (IFC). In particular, the Note referenced the World Bank's Operational Directive 4.30 on Involuntary Resettlement (June 1990).

5. Further, the ECGD's cover for BTC was subject to prior approval of the Project's Environmental and Social Action Plan (ESAP). The ESAP was also written into the ECGD's contract with BTC Co—failure to implement the ESAP places BTC Co in default of the ECGD's credit line.

## ONGOING VIOLATIONS OF STANDARDS

*Compensation*

6. In December 2003 KHRP lodged an application with the European Court of Human Rights (ECtHR) on behalf of 40 villagers whose land was affected by the pipeline. Some of the Applicants, especially the women, contended that they had not been consulted at all, others contended that they were not consulted properly about the expropriation and the amount of compensation. They further submitted that the consultations took place in Turkish, which they either did not understand or understood insufficiently as their mother tongue is Kurdish. The Applicants also alleged that meetings often took place next to police or Gendarmerie stations which had an intimidating effect on them. Some of the Applicants had not received the compensation due to them and those who had received compensation submitted that the amount paid was well below the market price for the land. Some of the Applicants were told that if they went to court they would receive even less compensation. The Applicants also submitted that their remaining land was no longer arable. They claimed that they had not been informed about the potential dangers that a pipeline built close to their land and homes would entail. The Applicants submitted that these circumstances constituted violations of Articles 6, 8, 13, 14 and Article 1 of Protocol 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

7. The ECtHR subsequently found the application inadmissible. Although no reasons were given for this decision, it can be assumed that the decision was made on procedural (ie failure to exhaust domestic remedies) as opposed to substantive grounds. This decision can by no means be considered to be an endorsement by the ECtHR of the compensation procedure. This is particularly so in light of the absence of any reasoned judgment or assessment of the merits.

8. KHRP is of the view that based on the information currently available (including the information outlined at paragraphs 11 and 14 below) there continue to be widespread violations of the European Convention for the Protection of Human Rights and Fundamental Freedoms arising from the construction and operation of the pipeline.

9. The WBG OD 4.30 on Involuntary Resettlement from 1990 states in Paragraph 3(b)(i) that where resettlement takes place, those concerned should be "compensated for their losses at full replacement cost prior to the actual move". The more recent revised IFC Performance Standards published in 2006 also state that "cash compensation will be made available prior to relocation" (IFC PS 5.16). Finally, the project's own ESAP—referenced in the ECGD's contract—sets out in R18 that "Compensation payments for crops will be paid [. . .] prior to land entry".

10. However, the reality in communities affected by the BTC pipeline is that three years after project financing and one year after construction completion, many claims for compensation remained unresolved, in violation of the original Operational Directive 4.30, the revised Performance Standard 5.16 and ESAP R18.

11. A Fact Finding Mission conducted by PLATFORM along the Turkish section of the pipeline route in May and June 2007 heard widespread concerns and complaints about a failure to compensate fully or adequately. Findings included that:

- Villagers in Yaylaci, Kemerli, Kevenli, Adamfaki, Nasir, Tekekoy, Kurtulpinar and Derekoy had not received sufficient or, in some cases, indeed any compensation.
- In some villages, including Nasir, residents received money for some fields already expropriated but not for others.
- In Adamfaki, compensation was not paid out for land on which a pressure station had been sited or for fields that a pipeline access road had segmented into pieces too small to be usable.
- People felt that BTC Co was shirking its responsibility to resolve compensation issues. A number of villagers reported having made repeated applications to the pipeline operator, with no luck. When contacted, the company claimed it had paid everybody their compensation, even where payments were made to the wrong people. The company claimed it no longer held responsibility and argued that these issues should be sorted out between individuals.

In some cases, villagers had attempted to take their cases to court, but felt that the process had not succeeded in resolving the outstanding issues.

### *Reinstatement*

12. BTC Co did not commit to any standards on the extent or level to which land would be reinstated after pipeline burial, prior to returning it to previous landowners or tenants for use. This lack of a commitment to a consistent and thorough level of reinstatement along the route has enabled BTC Co to leave many fields in a worse situation than previously, impacted by soil erosion, water accumulation and high levels of rocks.

13. However, BTC Co did commit that “After completion of the reinstatement work a ‘Reinstatement Confirmation’ must be prepared and signed by the landowner or user” [R41 of the Resettlement Action Plan—part of BTC’s Environmental and Social Action Plan].

14. Yet this process appears to have been deeply flawed. Some villagers were never asked to sign, others were tricked into signing. Many refused to sign for legitimate concerns over failures in reinstatement, yet have not heard back since. Findings by PLATFORM’s 2007 Fact Finding mission in Yumurtalik, Osmaniye, Sivas, Imranle and Ardahan Districts included that:

- Villagers in Kesik, Kurtulpinar and Calabas explained that they were never asked to sign the reinstatement documents.
- In Yesilova, the mayor reported that “We didn’t sign the [reinstatement] papers when asked to, because of the rocks.” Further comments implied that a majority of those affected refused to sign.
- In Andirin, a number of those affected didn’t sign the land papers, again due to the stones continuing to litter the affected fields.
- In Mehmetbey, the papers weren’t signed due to water accumulation problems. BTC came to ask for the signature two years previously, and had not come back since.
- In Derekoy, BTC asked villagers to sign, but they refused. BTC returned and moved some (but not all) of the stones. Villagers were asked to sign again, but instead proposed that if BTC Co fixed the village streets, they would clean their fields themselves and sign the documents. BTC refused.
- In Adamfaki, several villagers refused to sign, primarily due to the rocks. A villager, Idris A, also raised a contradiction in BTC Co’s practices. To receive land compensation for a field with multiple owners, signatures of all owners were required. However, when it came to signing off on reinstatement, one owner could sign on behalf of the others.
- In both Nasir and Adamfaki, the mayor and local residents said they had been tricked into signing the reinstatement papers. In September 2006, BTC Co told land-owners that this was part of the process of receiving money. But in reality, the papers merely described satisfaction with the level of reinstatement.

### **CONCLUSION**

15. The ECGD claims that it evaluated the Baku-Tbilisi-Ceyhan project according to specified World Bank standards. Further, the ECGD’s support for the pipeline was tied to implementation of the Environmental and Social Action Plan. However, years after financing, PLATFORM’s 2007 on-the-ground findings show the project has not yet resolved issues around compensation and sign-off on reinstatement, in violation of both World Bank standards and the Action Plan.

16. This leads us to conclude that there are serious flaws in ECGD's [odq]constructive engagement[cdq] approach, in that the ECGD is either unwilling or unable to rectify such failures. Further, it indicated that the ECGD is not prioritising intervention on environmental and social grounds, and that the ECGD is not ensuring that the projects it supports meet international standards.

20 June 2008

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### **Memorandum submitted by The World Bank**

1. The ECGD has played a key role in the progress made over the last two years in increasing awareness of the issue of sustainable lending among export credit agencies.

2. The ECGD and the UK Treasury were quick to point out that, in the post-MDRI period, there was a need to consider and possibly strengthen guidelines for lending to Low Income Countries (LICs) to ensure that this was done responsibly rather than rely on self-regulation.

3. Among the efforts ECGD made to push for higher standards, include rallying other supportive chairs in the OECD ECG and catalysing the Bank's involvement in the ECG discussions. The ECGD also took the initiative to host and lead a Responsible Lending workshop in Paris on 31 May 2006. For that workshop, all interested OECD members were invited and the Bank and IMF were provided the opportunity to make presentations on the Bank/Fund Debt Sustainability Framework. As part of the workshop there were break-out groups to discuss how to make the DSF more accessible, and how to strengthen data sharing. As a result of the workshop the Bank and IMF developed dedicated webpages to share information on LIC DSAs as well as Bank and IMF concessionality policies.

4. The workshop led to further work by the UK, Netherlands, Sweden and Italy to develop proposals to strengthen OECD rules on sustainable lending. These went through various iterations and were presented to the ECG in November 2006, April 2007 and July 2007. The UK and its allies in this effort worked closely with the Bank and the Fund to ensure that the guidelines closely reflected the Bank and IMF policies.

5. The ECGD has also developed a set of internal guidelines that determine when ECGD will lend to LICs, which it has presented to the OECD ECG, as an example of procedures that other ECAs could follow to promote sustainable development.

6. As a result of the ECGD's championship of this issue, its partnership with the Netherlands, and the rallying of other supporters, a number of measures were taken by the OECD ECG:

- The April 2007 ECG meeting the OECD ECG agreed to reinstate a streamlined version of reporting of commitment data on lending to IDA-only countries, and to share this information with the Bank and IMF to help supplement debtor information in the DSAs.
- In July 2007 the ECG agreed to extend the statement of principles on unproductive expenditures from the group of HIPC countries to all IDA-only low income countries.
- In January 2008 the OECD Export Credit Group adopted a new set of Principles and Guidelines to Promote Sustainable Lending Practices in the Provision of Official Export Credits to Low-Income Countries, subsuming the Statement of Principles. The guidelines inter alia help ensure policy coherence with the World Bank/IMF Debt Sustainability Framework (DSF), and the adherence by OECD ECAs to the concessionality requirements of the Bank and the IMF. A key clause of the agreement is as follows "ECG Members agree that the provision of official export credits to public and publicly guaranteed buyers in LICs should reflect Sustainable Lending practices, ie lending that supports a borrowing country's economic and social progress without endangering its financial future and long-term development prospects. In consequence, such lending should, inter alia, generate net positive economic returns, foster sustainable development by avoiding unproductive expenditures, preserve debt sustainability and support good governance and transparency."

20 June 2008

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### **Supplementary memorandum submitted by WWF-UK**

We are writing to welcome the announcement made by Phil Woolas, Minister for Environment, Food and Rural Affairs, to the Climate Change Bill Committee that the Export Credits Guarantee Department (ECGD) will voluntarily report on the emissions associated with the high and medium impact projects it supports. This announcement was in response to an amendment to the Climate Change Bill tabled by the Conservative MP Nick Hurd and supported by Elliot Morley (Lab) and Malcolm Bruce (Lib Dem) which would have required ECGD to report on the emissions associated with its high and medium impact projects.



This announcement represents a welcome change of heart by ECGD on the issue of emissions reporting.<sup>18</sup> However, we have a number of concerns about the limits placed on this voluntary reporting. Firstly, the likely largest emitting sector of ECGD supported projects is aerospace, dominated by Airbus contracts. As aerospace is not included in ECGD's Case Impact Analysis Process it does not receive a high or medium impact rating. Aerospace therefore falls outside the group of projects that would be reported on. Given the very high climate impact of air transportation it is a great oversight not to include this sector in ECGD's reporting commitment. As Airbus already collect and publish emissions information on its planes, we do not feel that collecting and publishing this data would present an onerous burden to either ECGD or the main client in this sector.

Second, the reporting commitment stated that ECGD would collect and publish information on its high and medium impact projects but subject to certain thresholds. Although the OECD "Recommendation on Common Approaches on Environment and Officially Supported Export Credits" allows the threshold of SDR 10 million for categorisation to determine requisite environmental assessments, ECGD does not implement this threshold. ECGD rightly chooses to assess all projects, regardless of the value of the facility provided, for their environmental impacts.<sup>19</sup> We see no reason why ECGD should therefore choose to apply a threshold purely for emissions assessments.

