



House of Commons
Trade and Industry Committee

**Implementation of
ECGD's Business
Principles: Government
Response to the
Committee's Ninth
Report of Session
2004–05**

**Fifth Special Report of
Session 2005–06**

*Ordered by The House of Commons
to be printed 19 July 2005*

HC 366
Published on 21 July 2005
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Trade and Industry Committee

The Trade and Industry Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department of Trade and Industry.

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Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Philip Larkin (Committee Specialist), Grahame Allen (Inquiry Manager), Clare Genis (Committee Assistant) and Joanne Larcombe (Secretary).

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Fifth Special Report

The previous Committee published its Ninth Report¹ of Session 2004-05 on 4 April 2005. The Government's response to this Report was received on 23 June 2005 and is published as an Appendix to this Special Report.

Government response

Letter to the Committee from Ian Pearson MP, the Minister of State for Trade, Investment and Foreign Affairs.

Further to the Trade and Industry Committee's report on ECGD's Business Principles of 4 April 2005, I enclose the Government's interim response.

As you know, the Committee's key recommendations cannot be substantively dealt with at present, due:

- In the case of ECGD's case impact assessment procedures, to the need for careful consideration of any potential changes; and
- In the case of ECGD's anti-bribery and corruption procedures, to the public consultation still underway.

However, I will ensure that the Government returns to your Committee with a substantive response on the former issue by 18 July. On the latter, a response to the public consultation, which will take account of the Committee's views, is due to be published by 18 September. I hope this is acceptable.

I would once again like to thank the Committee for all the hard work that went into this inquiry and the resulting report.

23 June 2005

Introduction

The Government welcomes the Committee's further report regarding the Export Credits Guarantee Department's (ECGD) Business Principles.²

Transparency

1. We understood the difficulties involved in gaining the agreement of the whole Lenders Group to the release of the Mott MacDonald report on environmental and

¹ Ninth Report from the Trade and Industry Committee, Session 2004-05, *Implementation of ECGD's Business Principles*, HC 374-I

² All paragraphs in bold font in this response are quotations from the Committee's Ninth Report.

social issues relating to the BTC pipeline, although we did not understand ECGD's reluctance to attempt to do this. We were more disturbed at the Department's reluctance to put its own Business Principles Unit's report into the public domain, particularly as this would have provided an essential insight into ECGD's decision-making process and enhanced our ability to explain our scrutiny of its actions. (Paragraph 17)

2. We found ECGD's explanation for its reluctance to put its own assessment of the BTC project into the public domain unconvincing and unsatisfactory. Such reluctance has affected our ability to explain our own conclusions about ECGD's involvement in the project. Much more importantly, it runs counter to the Department's professed commitment to transparency in its business. It should have been possible for ECGD to demonstrate how it had considered all of the concerns raised during the consultation exercise on this project without betraying commercial and political confidences. We recommend that in future, at the same time as it announces a major funding decision, the Department publishes a detailed analysis of the issues raised during public consultation with a full explanation of how those issues have been addressed. (Paragraph 19)

The Government is giving this recommendation proper consideration: ECGD is currently assessing the options available relating to the transparency of its case impact assessment process, and whether any change should be implemented.

Due consideration of this issue requires ECGD to consult its Management Board, the Export Guarantee Advisory Council (EGAC), the statutory body within whose terms of reference consideration of this issue properly falls, and Ministers, before a final response can be determined.

ECGD intends to put proposals to the EGAC at its next meeting on 20 June. ECGD's Management Board will then be able to make recommendations to Ministers, so that they can make a substantive response to the Committee by 18 July.

