

NOTE ON THE ROLE OF THE EXPORT GUARANTEES ADVISORY COUNCIL (EGAC)

Statutory position

1 The EGAC is a statutory body. Its derivation and role are set out in the Export and Investment Guarantees Act 1991. This states that:

Section 13 (2), (3) and (4)

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

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

(4) In exercising his duty under section 11(2)¹ of this Act, the Secretary of State shall consult the Export Guarantees Advisory Council.

Advisory Role

2 The EGAC therefore exists to give advice to ECGD's Minister when he seeks it. The Minister is required to consult the EGAC if he decides to provide reinsurance in the national interest. Thus, the EGAC is an advisory body; it does not perform any executive function, which is the responsibility of ECGD.²

3 In this regard, EGAC has no statutory responsibility to monitor ECGD, or its operations. Although the Council is able to give its advice directly to ECGD's Ministers, it is normal practice for this to be provided through senior ECGD officials. ECGD officials routinely attend Council meetings to listen to the Council's deliberations, make comment and receive advice and recommendations. Annually, the Council meets with the Minister that provides an opportunity to discuss, exchange views and provide advice on relevant issues.

Terms of reference

4 The role of the Council was considered in the ECGD Mission and Status Review undertaken in 1999-2000 – see Appendix 1. The EGAC operates to terms of reference – Appendix 2. These are cast widely but, since the creation of ECGD's Management Board led by a Non-Executive Chairman in 2004 by the then Secretary of State, the EGAC has concentrated the provision of its advice on matters largely related to ECGD's Business Principles and their application to ECGD's operations.

Membership

¹ EIGA Section 11 Reinsurance: (2) The Secretary of State shall from time to time determine, in relation to such classes of risk determined by him as might be insured by him under section 1 of this Act, whether it is expedient in the national interest for him to exercise his powers under that section to make arrangements for reinsuring persons providing insurance for risks of that class.

² EIGA Section 13 (1) All the functions of the Secretary of State under Part I of this Act, except the power to make orders under section 5 or 6 of this Act, shall be exercised and performed through the Export Credits Guarantee Department, which shall continue to be a Department of the Secretary of State.

5 The members of EGAC are appointed by Ministers, and, at their discretion, re-appointed, for a term of office under the rules of the Office of the Commissioner for Public Appointments. The members have expertise and experience in corporate social responsibility issues, sustainable development and trade. Members are unpaid. Members must avoid conflicts of interest and must follow the seven principles of public life.

Meetings

6 The Council usually meets 4-5 times a year. The Council meets in private and also with senior ECGD officials present. At its meetings, the Council considers a range of subjects, consistent with its terms of reference with a focus on the application of ECGD's Business Principles. The subjects are decided by EGAC and sometimes by ECGD. To assist the Council's consideration of issues, at its request, ECGD provides information and briefings and the opportunity to meet and discuss these with relevant officials within ECGD and, from time to time, officials from other Government Departments. The Council also meets with interested parties including exporters, customer representative organisations and special interest groups, the outcome of which helps to inform the topics it should consider in fulfilment of its terms of reference.

Records

7 The subjects considered by the Council and its advice and recommendations made to ECGD are recorded in the minutes of its meetings which are made publicly available. Annually, the Council publishes a report which records its activities during the year in question and is included in ECGD's Review and Accounts.

ECGD Mission and Status Review 2000

1.40 ECGD will need to strengthen its management and corporate governance to deliver its new Mission and put in place the new risk management systems. It is important that ECGD should have access to outside sources of expertise and advice so that Ministers and Parliament can be assured that ECGD is keeping abreast of best commercial practice. ECGD will appoint outside Directors to play a key role in overseeing its risk management systems through membership of the Audit and operational Committees. Outside Directors might also have a role to play in ECGD's complaints procedures.

1.41 At present, the Export Guarantees Advisory Council focuses upon ECGD's country risk assessment activities. Its remit needs to be broadened in line with ECGD's new Mission. Accordingly, its new remit should be to provide advice on the development of the new policies and principles needed for ECGD to implement its revised Mission. The Council should also advise on the drafting of the statement of Business Principles. To reflect this broadened remit, its membership will be revised to bring in outside expertise on the new areas in ECGD's Mission (to focus on SME interest, developmental, environmental and other project impacts). New appointments will follow established public appointment procedures. ECGD already consults other departments on a range of issues and cases, but should establish a formal mechanism for consulting other departments on sensitive cases and related process issues. Revised Terms of Reference for the Council should be published.

1.42 Council members will continue to be subject to rules designed to avoid conflict of interest between their role as members and their other interests; the same will apply to the appointment of outside Directors.

Conclusions:

ECGD should strengthen its corporate governance systems, including the appointment of outside Directors to ECGD's Management Board. They would have a key role in overseeing ECGD's risk management systems through membership of the Audit and relevant operational Committees. The Terms of Reference of the Export Guarantees Advisory Council should be widened in line with the change of Mission; its remit should be radically reformed so that it advises ECGD on policies and principles needed to fulfil the new Mission and not on individual risk decisions. The revised Terms of Reference should be published. There should continue to be procedures for outside Directors and Council members to avoid conflicts of interest.