Third, depending on how faithful an interpretation will be used, the IFC threshold is problematic. Regarding the size of projects, we would advocate that all projects should be included regardless of the amount of emissions they produce. To achieve an accurate representation of the emissions ECGD supports no projects should be excluded. More importantly however, the footnote to this clause in the IFC documentation states "*The threshold for this Performance Standard is 100,000 tons CO<sub>2</sub> equivalent per year for the aggregate emissions of direct sources and indirect sources associated with purchased electricity for own consumption. This or similar thresholds will apply to such industry sectors or activities as energy, transport, heavy industry, agriculture, forestry, and waste management in order to help promote awareness and reduction of emissions.*"<sup>20</sup>

The IFC standard is designed for the purpose of pollution prevention and abatement by the project operator (client) not as appropriate methodological guidance for financial institutions reporting their emissions. A full account of indirect emissions associated with a project includes not just those from purchased electricity for the project but also end use emissions of products from extraction, production and transportation, particularly of fossil fuels. The requirements of the proposed amendment, which this voluntary reporting should at least satisfy, did not limit indirect emissions in the way the IFC standard outlines. We would expect ECGD to therefore report on all emissions, both direct and indirect, that it facilitates through the projects it supports.

The rationale for reporting emissions is to accurately assess the emissions associated with ECGD's portfolio. To omit any of the above categories or sectors would undermine this purpose.

We therefore hope you will revise the reporting commitment accordingly to ensure best practice is adopted and an appropriate example is set for all export credit agencies.

16 July 2008

<sup>18</sup> In the Export Guarantees Advisory Council Meeting, 18 February 2008, the following was minuted "3.2 . . . Mr Crawford said that, in the absence of a relevant Government policy, ECGD's stance was that the responsibility for reporting carbon footprint belonged to project owners, not ECAs or debt providers.

3.3 Mr Crawford told the Council that a proposal had been made in the House of Lords to amend ECGD's Act, through an opposition amendment to the proposed Climate Change Bill currently being considered by Parliament, which would require ECGD to monitor and report the carbon footprint of the businesses that benefited from ECGD support. The Government intended to resist the amendment.

<sup>19</sup> NAO (2008) *ECGD and Sustainability* "In 2004 and 2007, the OECD conducted surveys of ECAs to assess how well they were implementing the Common Approaches . . . unlike some other ECAs, it [ECGD] does not make use of the threshold available under the Common Approaches to exclude from screening requirements projects below a minimum liability of SDR 10 million. Indeed, the Common Approaches represents a minimum set of standards which a number of ECAs, including ECGD, already exceed."

<sup>20</sup> IFC Performance Standard 3 Pollution Prevention and Abatement, April 2006.  
[http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol\\_PerformanceStandards2006\\_PS3/\\$FILE/PS\\_3\\_PollutionPreventionAbatement.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_PS3/$FILE/PS_3_PollutionPreventionAbatement.pdf)

### **Memorandum submitted by Jubilee Debt Campaign**

I write with reference to the evidence given by Mr Patrick Crawford, Chief Executive, and Mr Steve Dodgson, Business Director, ECGD, to the Committee on 16 July.

The ECGD representatives made several references to debt sustainability and the Debt Sustainability Analysis (DSA) of the World Bank/ IMF in their evidence, in response to questions about sustainable development criteria. Jubilee Debt Campaign is concerned that the DSA may have been understood as in some way answering the need for the ECGD to apply sustainable development criteria in its policies and practices. In this brief note we therefore seek to provide some clarity on the nature and purpose of the DSA, which we hope will be of help in the compilation of the Committee's report and recommendations. We are not commenting here on the ECGD's other Business Principles or any other aspect of the ECGD's involvement in poor countries, but limiting our comments to the Debt Sustainability Analysis.

#### **WHAT IS THE DEBT SUSTAINABILITY ANALYSIS?**

The World Bank and IMF introduced the DSA in 2005, in response to concerns from some bilateral lenders, and amongst the multilateral institutions themselves, about the re-accumulation of debt by poor countries, especially those that had received some debt cancellation through the Heavily Indebted Poor Countries Initiative. The DSA looks at various fiscal criteria in a country and classifies it accordingly. This classification then informs the kind of finance (concessional loans, loans and grants, or just grants) that a country receives from IDA, the concessional finance window of the World Bank, and increasingly from other lenders and donors as well.

#### **CRITICISMS OF THE DSA**

The DSA fails to define "sustainable" in terms of sustainable development. Instead, "sustainable" in the DSA is understood simply as the country's ability to repay, defined in purely fiscal terms such as debt-to-export and debt-to-GDP ratios. It does not take into account other demands on public funds, or the poverty of the people. The DSA is therefore in no way linked to the Millennium Development Goals (MDGs) or any other sustainable development criteria. A country that performs strongly under the DSA may well still be weighed down by an unpayable debt burden which prevents it from meeting the MDGs.

Moreover, the DSA does not seek to reduce a country's existing debt, but is only forward looking, seeking to determine future lending composition. Existing debt burdens are widely recognised as a key limitation on a country's ability to develop, and yet the DSA does not have an impact on this element of a country's development prospects.

Finally, the DSA only looks at the quantitative issues of finance for poor countries and makes no effort to address the quality of new lending needed to avoid the re-accumulation of unmanageable debts. It is therefore particularly concerning when organisations use their adherence to the DSA as evidence of responsible lending or application of sustainable development criteria. A much broader approach than the DSA is required for genuinely responsible creditor behaviour, which would see the introduction of binding standards to address a range of issues including the legal and financial terms of the project, transparency and public scrutiny, and adherence to social, environmental and human rights standards.

#### **THE ECGD'S USE OF THE DSA**

The DSA has been adopted by institutions and groupings beyond the World Bank, including the OECD group of export credit agencies, of which the ECGD is part. The ECGD considers a country's debt sustainability as classified by the DSA before it backs a project in that country. As the ECGD backs projects that provide commercial, not concessional lending, if a project is in a country with a weak DSA classification, it should not win ECGD backing. In practice, as Mr Crawford stated in his evidence, the ECGD has only had a small amount of business in these countries in recent years in any case.

As set out above, the DSA is not even a partial substitute for sustainable development criteria. In summary, it is a purely fiscal tool used by lenders to assess the ability of a borrowing country to repay its loans. It does not define sustainability in terms of human need, the MDGs, or any other recognised development criteria. And it is not particularly relevant for most of the developing countries where the ECGD is operating. Jubilee Debt Campaign therefore seeks to draw the Committee's attention to the narrow and limited use of the DSA, which in no way answers the need for the ECGD to apply sustainable development and other responsible lending criteria to its policies and practices.

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## Memorandum submitted by the National Audit Office (NAO)

### BRIEFING

#### *Summary*

1. This briefing has been prepared by the National Audit Office (NAO) to assist the Environmental Audit Committee's (EAC) inquiry into the Export Credit Guarantee Department (ECGD).<sup>21</sup> The main points are as follows:

- ECGD is a ministerial department which reports to the Secretary of State for Business, Enterprise & Regulatory Reform (BERR) and is responsible for assisting UK exporters by providing financial guarantees and insurance for export contracts in markets where commercial cover would normally not be available.
- Over the last decade, ECGD's portfolio has shrunk considerably and changed in nature. By 2007, it supported less than 1% of UK exports and its portfolio is increasingly dominated by defence and civil aerospace export business.
- Since 2000, ECGD has done much to incorporate policies and processes which seek to ensure that sustainability considerations are taken into account in deciding whether or not to approve applications for support. These meet or exceed all the requirements and expectations set out in international rules on the operation of export credit agencies.
- For all civil non-aerospace applications, including defence exports not requiring an export licence, ECGD carries out an environmental and social impact assessment and, for business involving poorer countries, a debt sustainability appraisal. In 2007-08, just 13 of the 96 exports supported by ECGD required such an assessment. Most applications appraised by ECGD are categorised as having low potential impact, although there have been some high potential impact cases such as the Baku-Tbilisi-Ceyhan (BTC) pipeline project.
- ECGD does not apply its procedures for environmental and social risk assessment to civil aerospace applications or to defence exports which require an export licence—although all such applications must meet ECGD's debt sustainability guidelines. Instead, it relies on other external assurances relating either to conformity with international environmental standards for civil aerospace projects or to BERR's procedures for granting defence export licences which take into account the appropriateness of the expenditure in terms of the economic position of the buyer country. In 2007-08, such business accounted for 87 per cent of all facilities issued, by both number and value.
- Since 2000, ECGD has never rejected an application on the grounds that it did not meet minimum environmental and social standards. Instead, where a proposed project appears to fall short of the required standards, ECGD seeks to influence project sponsors through a process of 'constructive engagement' so that standards are raised to an acceptable level during the application process, prior to ECGD's decision on whether to grant approval.

#### *Introduction*

2. The Export Credits Guarantee Department (ECGD) is a small ministerial government department that reports to the Secretary of State for Business, Enterprise and Regulatory Reform (BERR). Its primary function is to help facilitate exports by underwriting export contracts or associated finance and reimbursing exporters or banks in the event of non-payment. It also provides political risk insurance for investments made overseas.

3. As part of its programme of work to support the Environmental Audit Committee (EAC) and at the Committee's request, the National Audit Office (NAO) agreed to provide a briefing on the operations of ECGD in order to inform a potential inquiry on this topic. The Committee subsequently set out for itself the terms of reference for its inquiry in its press release of 15 May 2008. This briefing does not seek to evaluate the performance of ECGD in relation to the many specific questions posed by the Committee but is primarily intended to provide factual and descriptive information of the operations of ECGD and the extent to which it has been able to incorporate sustainable development within its objectives. It should not be taken to represent a formal audit of any aspect of ECGD's operations.

4. While the term 'sustainable development' can involve wide-ranging social issues such as corruption and child-labour, this memorandum focuses mainly on environmental aspects of ECGD's role. This partly reflects the fact that international guidelines for export credit agencies (ECAs) focus more on environmental than on social impacts, and partly mirrors the primary interest of the EAC in environmental aspects of sustainable development. The absence of comment on other areas of sustainable development should not be taken to imply that ECGD has been inactive in these matters: indeed, it has devoted considerable effort to addressing this wider agenda both within the UK and internationally.

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<sup>21</sup> The NAO study team consisted of Eric Lewis and Leo Watson, under the directorship of Joe Cavanagh.

5. This briefing is based upon interviews with a range of ECGD staff, a review of procedural documentation, and an analysis of data for guarantees and insurances issued since 2000. We have also included in an Annex a small sample of case studies in order to illustrate how the procedures operate in practice.

6. The briefing is structured as follows:

- Background and statutory remit of ECGD (paragraphs 7—12)
- ECGD facilities and processes (13—18)
- The Mission and Status Review and the Business Principles (19—25)
- Case impact analysis procedures and their coverage (26—50)
- Analysis of the portfolio (51—57)
- Applying wider government policies (58—66)

In each section, key points arising from our review are summarised in bold.

### *Background and statutory remit of ECGD*

7. ECGD was established in 1919 to encourage British exporters to trade after the First World War. It was the first organisation of its kind, and today most developed countries have their own ECA. The aim of ECGD is to benefit the UK economy by helping exporters of UK goods and services win business and invest overseas. It does so by underwriting guarantees and insurance policies that provide protection against the risks of non-payment of the goods and/or services supplied. Most of the support ECGD provides relates to the exports of capital and semi-capital goods and services to markets where commercial cover is not normally available.

