

MINUTES OF MEETING HELD 21 JANUARY 2004

Present: Ms Liz Airey (Chairman)
Professor Jonathan Kydd
Mr Martin Roberts
Professor Kate Phylaktis
Mr Tony Shepherd
Dr Raj Thamotheram
Sir Stephen Brown

In Attendance: Mr Vivian Brown
Mr John Weiss
Mr John Ormerod
Mr David Allwood
Mr Paul Hillman
Mr Paul Roe

Mr Gareth Waterhouse (Secretary)

1 APOLOGIES FOR ABSENCE

Apologies were received from Mr Armitt, and Mr Elkington.

2 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 19 November 2003 were approved and signed.

Matters Arising

2.1 New Chief Executive

2.1.1 The Council had been introduced to Graham Pimlott, the new Chair of ECGD's Management Board, before the meeting.

2.1.2 Mr Brown said that an individual had been chosen for the post of Chief Executive, and this had been approved by the Prime Minister's Office. However, it was unlikely that an announcement would be made before mid-March.

2.2 Doing Business in Iraq

2.2.1 Mr Ormerod updated the Council on events that had occurred since their last meeting.

2.2.2 After negotiations with HM Treasury and at Ministerial level, a special new account had been created for the business, which was capped at £100m. The cost of any claims would be met jointly by ECGD and DTI.

2.2.3 Agreement had been achieved at the final hour before the signing ceremony in Rome. The process of publicising the scheme was now underway.

2.2.4 The Coalition Provisional Authority (CPA) had issued the first contracts, but none of these had been covered by ECAs. It was anticipated that there would be more interest in insurance as the CPA neared the handover to an Iraqi government.

2.2.5 Mr Brown said that a new ringfenced account for this business, that was originally expected to be carried out under Account 2, would be set up.

2.2.6 The Council asked how ECGD's scheme compared with those on offer from other ECAs. Mr Ormerod said that the USA were offering \$500m of cover, compared to ECGD's \$100m, but some agencies had not finalised details at the time of the signing.

2.2.7 One Council member warned against the possibility of corruption in winning contracts in Iraq. Mr Ormerod said that ECGD's Business Principles would still be applied, although this was more difficult with short credit terms.

3 TRADING FUND PROGRESS REPORT

3.1 Mr Brown said that Tom Jaffray had intended to give a presentation on Heads of Agreement 3 (HOA3) at the meeting. However Ministers had now asked for more time to consider the proposals, so it was judged better to hold back from giving the Council the details. He gave a progress report, making the following main points:

3.1.1 The final version of HOA3 introduced an integrated performance management framework, which eliminated the problems of the relationship between capital adequacy targets and the current financial regime. The new system was based on targets, rather than "hard" triggers that did not reflect the inherent volatility of the business.

3.1.2 Discussions were now underway with regard to the return that ECGD should generate. HMT aimed to have a commercial rate of return to show the notional subsidy between that and the affordable rate. Ministers did not yet feel they were able to agree the affordable rate, and calculations were still underway to determine a recommendation on the commercial rate.

3.1.3 If decisions continued to be deferred, it would be impossible to begin the Pilot on 1 July as planned. It had now been concluded that the original target of April 2005 for the Statutory Fund would not be possible. It had been stressed to Ministers that it was important to make a decision quickly, and

not wait for the new Chief Executive. Any delays also risked losing some positive aspects of the negotiated framework.

3.1.4 There were other issues, for example the arrangements for administering the voted payment via the DTI, that also needed to be worked out prior to the Consultation process. It was envisaged that the total amount of the payment would be voted to DTI, and they would then only have financial responsibility for the volatility. The full Business Case, including statutory issues regarding the amount of income from trading activities, was also yet to be considered.

3.2 In discussion, the following points were made:

3.2.1 The Council felt that the mechanisms for the voted payment would be confusing, rather than transparent. The government was generally viewed as a unitary entity, and the way in which monies would be transferred from HMT, to DTI, to ECGD and then back to HMT as a return on capital was at odds with this.

3.2.2 The Council also made the point that the proposed commercial rate of return of 10-15% seemed high, for example in comparison to privatised utilities. They also reiterated arguments advanced at an earlier Council meeting regarding the division there would be in a private insurance company between loan and equity capital.

