

19 December 2005

**CBI COMMENTS ON INTERIM RESPONSE TO ECGD'S CONSULTATION ON CHANGES TO ITS ANTI-BRIBERY AND CORRUPTION PROCEDURES: QUALIFICATION OF STATEMENTS.**

In response to Ben Llewellyn's letter of 5 December but subject to the clarifications sought by the Chairman of the British Bankers Association in his fax of 14 December, set out below are the CBI's additional comments on qualification of statements generally as well as specific comments on possible additional changes to the representations required to be made by banks.

Our view on qualification has been consistent and clear throughout the consultation process. Indeed it was one of the key issues we focussed on in our discussions with ECGD during 2004 to ensure that any proposals were workable. In particular see paragraphs 38-41 of the CBI submission of 18 November 2005.

It is not practical for business to make absolute undertakings, particularly where these are in respect of third parties where companies are relying upon the representations of others.

Applicants and banks are currently required to give strong and extensive undertakings. In order to give these they need to have in place very strict anti-bribery and corruption policies as well as to actively seek additional information for each particular contract. Applicants and banks seek to honestly and diligently give assurances based on their best knowledge and belief but no business can give an unqualified, absolute undertaking as this would expose them to a totally unacceptable legal liability.

Our purpose in commenting on these provisions in the latest consultation exercise was to flag up the changes which appeared to have been made to the revised schedules without reference to such changes in the consultation document itself and the inconsistency in having different levels of "qualification" for Applicants and banks. We fully support the banks view that unqualified undertakings are totally impracticable in their dealings which is exactly why we made the self same points with regard to Applicants.

It is essential therefore that the qualifying language (together with the explanatory notes) is retained both in customers' documentation and banks letters of undertaking.