8. From 1919, ECGD's role grew in importance until by the 1970s as much as 37 per cent of all UK exports were supported by ECGD-backed guarantees or insurance policies. Since then, this percentage has shrunk substantially. By 2007-08, business supported by ECGD amounted to only £1.8 billion—less than 1% of total UK exports in that year.<sup>22</sup> The declining role of ECGD over the last thirty years reflects a wide range of factors including the privatisation of its short term trade credit insurance operation in 1991 which was responsible for supporting the bulk of exports covered by ECGD, structural changes in the UK economy, the growing maturity of foreign markets, the massive growth in commercially available insurance and finance, the liberalisation of world trade, and the concomitant pressure on national governments to reduce export subsidies.

9. The 1991 Export and Investment Guarantees Act is the current statute from which ECGD derives its powers. It provided the basis for the privatisation of ECGD's Short Term Trade Credit Insurance operations, leaving ECGD to focus on longer-term business.<sup>23</sup> At the same time, a line was drawn under the pre-1991 debt-laden portfolio, to allow subsequent new business to be accounted for separately.<sup>24</sup> ECGD also adopted more commercial disciplines in its operations, whereby insurance premiums were priced according to the scale of risk, to help achieve a ministerial requirement that ECGD should operate at no net cost to the taxpayer. More recently, following a substantial Mission and Status Review in 2000, ECGD's governance has been strengthened through the introduction of a Management Board which, since 2004, has been led by a non-executive chairman, and through refocusing the remit of the Export Guarantees Advisory Council (a statutory body charged with providing advice to the Secretary of State).

10. Over this period, ECGD has also taken account of changes in international agreements and guidelines that impact on the role and operations of ECAs, which have largely emanated from the Organisation for Economic Co-operation and Development (OECD). The OECD 'Arrangement on Officially Supported Export Credits' first came into effect in 1978, but has subsequently been revised a number of times—most recently in December 2007. The Arrangement is a 'gentleman's agreement' between participating ECAs although its terms have now been incorporated into EU law. Its main purpose is to help provide a level playing field and ensure that competition among exporters is based on quality and price rather than on the extent of support provided by each ECA. It does so by setting out certain minimum terms and conditions in a variety of areas (including credit terms and the minimum premium and interest rates which can be charged), and requiring ECAs to report and communicate with each other more transparently. Similarly, the Berne Union—a voluntary association of public and private ECAs and other credit and investment insurers founded in 1934—has over the years reached Agreements or Understandings regarding terms of payment, reporting systems, and the exchange of information between its members. Its latest General Understanding dates from 2001.

<sup>22</sup> In 2007-08, the total value of UK exports was £225 billion (HMRC press release, 12 June 2008).

<sup>23</sup> ie financing deals with repayment periods in excess of 2 years where there is generally a requirement to provide guarantees to banks. In practice, repayment periods are typically five years or more for many projects and 12 years for aerospace exports.

<sup>24</sup> During the debt crisis of the 1980s, many developing countries defaulted on their external debts, and ECAs (including ECGD) built up substantial debit balances as a result of the need to pay out large claims to their own exporters and banks.

11. Although the OECD and the Berne Union have sought to level the playing field among ECAs, there are significant differences in the ethos of ECAs, including their legal status, the range of business they undertake,<sup>25</sup> and their operational approach (eg in respect of risk assessment and pricing). For these reasons, comparisons between different ECAs can sometimes be misleading. The UK government has called for ECGD to continue to promote a more transparent and market-orientated international framework.<sup>26</sup>

12. The primary objective of ECAs is to support exports, and this is clearly exemplified in the statutory remit of ECGD. They are intended to operate on a broadly commercial basis. Their role should be clearly distinguished from that of development banks, agencies, or departments such as DFID—all of which can offer concessional loans targeted on specific sectors and developmental goals. ECGD facilities and processes

13. ECGD offers a number of different types of guarantees and insurance policies ('facilities'). Typically, an exporter will decide what facilities they require and submit the appropriate application. These facilities can broadly be classified into two main groups:

- Finance: where a bank (normally in the UK) provides a loan to an overseas borrower in order to finance the purchase of goods or services from a UK exporter. The exporter draws down from the loan as and when goods and services are supplied under the terms of its export contract. Normally, once the contract or project is complete, the borrower repays the bank over the agreed repayment period. ECGD unconditionally guarantees repayment of the loan. Depending on the financial arrangements involved, there are several different types of finance facilities—including Buyer Credit, Supplier Credit Financing, and Lines of Credit. An example of a Buyer Credit is given below.
- Insurance: ECGD insures exporters directly against specified causes of losses—for example, buyer insolvency or political risks (including war). As with finance facilities, there are several types of insurance policies including Exporter Insurance Policy (EXIP), Bond Insurance Policy (BIP), and the Overseas Investment Insurance scheme which provides insurance cover for UK investments made overseas.

**Figure 1**

#### EXAMPLE OF A TYPICAL BUYER CREDIT TRANSACTION

An exporter enters into a contract with a buyer in Country X for a construction project valued at £100m. The buyer may be either a commercial enterprise or a government entity. The project is expected to take two years to complete. Due to the high cost, the buyer requires credit and does not pay anything during construction. However, the exporter needs to be paid as supplies are made and the work is undertaken. Therefore, the buyer takes out a loan from a bank from which the exporter draws as the goods and services are supplied. Normally, on completion of the project, the buyer then starts repaying the loan over the agreed credit period—which, typically, can range from five to 12 years. Because of the long term nature of the loan and the risks associated with repayment, the bank would be very unlikely to grant such a loan without some form of additional security. ECGD therefore provides a guarantee to the bank that it will repay the loan if the buyer does not do so. This effectively leaves the bank with a zero rated risk. Without the guarantee provided by ECGD, the bank would not have been able to offer the loan and the exporter would not have been able to enter into the contract. In this way, ECGD helps the exporter win the contract and “facilitates” the export.

Source: National Audit Office

14. In addition to these two main types of facilities provided directly to exporters or banks, ECGD has powers to provide re-insurance to domestic private credit insurers who insure exports sold on short terms of credit. This power was included in the 1991 Act to assist the transfer of the Insurance Services Business of ECGD, which supported exports sold on cash or short terms of credit, into the private sector. ECGD effectively became a 'reinsurer of last resort' for this class of exports. No use has been made of this facility in recent years as the private market has proved sufficiently developed to bear such risks itself.

15. ECGD also operates a Fixed Rate Export Finance (FREF) scheme that enables UK exporters to offer medium and long term finance to their overseas buyers at officially supported fixed rates of interest. Such financing support is made available under the OECD Arrangement at minimum fixed interest rates known as Commercial Interest Reference Rates (CIRRs). Historically, the FREF scheme cost significant amounts in subsidy but, in recent years, these have been substantially reduced as CIRRs are a proxy for commercial rates and ECGD operates its FREF scheme within a restricted budget. The scheme is currently under review and the Government has tasked ECGD to explore how it might be reshaped in a way that continues to meet the needs of exporters and contain its potential cost. The majority of ECGD's business is now conducted on unsupported commercial rates of interest.

<sup>25</sup> Many still support exports sold on short terms of credit.

<sup>26</sup> eg Mission and Status Review, 2000

16. The financial arrangements and structures involved in some of the facilities provided by ECGD can be complex. Moreover, a single large export deal can typically involve the provision of a number of different ECGD facilities. Therefore, in examining ECGD business statistics there are significant differences between the number of facilities entered into, and the number of deals to which these relate. ECGD may also include protection for itself in the support it provides.<sup>27</sup>

17. “Persons carrying on business in the UK” are eligible to obtain ECGD support. Given the complexity of many large projects, and the need for project sponsors to obtain supplies from many countries, ECGD can include some foreign content in the support it provides to a UK exporter. Until 2007, ECGD could include up to 30-40 per cent foreign content in its support, but following a review and public consultation in 2006-07, the Government agreed to extend this to 80 per cent where sufficient risk capacity exists to do so, in recognition of changes in UK manufacturing.

18. Large projects generally involve complex financing structures which may include a number of ECAs, banks and other financial institutions; ECGD may therefore only provide support for a small proportion of the overall financing required.<sup>28</sup> Moreover, financing requirements are sometimes completed after some supplies and provision of services have already taken place, although ECGD seeks to ensure that its involvement in such situations ‘facilitates’ the export of the goods and services in question as required by its Act.

### *The Mission and Status Review and the Business Principles*

19. In July 1999, the Secretary of State for Trade and Industry announced a review of ECGD’s mission and status—including the rationale for its continued existence and the extent to which its role was consistent with the Government’s wider objectives.<sup>29</sup> The final report strongly affirmed that there was a continuing need for ECGD and that its primary purpose should still be to facilitate trade. However, it argued that ECGD should also use its leverage to support projects which underpin the Government’s international policies to promote sustainable development, human rights and good governance. It therefore recommended that this wider remit should be explicitly reflected in a new Mission Statement, and that ECGD should demonstrate how it was taking account of it by publishing a set of Business Principles to guide its practice and policies. These Principles would constitute a set of secondary duties, in addition to ECGD’s primary duty which was enshrined in the 1991 Act. The Review also suggested that ECGD could widen its customer base and liaise more closely with other Departments and business sectors to target particular export markets.

20. ECGD had already introduced earlier in 1999 an environmental questionnaire as part of its application process. However, in response to the Mission and Status review, ECGD developed a set of Business Principles and created an internal Business Principles Unit (BPU) to support their implementation. The Business Principles were published in December 2000, and the Exports Guarantee Advisory Council (EGAC) was charged with advising on the underlying policies and principles—in particular, how ECGD takes account of the wider impact of projects on overseas countries. In order to embed the Principles within ECGD procedures, the BPU then developed a Case Impact Analysis Process (CIAP), the latest version of which was published in 2004. The CIAP describes the procedures ECGD follows when it assesses all civil non-aerospace applications for any potential environmental and social impacts.<sup>30</sup>

21. Alongside these developments, in 2003 the OECD Export Credit Group published the “*Common Approaches on the Environment and Officially Supported Export Credits*”. This document recommended that, before taking decisions on the provision of officially supported export credits, ECAs should apply common approaches for addressing environmental issues relating to the exports of capital goods and services for which support is requested and the locations to which these are destined; and it sets out both a methodology for screening projects and baseline requirements for assessing environmental impacts. ECGD played a significant role in helping to obtain agreement on the Common Approaches, and its own Case Impact Analysis Process fulfils the requirements for undertaking the screening and reporting set out in that document. The OECD revised the Common Approaches in June 2007 although the changes were not extensive.

22. In 2004 and 2007, the OECD conducted surveys of ECAs to assess how well they were implementing the Common Approaches. Taking account of the 2004 survey, and a variety of other available information, ECGD compiled an internal report comparing all aspects of ECA operations.<sup>31</sup> This showed it to be one of the leading ECAs for incorporating sustainable development issues into its screening processes. For example, unlike some other ECAs, it does not make use of the threshold available under the Common

<sup>27</sup> Eg recourse rights to the exporter to recover funds where it has paid claims to a bank in respect of a loan default by reason of the exporter’s non-performance.

<sup>28</sup> In the case of the Baku-Tbilisi-Ceyhan pipeline, for example, ECGD guarantees only related to \$106 million out of a total project cost of \$4 billion. See Annex A, case study 6.