Export Guarantees Advisory Council: Terms of Reference

1. The Export Guarantees Advisory Council ("the Council") has been established under Section 13 of the [Export and Investment Guarantees Act 1991](#). Its statutory purpose is to give advice to the Secretary of State, at his request, 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 Act (in relation to reinsurance).

2. This note sets out terms of reference for the Council in respect of:

- 2.1 those matters on which the Secretary of State wishes to have the advice of the Council, and the broad procedures for giving such advice;
- 2.2 the handling of advice on issues in relation to which a Council member may have a business interest; and
- 2.3 the need for members of the Council to carry out their duties in such a way as to maintain the values and standards of public service.

Scope of and Procedures for Giving Advice

3. The Council's broad remit is to provide advice on the principles that should guide the Export Credits Guarantee Department's (ECGD) pursuit of the aims and objectives set out in its [Mission Statement](#), and how these principles should inform its business policies. The Council will also advise on the drafting of the statement of these principles.

4. The Council will not be asked to give advice on any individual cases, transactions or markets.

5. The Council will normally provide its advice to ECGD, through which the Secretary of State is empowered to exercise and perform his main statutory functions under the Act. The main areas on which the Council or individual members will be asked to provide advice are as follows:

- 5.1 **ECGD's risk management policies** and whether these are properly directed to the achievement of the business and financial targets specified by Ministers from time to time;
- 5.2 **ECGD's marketing and product development policies** and whether these adequately address the needs of small and medium sized firms as well as ECGD's existing customer base;
- 5.3 **the ability of ECGD to compete fairly** with overseas Export Credit Agencies;
- 5.4 **ECGD's stance relative to the private financial services and capital markets** and whether this is complementary rather than competitive, specifically in relation to reinsurance pursuant to Section 11(2) of the Act;
- 5.5 **ECGD's policies for ensuring that it commands a high reputation for fairness, openness and integrity with Parliament, the public and its customers;** and
- 5.6 **ECGD's business policies** and whether these support the Government's policies for good environmental standards, the promotion of sustainable economic development in emerging markets, and good governance.

6. The minutes of the Council's meetings will be made available to the public on request, and published on ECGD's website, unless they contain commercially sensitive information. The Council will review ECGD's performance in relation to its statement of [Business Principles](#), and may propose changes to Ministers, to ensure that the principles continue to address the objectives in ECGD's Mission Statement.

7. The Council will publish an annual report of its proceedings, to be published within ECGD's Annual Report to Parliament*.

8. Advice will usually be given at regular Council meetings - about 4-6 per year – to ECGD, who will provide the Council Secretariat and will make an agreed record of the meetings of the Council. The Council will be free to address its views directly to the Secretary of State or the Minister for Trade on subjects which it deems appropriate.

Legal Proceedings

9. Although legal proceedings by a third party against individual board members of advisory bodies are very exceptional, a Council member may be personally liable if he or she makes a fraudulent or negligent statement which results in a loss to a third party. The Government has provided a 'letter of comfort' to Advisory NDPB members. If a Council member has provided advice honestly, reasonably, without negligence and in good faith ECGD will provide an indemnity against personal civil liability.

Public Service Values

10. Members of the Council are expected to:

- 10.1 observe the highest standards of impartiality, integrity, and objectivity in relation to the advice they provide; and
- 10.2 be accountable to the Secretary of State for the Council's activities and for the standard of advice they provide.

Standards in Public Life

11. All Council members should:

- 11.1 follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life (annexed);
- 11.2 comply with the terms of reference, and ensure they understand their duties, rights and responsibilities, and are familiar with the function and role of the Council and any relevant statements of Government policy. New Council members should attend an initial briefing session with ECGD;
- 11.3 neither misuse information gained in the course of their public service for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations. Documents provided by ECGD for use in Council meetings should never be disclosed to third parties without the prior consent of ECGD; and
- 11.4 not hold any paid or high-profile unpaid posts in a political party, and not engage in specific political activities on matters directly affecting the work of the Council. When engaging in other political activities, Council members should be conscious of their public role and exercise proper discretion.

Declaration of interest

12. To avoid any suggestion of Council members being influenced, or appearing to be influenced, by their private or business interests in the exercise of their public duties members should declare an interest in relation to any advice they may give. A declaration of interest will not preclude that member from giving advice, but it should be included in the agreed record of the meeting. Exceptionally, if a Council member considers that to give a declaration of interest may compromise their position in any way, the member should discuss it with the Chief Executive of ECGD before the meeting.

13. Council members should declare directorships and executive appointments held, and any substantial shareholding or interest held by a member, or member of his/her immediate family **. For the purposes of this declaration a substantial shareholding is defined as shares in any one

company worth more than £50,000, or more than 1% of the share capital of any company. A Register of Interests will be held by the Council Secretary to whom Council members should give the relevant information, keeping it up to date. The Register will be open to the public upon request.

* From 2000/01

** Defined as Partner and Children under 18 years of age.

The Seven Principles Of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or outside organisations that might influence them in the performance of their public duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public's interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.