

THE
CORNER
HOUSE

Station Road
Sturminster Newton
Dorset DT10 1YJ
UK

Tel: +44 (0)1258 473795

Fax: +44 (0)1258 473748

Email cornerhouse@gn.apc.org

Website: www.thecornerhouse.org.uk

Ben Llewellyn
ECGD
PO Box 2000
2 Exchange Tower
Harbour Exchange Square
London
E14 9GS

31st March 2006

Dear Mr Llewellyn

Corner House representation on ECGD's arrangements for handling information about agents' identities.

The Corner House believes that the security of information for customers on the identities of agents must never be at the expense of ECGD being able to conduct adequate and thorough due diligence on whether there is a risk that a bribe payment may be made through the agent of a customer. The ECGD would expose itself and the taxpayer to unnecessary risk if it were to put security of information above its duty and right to conduct such due diligence.

The Corner House believes that it will be extremely difficult if not impossible for ECGD to conduct adequate due diligence on an applicant's agent solely through open source, web-based searches. The ECGD will be missing out on vital information about the background and reputation of an agent if it limits itself to such searches, and is not able to access local knowledge about the agent.

The Corner House therefore strongly proposes that under paragraph 4 of the "Special Handling Arrangements", the ECGD must add a fourth person who will be given the knowledge of the identity of the agent under similar conditions of confidentiality as those that will apply to ECGD personnel. This fourth person should be a representative from the local diplomatic mission where the agent is based. This local diplomatic official would have responsibility for making discreet enquiries about the background and reputation of an agent and is likely to be able to access local information about an agent without alerting anyone as to the purpose of the enquiry. Where either ECGD or the local diplomatic official has concerns, the local diplomatic official should be responsible for conducting further enquiries, including making a

possible visit to the agent's offices to check that they are bona fide and what experience they have.

The Corner House believes that the "Special Handling Arrangements" will be seriously deficient if they do not enable ECGD to access local knowledge as part of its initial due diligence searches. The Corner House does not believe that approval from the Applicant should be sought before involving such a fourth official, but that it should be a condition of cover, specified in the Arrangements that such a fourth local diplomatic official be one of the people given knowledge of the agent.

Furthermore, The Corner House believes that where an applicant requests "Special Handling Arrangements" for high risk projects, such as a project in a country where the World Bank and Transparency International regard corruption as high, or a project in a high risk sector, such as infrastructure or defence, the ECGD must require the applicant to commission an independent 'due diligence' check on their agent/s by an independent and reputable risk consultancy and to provide the ECGD with the full results of that check. Companies listed on the New York Stock Exchange regularly commission such checks on their agents in order to ensure and be able to document their compliance with the Foreign Corrupt Practices Act. The Corner House believes that the ECGD's due diligence on agents should be at least as strong if not stronger than best industry practice, given that taxpayer's money is at risk.

Finally, the Corner House believes that paragraphs 6 and 7 are essential for the "Special Handling Arrangements", but that paragraph 7 should make it clear that if the applicant refuses consent for knowledge to be more widely shared where ECGD has concerns and needs to make further enquiries, that ECGD *will not* be able to proceed with the Application. The current phrasing "it is likely in those circumstances that ECGD would be unable to process the Application further" leaves open the possibility that ECGD may still proceed with an application despite such an unsatisfactory situation.

Yours sincerely

Susan Hawley
Nick Hildyard
The Corner House