<sup>29</sup> In addition to the Review, there were three other associated reviews launched in the previous two years—namely, the Export Finance Review, the Reinsurance Scheme review, and the Risk Management review.

<sup>30</sup> The procedures and their coverage are described in detail in the following section.

<sup>31</sup> “Report on the Comparison of Export Credit Agencies”, 2004

Approaches to exclude from screening requirements projects below a minimum liability of SDR 10 million. Indeed, the Common Approaches represents a minimum set of standards which a number of ECAs, including ECGD, already exceed.

23. The BPU performs a key operational role in assessing projects for potential environmental impacts and ensuring that they are in compliance with ECGD's Business Principles.<sup>32</sup> It is staffed by three full-time ECGD staff each of whom holds environmental qualifications, and it has call-off contracts with two environmental consultancy firms to provide additional resources and specialist expertise when required.<sup>33</sup> Members of the BPU team also participate in international meetings with representatives from other ECAs to discuss issues relating to the implementation of the Common Approaches.

24. The BPU provides an annual report to ECGD's Management Board and the EGAC. This includes details of the number and types of cases reviewed during the year, achievements and developments in the assessment process, any further information on high impact or sensitive cases, and international developments such as any changes to the Common Approaches. In addition, ECGD's Annual Review and Resource Accounts contains a section on sustainable development that outlines how ECGD has tackled sustainability issues internally and also internationally through the provision of its support for individual projects and for policy initiatives. A review of the CIAP is expected to be carried out later this year and will take account of recent revisions to the Common Approaches.

25. Since the Mission and Status Review of 2000 and the publication of the Business Principles, ECGD has done much to incorporate sustainable development considerations into its project screening procedures, and in assessing civil non-aerospace cases it either follows international guidelines or exceeds them. As discussed below, ECGD has been less able to respond to the wider aspirations contained in the Review, such as the widening of its customer base and the identification of particular export markets to support the government's international objectives.

#### *Case impact analysis procedures and their coverage*

26. This section sets out the procedures ECGD follows in the case of:

- Civil (non-aerospace) and defence applications where an export licence is not required;
- Defence applications where an export licence is required; and
- Civil Aerospace applications.

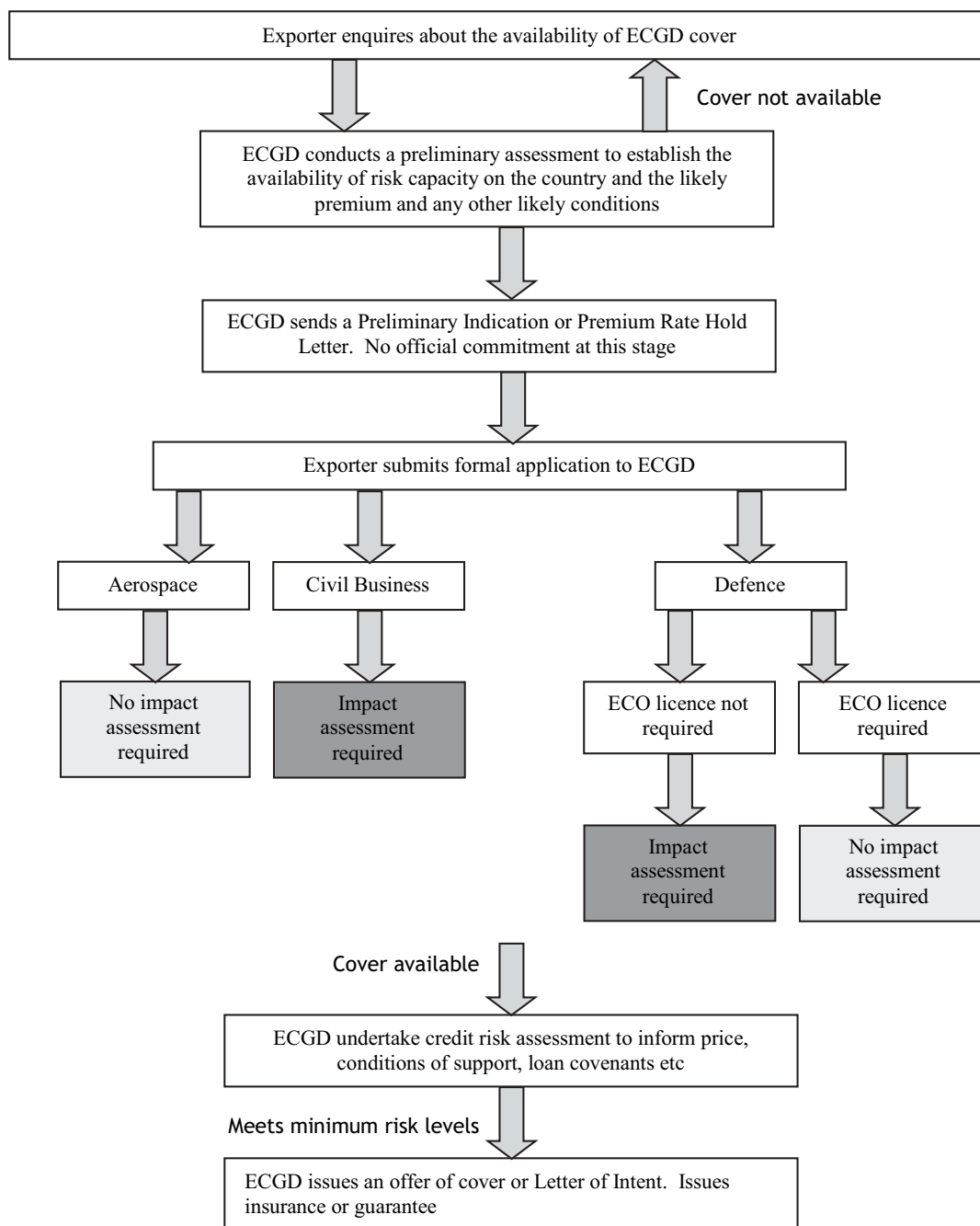
27. A typical case will involve an exporter contacting ECGD to enquire if cover can be given for the country they are exporting to. ECGD issues a preliminary indication of the support that may be considered and the likely premium charge on a 'without commitment' basis. If cover is available and the exporter wants to pursue ECGD support, it submits an application form to ECGD. The application will be handled by one of the civil aerospace, defence or civil Business Managers of ECGD. In the case of civil aerospace and of defence export cases which require an export licence, an environmental impact assessment is not carried out. The following diagram sets out schematically the overall processes involved.

<sup>32</sup> This is discussed in the following section.

<sup>33</sup> AEA Energy and Environment; and EnviroS.

Figure 2

## CASE SCREENING PROCEDURES—OVERVIEW

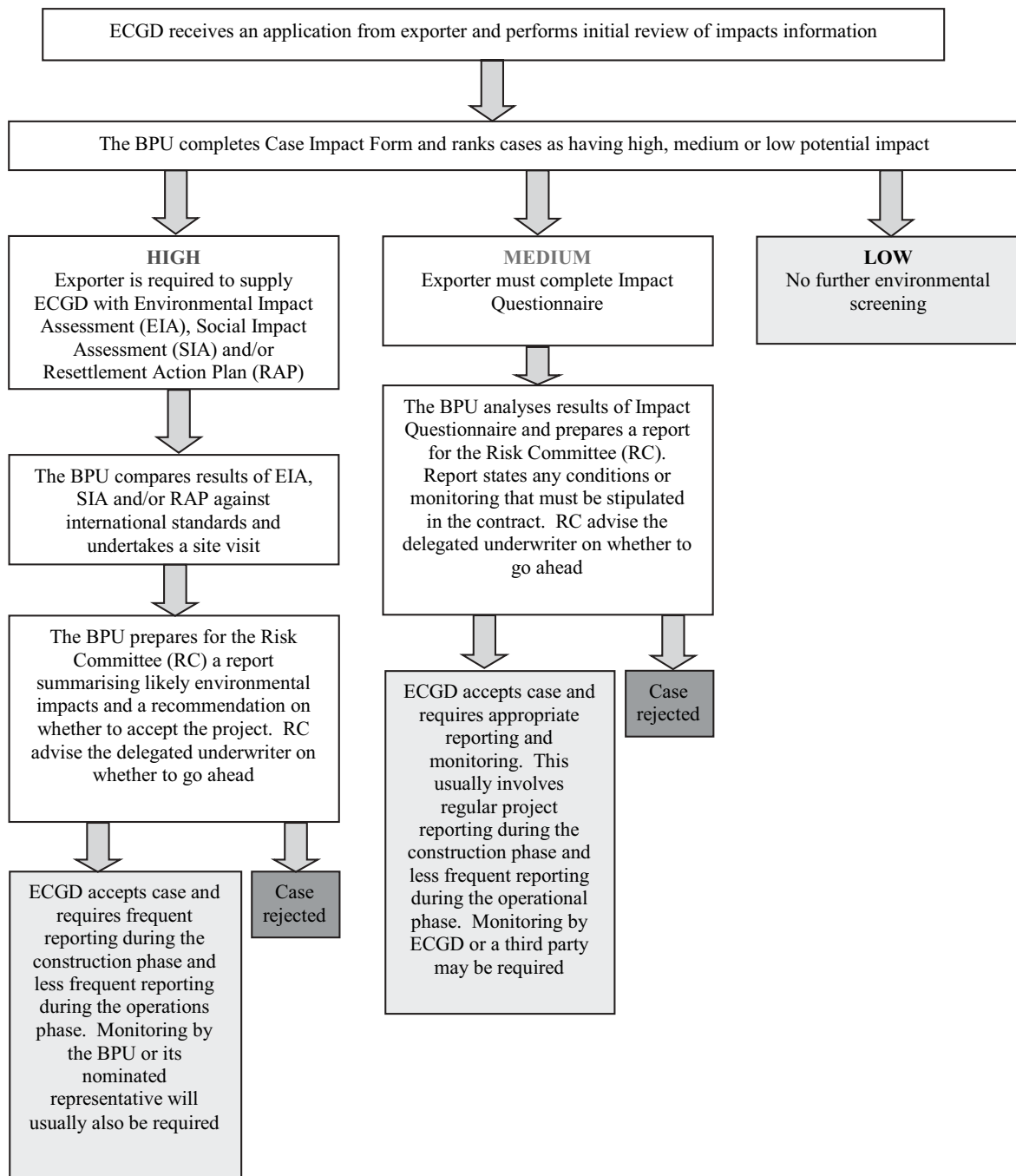


Source: NAO

*Civil (non-aerospace) and defence cases not requiring an export licence*

28. In the case of civil non-aerospace and defence export cases which do not require an export licence, the Case Impact Analysis Process (CIAP) is applied. The application form should contain sufficient information to enable the BPU to make an initial assessment of the case to determine its potential for having high, medium, or low environmental and social impacts. The results of this screening then determine subsequent procedures, as the following schematic diagram shows.



**Figure 3****THE CASE IMPACT ANALYSIS PROCESS**

Source: NAO

29. The initial screening carried out by the BPU is based on the exporter's response to specific questions<sup>34</sup> in the application form—though these do not need to be answered for defence exports that require an export licence or civil aerospace business that meets International Civil Aviation Organisation (ICAO) standards.