ECGD support for the BTC pipeline

3. Having reviewed the material supplied to us in confidence by ECGD, we are satisfied that the Department did take full account of the concerns expressed by those who contributed to its consultation exercise and that, in deciding to support the BTC pipeline, it acted in a manner consistent with its business principles. (Paragraph 29)

4. It is not surprising that quality assurance problems occur during major construction projects such as the BTC pipeline. What matters is that those problems are identified and addressed. We are satisfied that ECGD's monitoring of the pipeline's construction, in cooperation with the other members of the Lenders Group, is proportionate and consistent with the Department's business principles. (Paragraph 32)

The Government notes that the Committee agrees that the BTC pipeline was underwritten, and its construction continues to be monitored, in accordance with ECGD's Business Principles. The Government also notes that the Committee recognises that ECGD did take

account of all concerns expressed by those who took part in its consultation exercise, prior to deciding to underwrite the case.

ECGD's anti-corruption procedures

5. We are not persuaded by the arguments put forward by ECGD's customers that the Department had no right to information on the agents they use and the money to be paid to them. The payment of commission or fees to agents is generally recognised to be a common method of paying bribes, and in our view ECGD was right to attempt to get access to information on agents as part of the implementation of its anti-corruption policy. We have no doubt that its decision not to require such information in the future weakens that policy. (Paragraph 51)

6. The net result of the December changes to ECGD's procedures is that companies receiving support from the public purse need make no checks on their business partners to ensure, to the best of their ability, that UK taxpayers' money is not used by these partners to pay bribes. This is unacceptable, to say the least. (Paragraph 58)

7. We are not convinced by ECGD's defence of its definition of the meaning of the phrase "to the best of our knowledge and belief". While its action may be perfectly defensible in legal terms we are concerned that the Department has chosen to interpret the phrase in a way which is inconsistent with the rules of common sense. It is a nonsense to suggest that the December rules will ensure that due diligence will be carried out on 'controlled companies'. (Paragraph 65)

8. In our view, it should be possible to address the CBI's concern about the extent to which their members should be knowledgeable about the activities of their partners' employees by limiting the requirement to having knowledge of senior employees and defining that term to mean people with executive power in the company. This would cut down the extent of the information required considerably and maintain the need for some semblance of vigilance on the part of the applicant for ECGD's assistance. (Paragraph 70)

9. In conceding its right of independent audit, ECGD weakened its ability to detect fraud or other corrupt activity. The Department may not have statutory powers of investigation, but it does have the responsibility to ensure that public funds are used appropriately. We saw nothing wrong in requiring an applicant to agree to audit and inspection by ECGD as a condition of receiving support from the public purse and we regret ECGD's concession of the principle. (Paragraph 75)

10. We cannot understand why, if some of ECGD's customers could accept the Department's support under the more rigorous procedures effective from 1 May, others could not. (Paragraph 76)

Omnibus answer points 5-10

My predecessor, Douglas Alexander, launched a public consultation on 18 March 2005 on the changes to ECGD's anti-bribery and corruption procedures introduced in December 2004. The consultation document can be found on ECGD's website.³

The question on which ECGD has invited representations is:

“Do the changes made to ECGD's anti-bribery and corruption procedures in December 2004 have the effect of ensuring that, so far as practicable, (1) taxpayers' money is not used to support transactions tainted with bribery and/or corruption; and (2) an undue burden is not placed on exporters and/or banks?

“If you consider that the changes do not possess this balance, please indicate what changes you think would do so.”

It would be prejudicial to the outcome of the present consultation for the Government to comment substantively on any of the Committee's points listed above.

The Government nevertheless welcomes the contribution that the Committee has made on this issue. The consultation will close on 18 June 2005. The Government will then consider all the representations it has received. The Committee's views will be taken into account alongside those representations received through the consultation itself. The Government's response to the consultation, containing a summary of views expressed and the decisions finally taken, will be issued within three months of the close of consultation and the Committee will be informed of this final outcome.

11. We welcome ECGD's acknowledgement that the introduction of new procedures could have been handled better. In the light of this experience, we would expect the Export Guarantee Advisory Council to be consulted on any proposal to amend ECGD's procedures and that ECGD would seek its advice on the need for consultation with customers and other interested parties. (Paragraph 80)

The Government can confirm that ECGD is committed to consultation with EGAC on the outcomes of this consultation.

³ www.ecgd.gov.uk