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Export Credits Guarantee Department
PO Box 2200
2 Exchange Tower
Marble Exchange Square
London E14 9GS

For the attention of Ben Llewellyn

Dear Sirs,

Consultation on ECGD's Anti-Bribery and Corruption procedure Dec 2004

I am writing in connection with the Consultation referred to above. My views are expressed as an individual who worked for many years for a major exporter of electrical equipment whose name has now disappeared.

No company or organisation wants to fall foul of UK law. Because every effort is usually made to avoid this happening, companies are prepared to give a guarantee (referred to as a warranty) to that effect to ECGD, even though this would involve them in double jeopardy. If the unthinkable actually happened, the company would not only be liable for the consequences of a criminal offence but would also be liable to ECGD to make substantial payments.

The latter penalty is particularly significant for large companies because they usually have funds available to pay and would not wish to seek insolvency protection. Any increase in the harshness of the warranty to ECGD would start to make the liability and risk of this financial penalty intolerable. The May 2004 warranty would have required company A to be liable for this penalty if company B, with whom it happened to be collaborating, fell foul of the criminal law without any knowledge or action by company A and without company A being able to do anything to prevent it. This is so clearly unfair and unreasonable that it ought not even to have been contemplated. The December 2004 procedure helps to restore the balance whilst retaining the double jeopardy liability - UK law remains unaffected.

Because each developed country has its own ECGD equivalent (ECA), a worrying concern for a UK exporter is whether a competing company in another country is able to carry out its exports under more favourable circumstances than a UK company on account of greater help from its ECA. A UK exporter is fully prepared to compete for business abroad if the assistance given to other countries exporters is the same (the "level playing field") but if even one ECA acts more favourably, the UK exporter is put at a disadvantage. This can lead to loss of the business from the UK with resulting unemployment, and loss of revenue for H.M. Treasury.

Each time ECGD introduces an onerous procedure which is not simultaneously introduced (and strenuously enforced as ECGD does) by all other comparable ECA's, the UK is put at a disadvantage. ECGD can lead the way in the international forum to get a new procedure adopted by all countries but it should not unilaterally impose such a procedure so that UK exporters, their suppliers and the UK economy suffers as a result. ECGD has been

recognised by its then Minister as "one of the world's toughest export credit agencies". This is so destructive of the UK economy that one would expect it to be kept quiet.

My answer to the question posed by ECGD in paragraph 1.6 of the Consultation document is Yes to both parts for the reasons given above.

I agree that this response can be published together with my name but as I am a private individual, I request confidentiality for my address and telephone number which should be withheld.

Yours truly,
Michael Poszener