30. The BPU then carries out its initial screening utilising an internal checklist.<sup>35</sup> This is comprehensive and includes coverage of international environmental designations, adherence to human rights treaties and international labour conventions, and any potential conflicts with UK international obligations. The implications of responses in terms of impact ranking are spelt out in the CIAP. In many instances, the BPU completes the initial review within a few weeks of receiving the application.

31. Subsequent procedures depend upon the initial assessment of potential impact. For low potential impact applications, no further examination is usually required. If an application is ranked as medium potential impact, the exporter must complete a more extensive questionnaire giving further details—including, for example, the intended location of the project, the consumption of energy, minerals and ores, and the production of harmful substances. Where an application is ranked as having high potential impact, ECGD publishes basic details on its website so as to provide an opportunity for any interested parties to submit comments. It also requires a full Environmental Impact Assessment (EIA), and a Social Impact Assessment (SIA) or Resettlement Action Plan (RAP) if applicable, to be supplied. The BPU would normally expect a reputable independent environmental consultancy firm to be employed for this purpose. Such assessments can involve significant time and resources. Indeed, in the case of major high potential impact projects such as Sakhalin and the BTC pipeline, it can take months or even years before the requisite information is provided and the assessments are completed, upon which ECGD can judge the acceptability of the application for its support.<sup>36</sup>

32. On the basis of the information available, the BPU then assesses whether the project is compatible with the standards and guidelines set out in ECGD's CIAP and, as necessary, reports its advice to ECGD's Risk Committee. Taking into account both the BPU's advice and the associated credit risk analysis and any other factors, the Risk Committee then decides whether or not an application is acceptable for ECGD support.

33. Where a buyer is based in a country listed as a Heavily Indebted Poor Country (HIPC) by the World Bank Group, or else can only borrow from the International Development Association (IDA), ECGD requires the application for cover to pass a Productive Expenditure (PE) test. The exporter has to complete a questionnaire or provide a productive expenditure report giving more detailed economic information in order to ensure that the project provides social and economic benefits without harming the country's debt position. ECGD liaises with DFID and the Treasury for this purpose, though it is the Treasury who makes the final decision as to whether ECGD support should be offered. This process enables ECGD to satisfy itself that it supports only sustainable lending to those countries that could be vulnerable to debt servicing difficulties. The OECD has recently issued new guidelines on sustainable lending.

34. ECGD's responsibilities do not necessarily end once a guarantee or insurance policy has been issued. Depending on the conditions on which ECGD provided its support, the BPU may be involved in ongoing monitoring of individual projects. For medium potential impact cases, this may involve regular reporting to ECGD by the project sponsor. For high potential impact cases, the BPU (or a representative of the group of lenders if more than one ECA is involved) is likely to make periodic site visits; and ECGD would usually also require regular monitoring and reporting from an independent environmental consultant.

35. The case impact analysis process which ECGD has been operating since 2001 provides a good framework for assessing environmental and social impacts of civil non-aerospace projects. However, it does depend for its effectiveness upon on the experience of staff within the BPU. In addition, the timescales involved in obtaining all the necessary information on the impacts of major projects are lengthy. This may result in ECGD only being in a position to consider whether financial support would be consistent with its Business Principles at a relatively late stage of the underwriting process.

#### *Defence exports that require an export licence*

36. Defence export applications that require an export licence from the Export Control Organisation (ECO) within BERR are not assessed by ECGD in respect of their environmental and social impacts. ECGD relies on the ECO processes to address sustainability issues in deciding whether or not to grant an export licence.

<sup>34</sup> The questions relate to the description of the exports and the overall project; whether or not the exports could be sold in the UK without modification; the current and future activities on the project site; and beneficial and adverse impacts of the project.

<sup>35</sup> This is publicly available at Annex A of the Case Impact Analysis Process document. See: [http://www.ecgd.gov.uk/ecgd\\_case\\_impact\\_analysis\\_process\\_-\\_may\\_2004-4.pdf](http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004-4.pdf)

<sup>36</sup> In the case of Sakhalin, for example, updated impact assessments were not completed until late 2005, nearly two years after the formal application.

37. When assessing whether to issue a licence, the ECO seeks advice from other departments against eight criteria.<sup>37</sup> Although the last of these is entitled ‘Sustainable Development’, it does not involve an assessment of environmental and social impacts<sup>38</sup> but is similar to ECGD’s Productive Expenditure test in that it aims to ensure that developing countries, and heavily indebted countries in particular, do not spend excessively on defence equipment. In such cases, a decision is made by the ECO taking account of advice from DFID, MOD and FCO.

38. Exporters have to declare in their application to ECGD whether they need a licence for their exports. It is the responsibility of the exporter to contact the ECO in order to establish whether a licence is required or not, and the process of deciding whether a particular export requires a licence can be lengthy.<sup>39</sup> Where an insurance facility is involved, ECGD does not check whether the licence is in fact obtained but it would not pay a claim if an export licence was required but had not been obtained. In the case of finance facilities, it is normally a condition precedent to loan drawings that the licence has been issued and evidenced to the financing bank.

39. Applications for defence exports which require an export licence from the Export Control Organisation are subject to an economic assessment of expenditure within developing countries, and this will to some extent take into account social impacts. They are not subject to any form of environmental impact appraisal, though in practice it is difficult to envisage how such an assessment might be made.

#### *Aerospace cases*

40. ECGD’s civil aerospace portfolio is dominated by the support it provides for Airbus exports.<sup>40</sup> The guarantees which ECGD provides are in respect of the portion of the aircraft that is manufactured in the UK. Airbus exports are therefore co-financed by ECGD and the ECAs of the other participating countries—France and Germany. ECGD also provides guarantees for Rolls-Royce in respect of the engines it exports, which are not only fitted to Airbus aircraft but to those of other aircraft manufacturers (eg Boeing).

41. Exports of civil aircraft and engines are not assessed by the BPU for environmental impacts, on the grounds that environmental impacts have already been taken into account within the regulatory requirements governing the certification of new aircraft.

42. Civil aircraft and engine types from EU-based manufactures are required to meet European Aviation Safety Agency (EASA) standards, and these incorporate ICAO standards for aircraft emissions and noise. EASA provide manufacturers with a Type Certificate for aircraft to indicate the design’s compliance with all relevant safety, technical and environmental standards. Any aircraft of a given type which are subsequently manufactured are required to comply with the specifications set out in the Type Certificate. Individual aircraft also require a Certificate of Airworthiness from the aviation authority in which they are registered, which for new Airbus aircraft would initially be EASA, and this would not be issued without a Type Certificate. It is an explicit requirement of ECGD’s support that a Certificate of Airworthiness must be held for any aircraft exported, and this provides assurance that each aircraft meets international standards.

43. ECGD does not attempt to assess the environmental impacts relating to the use of aircraft after they have been exported nor does it possess the necessary information upon which to base such an assessment. In many cases, the provision of ECGD support involves the purchase of new aircraft to replace older, inefficient, models. Where the latter are scrapped, there can be a positive environmental impact in terms of both emissions and noise; where they are sold on to other airlines and continue to be used, the overall impact—at least in the short term—would be negative, as it would simply reflect an overall increase in the number of aircraft in operation.

44. Civil aerospace exports are not subject to ECGD case screening procedures on the grounds that new aircraft and engines are required to meet international environmental standards for emissions and noise. Conformity with such standards is ensured by the regulatory processes by which Certificates of Airworthiness are issued, and ECGD require these certificates when issuing guarantees and insurances for aerospace exports.

<sup>37</sup> These criteria were announced to Parliament by the then Foreign Secretary in October 2000, and are referred to in the export control legislation enacted in 2002. They mirror the EU Code of Conduct on arms exports, agreed at EU level and implemented in all EU Member States.

<sup>38</sup> In its response to EAC’s July 2003 report on ECGD, the government stated that they ‘were confident that DTI’s process of screening is rigorous and takes proper account of human rights and sustainable development issues’.

<sup>39</sup> This can be particularly the case for ‘dual use’ equipment—ie equipment that could be used for either military or civil purposes.

<sup>40</sup> ECGD guarantees and insurances relating to Airbus amounted to 95% of the total guarantees issued in this sector in 2007-08.

*Benchmarking against standards*

45. In accordance with international guidelines for ECAs, ECGD compares the potential environmental impact of projects against international standards published by the World Bank Group (WBG) including the International Finance Corporation (IFC), the World Health Organisation (WHO), and other relevant bodies. ECGD always requires compliance with the host country's standards where these are more stringent than international standards. While ECGD does not, therefore, specify a single set of international standards which it will use, its policy is to employ the highest standards that are available.

46. These international standards include, for example, the environmental, health and safety guidance produced by the IFC in 2007-08, which sets out, within a comprehensive analysis of all industrial and business sectors, the minimum standards to be obtained in each different type of construction project or industrial process. The following example from this guidance illustrates how these standards can be used as a benchmark against which the BPU can assess a specific application.

**Figure 4**

**EXAMPLE OF IFC GUIDANCE: ENVIRONMENTAL, HEALTH AND SAFETY GUIDELINES FOR LIQUEFIED NATURAL GAS (LNG) FACILITIES**

The EH&S Guidelines outline how environmental and social impacts can be minimised by through consideration of specific issues associated with LNG facilities, including:

- Threats to aquatic and shoreline environments
- Hazardous material management
- Wastewater
- Air emissions
- Waste management
- Noise
- LNG transport

The EH&S Guidelines describe the potential risks and how the facilities should be designed to minimise these risks. For gaseous emissions and liquid effluents numeric limits are given: for example, hydrotest water that is to be discharged onto land must, amongst other limits, have a pH in the range 6–9 and a total hydrocarbon content of less than 10 mg/L.

The Guidelines set out industry benchmarks for energy and water consumption by LNG facilities against which individual facilities can be compared; and they state that individual projects should use these benchmarks as points of reference and so as to target continual improvement in these areas.

They also provide guidance on how to monitor the operation of LNG facilities—including the frequency of monitoring, the training of monitoring staff, record-keeping, and the review of monitoring data so that any necessary corrective actions can be taken.

Source: National Audit Office analysis of World Bank guidance

47. In some cases, ECGD has devoted considerable effort to working with project sponsors, exporters and other financial institutions to ensure that a project does meet international standards. This approach is described by ECGD as 'constructive engagement'. In the case of the Baku-Tbilisi-Ceyhan pipeline, for example, ECAs, including ECGD, were able to influence the project sponsor to ensure that formal monitoring arrangements of the resettlement process in Turkey were similar to those proposed for the other two countries, Azerbaijan and Georgia. In addition, a condition of ECGD's guarantee was that waste should be handled in accordance with EU regulations, and the ECAs are continuing to monitor the position in Georgia to check that this condition is fulfilled. Another example of the way in which ECA influence led to improvements is in the case of the now withdrawn application by the Sakhalin Energy Investment Company (SEIC). Here it is arguable that the ECAs and financial institutions involved were instrumental in obtaining more comprehensive and detailed appraisals from SEIC, and in requiring SEIC to set out in the Health, Safety, Environment, and Social Action Plan the specific criteria and standards that the project should comply with. It is likely that this has resulted in project improvements which would not otherwise have been achieved. These include, for example, the creation of the Western Grey Whale Advisory Council, and the associated measures ensuing from it.<sup>41</sup>

48. The BPU does not attempt to measure or quantify the impact of its work in terms of such improvements to projects and, in any case, it could be very difficult to do so with any degree of objectivity. Moreover, project sponsors and exporters may sometimes decide to withdraw applications where they are unwilling to improve aspects of the project design so as to meet international standards. No statistics on the extent to which this has happened are readily available.

<sup>41</sup> See case studies 6 and 7 in the attached Annex

49. International standards provide information and specific criteria against which the BPU can assess applications. As yet, ECGD has not rejected a project on the grounds that it would conflict with its Business Principles. However ECGD's policy of constructive engagement with project sponsors can lead to improvements in project design so as to be able to meet international standards. If project sponsors are unwilling to engage with ECGD in this way, the application for support would fail or might be withdrawn. ECGD does not collect data which would track or demonstrate the impact of its policy of constructive engagement because of the inherent difficulties of measuring such impacts.

### *Sustainable Supply Chains*

50. Many large companies have supply chain policies. For example, Rolls-Royce has a Supplier Code of Conduct which seeks to ensure that its suppliers conduct their business operations and provide products in a way that protects and sustains the environment in accordance with all applicable laws and regulations. There are currently no international standards that ECAs apply in their policies for supporting exports in relation to sustainable supply chain management. However, following a commitment made by the Government in 2007 in its response to the Public Consultation on revisions to ECGD's Foreign Content rules, ECGD has started an initiative to explore whether such standards could be developed.

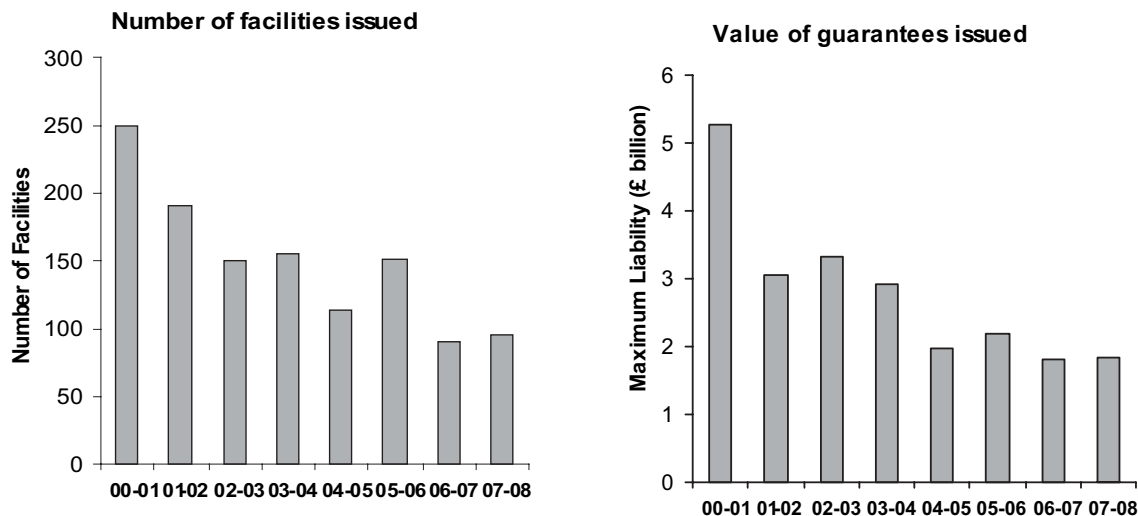
### *Analysis of the portfolio*

51. This section sets out key features of ECGD's portfolio which are likely to be of interest to the Committee in the context of its current inquiry. It is based on the NAO's own analysis of data provided by ECGD covering facilities issued since 2000-01. It is worth noting that ECGD itself devotes considerable resources to portfolio analysis and the production of comprehensive reports on a regular basis for its Management Board, the Shareholder Executive and HM Treasury.

52. The most notable feature of ECGD's portfolio is the substantial decline in ECGD business since 2000. The number of facilities issued has fallen by some 60 per cent from 250 in 2000-01 to 96 in 2007-08. Similarly, the total value of new ECGD business over the same period fell from £5.3 billion to £1.8 billion. This decline represents a decrease in applications made by exporters, and is due to a range in factors including changing patterns in manufacturing, the increasing maturity of foreign markets, and the availability of insurance from the private sector. The graphs below demonstrate the decline in both the number of facilities and their value.

**Figure 5**

#### THE DECLINE IN ECGD'S PORTFOLIO SINCE 2000-01

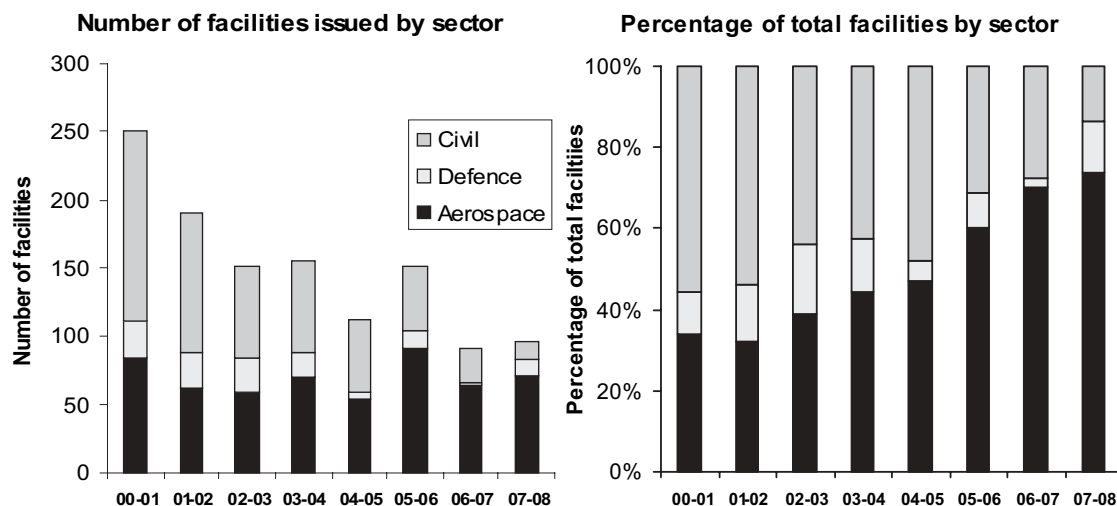


Source: National Audit Office analysis of ECGD data

53. The extent of this decline has given rise to a second key feature of the portfolio—a radical change in its sectoral make-up. The civil aerospace sector has remained relatively unaffected by the downturn in business and the number of guarantees issued has fluctuated between 50 and 90 a year (though most of these relate to only two exporters—Airbus and Rolls-Royce). Similarly, defence exports have fluctuated between 20 and 12. By contrast, the number of civil cases has fallen markedly from 139 to 13. As a result, in terms of the percentage of guarantees and insurance policies issued as a proportion of the total risk portfolio, the civil aerospace sector has risen steadily from around 35 per cent in 2000-01 to 74 per cent in 2007-08. The impact of these trends on the number of cases subject to environmental assessment is discussed later in this section.

Figure 6

### THE GROWING PREDOMINANCE OF CIVIL AEROSPACE IN ECGD'S SHRINKING PORTFOLIO

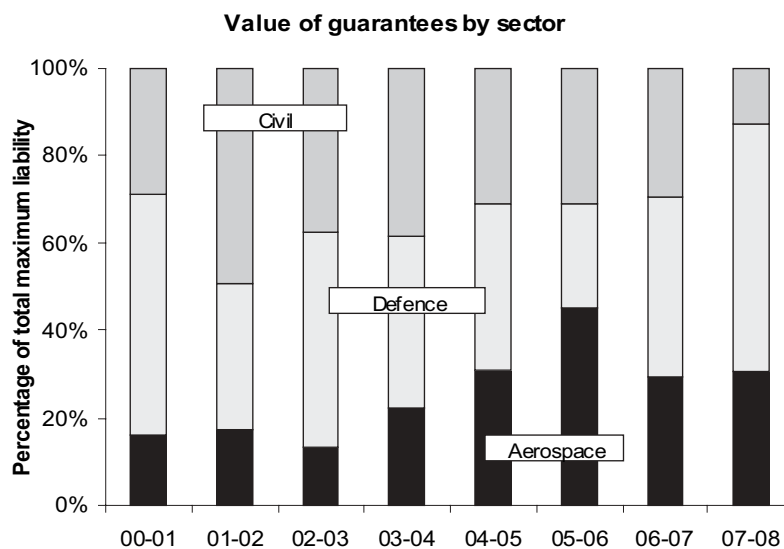


Source: National Audit Office analysis of ECGD data

54. In terms of the value of business, the defence export sector still dominates ECGD's portfolio. Although defence export facilities issued are few in number, they often involve large contracts and therefore feature more prominently in terms of their value.<sup>42</sup> In 2007-08, for example, only 12 defence cases were supported out of 96 but these represented 56 per cent of ECGD's maximum liability. As the following graph shows, the defence and civil aerospace sectors together account for 87 per cent of the total value of ECGD business in that year.

Figure 7

### DEFENCE AND CIVIL AEROSPACE ACCOUNT FOR MOST OF THE PORTFOLIO BY VALUE

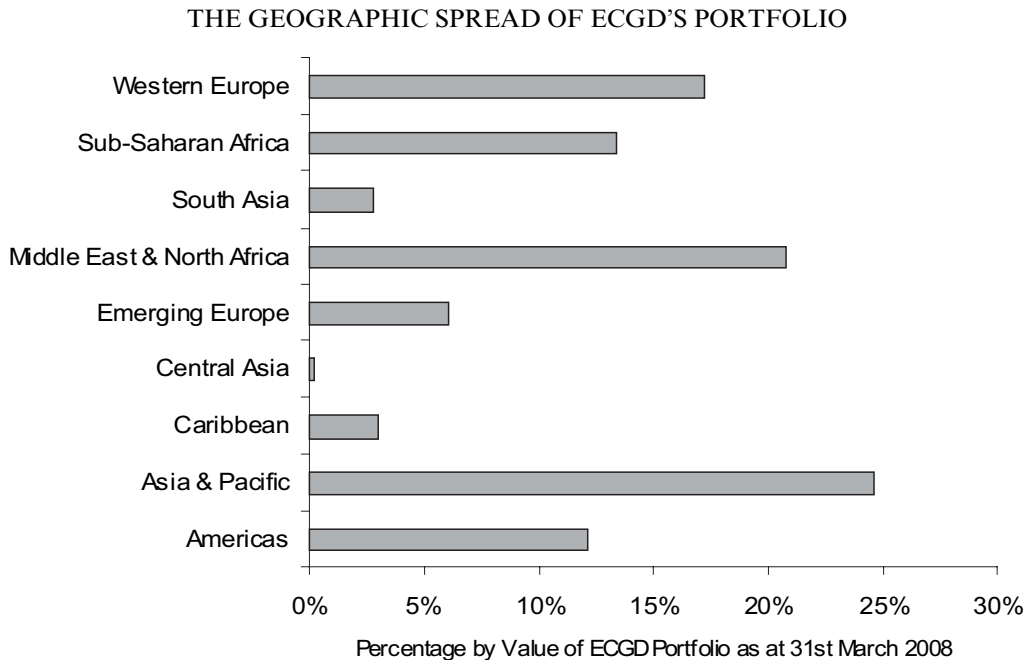


Source: National Audit Office analysis of ECGD data

55. In terms of geographical markets, most ECGD business relates to non-OECD countries. In terms of the percentage of cumulative financing since 2000, Asia, Africa and the Middle East dominate ECGD's portfolio, as the following graph demonstrates.<sup>43</sup> This primarily reflects the scale of defence exports to countries in those regions.

<sup>42</sup> These include support for the long-standing Saudi British Defence Cooperation Programme ('Al Yamamah') which dominates the defence portfolio.

<sup>43</sup> See the note on the figure relating to Western Europe.

**Figure 8**

Note: The relatively large value shown for “Western Europe” is due primarily to a South African defence deal for which ECGD has sought reinsurance from the Swedish export credit agency. The exposure is therefore categorised as Swedish even though the exports are for South Africa.

Source: National Audit Office analysis of ECGD data

56. The overall decline in the portfolio has impacted considerably on the BPU. Information available in BPU's annual reports shows that the number of cases which it considered dropped from 83 in 2001–02 to 14 in 2007–08, mirroring the overall decline in civil non-aerospace applications.<sup>44</sup> From an analysis of the results of the screening process carried out by the BPU, the following table shows the number of cases rated as having high, medium or low potential impact. Cases are shown as “not ranked” if insufficient information was received from the exporter which meant that the applications could not proceed, or the case fell through before the screening process was complete. The extent to which this influenced 2006–07 and 2007–08 data partly reflects the lengthy negotiations which can often be involved before ECGD can issue its support. Such cases would therefore amount to “work in progress”.

**Figure 9**

**TRENDS IN THE VOLUME AND TYPE OF CASES ASSESSED BY BPU**

	2001–02	2002–03	2003–04	2004–05	2005–06	2006–07	2007–08	TOTAL
Potential Impact:								
- High	10	6	13	7	13	1	1	51
- Medium	28	30	16	15	14	9	5	117
- Low	45	36	57	29	25	14	2	208
Not Ranked	0	0	0	0	1	8	6	15
Total Cases	83	72	86	51	53	32	14	391

Source: National Audit Office analysis of BPU annual reports

57. The volume and value of ECGD business has been declining for several decades, but there has been a particularly sharp downturn since 2000. This raises significant issues for ECGD as its customer base has continued to shrink and it is now largely dependent on a small number of exporters operating in the civil aerospace and defence sectors. There has also been a marked decline in the number of cases subject to the environmental screening procedures, as civil non-aerospace business now only constitutes a relatively small percentage of the applications ECGD receives.

<sup>44</sup> It is important to note that the figures quoted here and in the following table relate to applications considered by the BPU, rather than guarantees and insurances issued; and that they cannot therefore be compared with the figures quoted earlier in this section. In relation to the cases actually supported by ECGD in 2007–08, only 13 of the 96 facilities approved were subject to the Case Impact Analysis Process as the remaining 83 related to civil aerospace or defence exports.

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## APPLYING WIDER GOVERNMENT POLICIES

### *The Export Guarantees Advisory Council*

58. The Export Guarantees Advisory Council (EGAC) has existed for many decades. It has a statutory function to give advice to Ministers and, in particular, to give advice where Ministers are requested to consider the provision of reinsurance by the private market in support of exports sold on short terms of payment. However, while its advisory role has not changed, its remit has been refocused. The Mission and Status Review of 2000 recommended that EGAC should become responsible for monitoring the compliance of ECGD with the Mission Statement and Business Principles and since 2004 it has concentrated largely on this remit. EGAC's role is therefore relevant to any consideration of the extent to which ECGD takes account of sustainable development issues in its work. The members of EGAC are unpaid, and they meet four times a year and once with the Minister. Minutes of its meetings are made public.

59. EGAC has no executive responsibility and, therefore, does not review issues arising on applications being considered for support: this would fall to ECGD's Management Board as necessary. It can, however, review cases after they have been approved (eg to assess the basis on which environmental screening judgements have been made), and for this purpose it can request information and papers from ECGD. The Council also reviews policies and procedures. It produces a short Annual Report which is published within ECGD's Annual Review and Resource Accounts. In it, EGAC comments briefly on how it has performed its role over the past year including, for example, the number of times it has met, the organisations (including NGOs) it has liaised with, and the main topics on which it has focused. It also provides an assurance that ECGD is indeed operating in accordance with its Business Principles, though no substantive evidence or argumentation is included to support this.

### *Financing investment in renewable energy*

60. In 2002, the Prime Minister announced at the time of the World Summit on Sustainable Development in Johannesburg that the UK would make available through ECGD some £50 million export credits to support exports in the renewable energy sector to help developing countries limit greenhouse gas emissions. While UK Trade and Investment<sup>45</sup> has promoted the availability of this credit facility where possible, to date ECGD has received no applications for such support. Indeed, the purpose of the £50 million facility is unclear as any exporter of renewable technology is already free to approach ECGD for support and ECGD can, in any event, consider contracts in excess of £50 million where sufficient risk capacity exists.

61. The history of this initiative highlights a number of underlying difficulties facing ECGD in fulfilling its objective of supporting the government's wider policies. The first relates to its statutory function of facilitating exports and overseas investments. While ECGD can take account of wider Government policies (including environmental policies), it cannot allow these to prevent it from fulfilling its statutory purpose. The 1991 Act precludes discriminatory treatment and limits the extent to which ECGD can promote or target particular sectors and exporters: for ECGD to act otherwise might open up the possibility of legal challenge. Moreover, ECGD's role, as established by Ministers, is to complement, rather than compete with the private market. Therefore, ECGD does not actively pursue business opportunities, but limits its marketing role to that of making the exporting community generally aware of its facilities and services.

62. The second difficulty relates to the fact that ECGD does not provide subsidised facilities. To do so on a tied basis to UK exporters would not only conflict with international guidance for ECAs but might be viewed as anti-competitive and incur the risk of legal action—for example, by the EU or WTO.<sup>46</sup> In any event, HM Treasury requires ECGD to operate on a break-even basis over time. ECGD is neither a development bank nor an aid agency, and to transform it into one would not only require a fundamental statutory change but also risk duplicating the functions of other organisations such as DFID.

63. The third difficulty facing ECGD relates to the nature of UK manufacturing industry. Its portfolio is dominated by business from the civil aerospace and defence sectors because the UK still has significant manufacturing capability in these sectors, as well as strength in the petrochemical engineering sector. But in the case of renewable energy, the UK has relatively little manufacturing capability and those firms which do exist tend to be small and pursue export opportunities in OECD markets. As a result, they do not yet need the facilities which ECGD provide. ECGD cannot generate demand; it can only respond to those who seek and demand its services.

64. These difficulties have made it hard for ECGD to fulfil its objective of taking account of the government's wider objectives, and in particular to make progress on the 2002 commitment to support exports of renewable energy technologies.

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<sup>45</sup> UK Trade and Investment was formerly known as Trade Partners UK. It is a government organisation responsible for supporting companies in the UK doing business internationally and overseas enterprises seeking to set up or expand in the UK.

<sup>46</sup> Such action could be based on the OECD Arrangement and the WTO Agreement on Subsidies and Countervailing Measures (ASCM).



### *The ECGD's Sustainable Development Action Plan*

65. ECGD, like other departments, is subject to various government initiatives to improve environmental performance in the operation of its own estate, and to wider government initiatives to encourage sustainability in policy-making. ECGD produced a Sustainable Development Action Plan (SDAP) in 2005 which was later updated in 2007. The SDAP outlined how ECGD would make a difference on sustainable development issues, both through its international business ventures and internal operations. The Sustainable Development Commission has categorised ECGD as “gaining momentum”, a mid-ranking position. ECGD is due to consider whether to update its SDAP in 2008.

66. Much of ECGD's SDAP relates to its operational management. As a very small organisation, its environmental footprint is small, but its SDAP contains comprehensive objectives and targets in this respect. The SDAP also contains action points relating to the nature of ECGD's business. These cover the application of the Case Impact Analysis Process (for which various process based measures are included in Appendix B of the Plan) and making progress on sustainable development standards in international fora. But they do not seek to measure the overall environmental impact associated with the guarantees and insurances that ECGD issues. In relation to some of the wider objectives contained in the Business Principles of supporting the government's international policies, no specific targets are provided. However, the nature of multilateral international negotiations, where ECGD is but one player, would make it difficult to establish such targets. It therefore remains unclear what steps ECGD can take to pursue these wider objectives—particularly given the overriding requirement on ECGD to fulfil its statutory purpose.

## **Annex**

### **CASE STUDIES**

The case studies described below were selected by the NAO to illustrate ECGD's screening procedures across all the main exporting sectors in respect of which applications for its support are received. The studies therefore include two defence and two civil aerospace cases, as well as three civil cases.

The two defence export cases illustrate that applications for defence exports which are subject to export licensing are excluded from ECGD's Case Impact Analysis Process; instead, ECGD relies on the licensing process carried out by the Export Control Organisation (ECO) within BERR. The ECO licensing process includes an overall assessment of the application against eight criteria—including debt sustainability in relation to the economic circumstances of the buyer country. In any event, it can be difficult to assess environmental impacts relating to defence exports against any objective criteria, particularly in the context of security concerns the buyer country may have; and it is therefore unclear how ECGD could apply its environmental screening process in a meaningful way.

The two aerospace cases illustrate how ECGD relies on internationally agreed standards and certification processes for aeroplanes and aero engines. These include environmental standards for emissions and noise. ECGD considers that compliance with such standards satisfies environmental screening requirements, and that there is therefore no value in applying its internal Case Impact Analysis Process. The cases also illustrate that it would be difficult to assess the wider environmental impacts of such exports, in the absence of information on the use of the aircraft and whether older aircraft had been retired.

The three civil cases include both the Baku-Tbilisi-Ceyhan pipeline and the now withdrawn application relating to the Sakhalin project, as these were two of the highest potential impact cases with which ECGD has recently been involved. They illustrate how ECGD works alongside other ECAs and financing institutions in large projects of this kind, and how the process of constructive engagement can be very lengthy but may result in improvements to the project implementation. They also demonstrate how ECAs can have a continuing role in monitoring projects after completion.

#### *Case Study 1: Defence—Supply and installation of two Tacan radars*

In November 2005, Fernau Arionics Ltd (Fernau), a small/medium sized enterprise, contacted ECGD in relation to a contract it was negotiating for the supply and installation of two tactical air navigation Tacan radars to the Department of Defence of the Republic of Indonesia. It subsequently applied for a supplier credit facility. No other ECGD financing products or other ECAs were involved in this case. Indonesia's Department of Finance was to raise the loan on behalf of the Department of Defence. In the application, Fernau declared that an export licence would be required from ECO, and Fernau later confirmed that it had been obtained. The environmental impact questions on the application form were therefore not completed. The only involvement of the BPU was to confirm that there was no adverse history relating to those involved in the contract and its negotiation, and to review Fernau's Code of Conduct particularly in relation to ECGD's policy of not supporting contracts that may be tainted by bribery and corruption. The case was submitted to the Risk Committee in October 2006. ECGD offered its guarantee in December 2006. The guarantee was issued on 12th April 2007 with a maximum liability of £1.7 million.

*Case Study 2: Defence—Three Offshore Patrol Vessels (OPVs)*

In January 2005, VT Shipbuilding International Limited (VTSI) approached ECGD about the possibility of receiving support for the export of three offshore patrol vessels to the Trinidad and Tobago Coast Guard. In November 2006, VTSI formally applied for a buyer credit guarantee and declared that an export licence would be required from the then Export Licencing Unit at the DTI. VTSI were therefore exempt from the environmental assessment process. The vessels were to be used to improve security and the policing of the Trinidad and Tobago coastline, and to provide disaster relief to neighbouring countries. The buyer was Trinidad's Ministry of National Security and the borrower was the Ministry of Finance. A condition of the Letter of Intent dated 23rd November 2006 was that the relevant export licence should be obtained by the exporter and this was later acquired. The environmental impact questions were not completed on the formal application for this guarantee as this was a defence case requiring an export licence.

For completeness, in addition to the buyer credit facility, VTSI also requested an Export Insurance Policy (EXIP) and a Bond Insurance Policy (BIP). A separate application had to be submitted for this insurance. The application for this EXIP and BIP was submitted to the Risk Committee on 15th October 2007 and was shortly followed by a Premium Rate Hold Letter on the 25th October. The EXIP and BIP was formally offered and accepted on the 6th and 10th November respectively. The total liability for buyer credit was £264 million at the time the guarantee was issued.

*Case Study 3: Aerospace—Four Airbus A321 aircraft*

Each quarter, Airbus send to ECGD an updated list of aircraft deliveries they expect to make over the following 2-3 years. This provides ECGD with an indication of the potential number of formal applications they are likely to receive and their timing.

In June 2006, Airbus formally applied for buyer credit guarantees to cover the UK share of the export of ten Airbus A321 aircraft to Vietnam Airlines (VNA), the first four of which were scheduled for delivery between January and February 2007. Airbus also applied to Coface and Euler Hermes (the French and German ECAs) for guarantees to cover the remaining portions of the contract. No other guarantees or insurance products were applied for. Title to the aircraft was assigned to a special purpose company (SPV) in the Cayman Islands which then leased the aircraft under a finance lease to VNA. In the event that the airline defaulted on its lease payments, the SPV could seek to repossess the aircraft as its legal owner acting under the instruction of the ECAs. The ECAs requested a Jurisdiction Memorandum in order to assess Vietnam's legal environment before agreeing to the structure.

Vietnam is listed as an International Development Association (IDA) market. Therefore, ECGD required the completion of a Productive Expenditure questionnaire which VNA and Airbus submitted in September 2006. From this, ECGD prepared a Productive Expenditure Screening Case outline for DFID. It was agreed by DFID and HM Treasury that the Productive Expenditure criteria were met by this case. As VNA is publicly owned, the Ministry of Finance of the Socialist Republic of Vietnam also guaranteed the payment for the aircraft.

The environmental impact questions were not completed on the application as this is an aerospace case that met ICAO standards. These aircraft would partially replace old planes and add to the existing fleet, but no consideration was given to any potential further use of the older aircraft which were being replaced. In November 2006, ECGD issued its Letter of Intent which provided a commitment to support the four Airbus planes on the satisfactory completion of a number of conditions as stated in the letter. ECGD's maximum liability in respect of the aircraft at the time of issuing the final guarantee on 8th February 2007 was £44 million.

*Case Study 4: Aerospace—Rolls Royce Trent Engines*

This case refers to the support by ECGD of the supply of Rolls Royce engines to be fitted to US-built Boeing aircraft. In such cases, ECGD collaborates with the American ECA (Eximbank) and the level of support it provides is determined by the value of the UK content in the overall export. In the case of aero-engines attached to Boeing aircraft, this can range from 15% to 25% of the value of the overall export. This particular case involved the supply of 8 engines to Cargolux to be fitted to Boeing 747 airframes, and the level of support provided by ECGD amounted to 15.5% of the overall support (in respect of the airframe and engines). The guarantee was issued in August 2007. The environmental impact questions were not completed on the application form by Rolls Royce as this is an aerospace case that meets international / ICAO standards.

*Case Study 5: Civil—Blast Furnace (Dragon Steel Corporation, Taiwan)*

In September 2005, Siemens VAI Metals Technology Ltd, a heavy engineering company, submitted an application to ECGD in relation to a contract it was negotiating for the supply, installation and commissioning of a new blast furnace at Taichung Steel Works in Taiwan. The purchaser was the Dragon Steel Corporation of Taiwan.

In view of the nature of the project, Siemens VAI also submitted with the application an impact questionnaire. This provided estimates for the consumption of metals, minerals, coal and gas, as well as technical details of the project (including the use of a turbine recovery system to generate electricity from surplus heat). The impact questionnaire also contained estimates for emissions of CO<sub>2</sub>, SO<sub>x</sub>, and NO<sub>x</sub>.

The case was forwarded to the BPU, and the BPU completed its review by December 2005 after obtaining some further information from the exporter. It assessed the case as of ‘medium potential impact’ but was satisfied that there were no significant negative environmental or social implications. It based this judgement on the fact that the blast furnace was to replace an existing furnace and did not involve any expansion of the industrial site. The BPU also ensured that emissions met World Bank standards for this kind of project. No further appraisal was therefore deemed necessary.

ECGD first indicated a willingness to offer an Export Insurance Policy (EXIP) to underwrite the Taiwanese risk in October 2005. However, there was some delay on the part of Siemens VAI, and the insurance was eventually only issued and accepted in January 2007, some six months after Siemens VAI had actually signed the contract. ECGD’s maximum liability under the terms of the EXIP was for £70 million.

*Case Study 6: Civil—Baku-Tbilisi-Ceyhan Pipeline*

ECGD has been involved with the BTC pipeline project since the late-1990s. The project objective was to construct a 1,760 kilometre pipeline to transport oil from Azerbaijan through Georgia and to the Mediterranean coast of Turkey. Construction work began in 2003, and the pipeline became operational in 2005—though it only reached its full capacity of 1 million barrels per day in 2007.

A consortium, in which BP was the lead company, was set up to develop the project. The total cost was US\$4 billion, of which over 60% was debt provided by international financial institutions and commercial lenders. ECA-backed financing amounted to US\$766 million, of which the ECGD guarantee constituted US\$106 million. The other major ECAs involved were those of Japan, the US, Germany and France. ECGD’s guarantee was issued in February 2004.

In accordance with standard practice, the project consortium appointed an independent environmental consultant, Mott McDonald prior to financial close and D’Appolonia after financial close, that owed its duty of care to the financial institutions. The project company produced extensive documentation including an Environmental and Social Impact Assessment (ESAP), a Resettlement Action Plan and an Environmental and Social Action Plan for each of the three countries. In view of the scale of the project and its environmental and social impacts (such as the extent to which it involved the resettlement of local peoples), it was assessed by ECGD as a high potential impact case at an early stage. Over a period of two years, the BPU reviewed the information available on the project from a variety of sources—including documentation from the project company itself, the work of the independent consultants and of the Lenders’ Environmental Working Group, consultations with other financial institutions and ECAs, and a site visit by the Head of the BPU. On this basis of this information, it compiled a comprehensive assessment of the project which was submitted to the Risk Committee in 2003. In it, the BPU advised that the project complied in all material respects with the relevant guidelines and standards, and recommended that the offer of ECGD support should be subject to compliance with certain conditions, including the full implementation of the ESAP.

The process of constructive engagement with the project company helped to ensure adherence to international standards. Specific examples of this include the requirements that waste should be handled in accordance with EU regulations, and that arrangements for monitoring the resettlement process in Turkey should be as effective as those proposed for the other two countries. The BPU, in partnership with other ECAs and financial institutions, continues to monitor progress against such commitments through reports from the project company and regular site visits by the independent environmental consultant.

*Case Study 7: Civil—Sakhalin Phase II*

The Sakhalin project in the Russian Far East is one of the largest developments of oil and gas reserves in the world, and ECGD was heavily involved with Phase II of this project mainly since 2003. The project consortium, the Sakhalin Energy Investment Company (SEIC), originally dates from 1991, and was formed to extract and export reserves of oil and gas. The main participants in the consortium were Shell, Mitsui and Mitsubishi—until in 2007 Gazprom bought a majority stake.

The Sakhalin II project involved substantial further development, including offshore platforms (in addition to the one installed for Phase I), undersea pipelines, 800 km of onshore pipelines, a liquefied natural gas plant, and oil and gas exporting facilities. Project funding was envisaged as being provided by loans from the Japanese and US ECAs (for US\$3.7 billion and US\$250 million respectively), some US\$1.5 billion of

commercial loans, a facility of US\$600 million from the European Bank for Reconstruction and Development (EBRD), and equity contributions from consortium members (ie Shell, Mitsui, and Mitsubishi). In 2003, SEIC applied for support from ECGD in respect of a prospective US\$650 million loan intended to finance UK supplies of goods and services to the project—notably from AMEC, Parsons, and Rolls Royce.

Following its appraisal of project documentation and the Environmental, Social and Health Impact Assessment (ESHIA) which SEIC published in early 2003, the BPU assessed the case as potentially sensitive and high potential impact, put details on its website, and consulted with other departments. It also liaised closely with other ECAs and other financial institutions to assess the extent to which the project Environmental, Health and Safety Impact Assessment (ESHIA) met international standards. In partnership with these institutions, it concluded that the project did not fully meet some of the relevant World Bank Group guidelines, but that there was scope for SEIC to take action to bring it into line with these standards. It wrote to SEIC in March 2004 to make a conditional support offer and specifying various underwriting conditions to be met.

Together with other lending institutions, ECGD continued to put pressure on the project developers to improve standards. This process of constructive engagement resulted in SEIC developing and publishing in late 2005 a far more comprehensive set of plans and commitments. These included a substantial addenda to the ESHIA and a Health, Safety, Environment and Social Action Plan (HSESAP) in which SEIC agreed to comply with both Russian and international standards and employ the higher of the two standards where these differed. The HSESAP also contained over 2,000 specific commitments and constituted the basis for project monitoring by the financial institutions and by AEA Technology, the independent environmental consultants appointed by SEIC but with a specific duty of care to the financial institutions. EBRD publicly endorsed the overall documentation package as being fit for purpose, while AEA considered that the HSESAP was both comprehensive and detailed and provides a good framework for the implementation of the required mitigation measures and monitoring programmes.

Where no international standards existed, the financial institutions also negotiated with SEIC to develop measures on the basis of expert advice and best industry practice. A specific example of this was the creation of an advisory panel of scientific experts to review and report on the likely impacts of the project on the endangered Western Gray Whale. As a result of the recommendations of this panel, the offshore pipeline was re-routed to avoid crossing the feeding grounds.

ECGD's assessment of the project was rendered more difficult due to the fact that on-site construction work on it had started in 2003. As a result, ECGD and the other financial institutions were obliged not only to assess project plans against international standards, but to monitor whether SEIC commitments published in 2003 and 2005 were actually being observed. By 2006-07, it was becoming clear that this was not the case, and following further engagement with the financial institutions SEIC published a Remedial Action Plan in August 2007. This detailed specific actions to be taken in relation to the onshore pipelines, which were still being installed although other parts of the project were substantially complete.

By early 2008, ECGD had still not made a substantive decision on whether to issue a guarantee. The BPU had not finalised its own evaluation of the project in the light of the latest evidence, and ECGD was awaiting further information from SEIC in respect of the financial aspects of the project. In late February 2008, following a funding review, SEIC wrote to ECGD withdrawing its application for support and ECGD subsequently confirmed that its conditional offer of support had been withdrawn.

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