4 ECGD'S CUSTOMER PROPOSITION – EGAC(04)02

- 4.1 Mr Ormerod gave a presentation on the articulation of ECGD's Customer Proposition. He made the following main points:
- 4.1.1 The current draft was based on Heads of Agreement 3. Hence, the contents were subject to change if negotiations were reopened. Presentations to major customers were planned, and the contents would remain confidential until then.
- 4.1.2 ECGD's Corporate Strategy had two main components. The Development Plan described the changes that were needed to activities and processes. The Business Strategy defined the way in which business activity would be carried out. The Customer Proposition was part of the Business Strategy, along with the International Strategy (which described how ECGD planned to work with other ECAs to achieve a level playing field) and the Private Sector Strategy (which reflected the desire to be complementary to private insurers and develop the private market). The Corporate Strategy was monitored via the Strategic Risk Register, which was reviewed at Management Board once a quarter. Further work looking at the external environment supported the assumptions in the Corporate Strategy.
- 4.1.3 The Customer Proposition was underpinned by the Financial and Operating Framework - which set the parameters for operating the business - and the business domain - which defined where and when ECGD could offer cover. The Proposition was to be supported by a revised Customer Charter, which was being redeveloped to include measurable tests of commitments expressed in the Proposition.
- 4.1.4 The draft Customer Proposition was presented. The essential principles were to make as much cover available as possible, at a risk related price,

except where constrained by international agreements or government policy. Aspirations for offloading risk through Active Portfolio Management, and the International Strategy were also expressed in the Proposition. The Proposition also described the desire to be flexible, introduce new products and complement and develop the private sector. The final part of the Proposition set out ECGD's desire to provide high quality service to customers. The intention was to be more proactive and responsive so that ECGD was once again regarded as a top ECA.

4.2 In discussion, the following main points were made:

4.2.1 Mr Ormerod said that a number of the principles had already been put into place, but a key change was articulating the Proposition for customers. The Business Domain was slightly changed in an effort to more carefully define the distinction between ECGD and the private sector. It was hoped that service delivery would improve further going forward as ECGD gained greater autonomy and became more experienced at making decisions. However, there were no benefits that customers could point to as major positive changes.

4.2.2 One Council member suggested that the current draft did not accurately reflect the role of the Business Principles Unit. Rather than presenting the scrutiny of projects as a constraint, it would be more appropriate to emphasise that ECGD would work with project sponsors to improve the environmental and social impacts.

4.2.3 The International Strategy was discussed in more detail. Negotiations were conducted on a multilateral basis, with the OECD taking the lead ahead of the WTO. However, new ECAs in less developed countries were beginning

to unsettle this situation, and the WTO were becoming more involved. Current priorities were creating greater financial disciplines in FREF, improving corporate risk assessment techniques and combating bribery and corruption. ECGD had credibility and influence in negotiations, and were often perceived as experts. Recent progress had been good, for example on the environment, but there were areas that other ECAs were applying very different disciplines and principles.

4.2.4 The Council were very interested in this issue, including the targets for negotiations and the timescales. A stated list of priorities could be valuable for monitoring progress. It was agreed that it was important for HM Treasury to be closely involved with this work, especially as changing the opinion of foreign governments (rather than just ECAs) was often the aim. Treasury had recently appointed an individual with responsibility for joining ECGD in discussions. The Council decided that it was important to express to HMT officials the opinion that they ought to take joint responsibility for progress. It was agreed that a letter would be written, welcoming recent developments but expressing the opinion that ECGD needed full support in negotiations. Further, as part of the Council's engagement with other stakeholders, this could be a valuable topic for discussion at a meeting with HMT.

4.2.5 The Council gave no more specific comments on the draft Customer Proposition. One member commented that this honest articulation of the position, that could be monitored and evaluated, should be valuable to customers, and help to build trust.

- 5.1 Mr Weiss presented the topic, making the following main points:
- 5.1.1 The Minister for Trade had asked ECGD to strengthen its response to the report by The Corner House. Proposals had been put to him to tighten procedures, including widening the scope of the warranty exporters were required to sign and enhancing audit rights in relation to agents' commission.
- 5.1.2 The Minister had proposed the appointment of an independent expert to investigate, analyse and/or adjudicate on any allegations. ECGD had expressed concerns about this suggestion.
- 5.2 In discussion, the following points were made:
- 5.2.1 One Council member, speaking from his own experience, said that it would be very difficult for ECGD to take on an investigatory role. This was a highly skilled area, and the fact that any inquiry was not targeted towards mounting a prosecution would make the work even more complex. If this proposal was to proceed, ECGD should contact the relevant authorities to establish their opinion. If there was a problem in investigating cases, it needed to be addressed in these authorities, not in ECGD.
- 5.2.2 The Minister wanted ECGD to be protected from accusations. In the past, ECGD learned lessons and incorporated changes into policies to avoid the same situation arising again. By detecting and investigating, rather than being passive, ECGD could deflect criticism. One Council member feared the opposite would be true – these proposals would make ECGD more involved, whereas the current arrangement meant that ECGD could clearly state that they had passed on allegations to the appropriate authorities.

- 5.2.3 There was general agreement that the issue of bribery and corruption was a concern, but that there was no way to fix this with changes only to ECGD. Other parts of government also dealt with exporting firms, and a joined-up solution was appropriate.
- 5.2.4 The possibility of seconding an individual to an investigating authority to provide expertise and additional resource to help on relevant cases was discussed. It was agreed that this could be offered, and may have some effect, but would still not tackle the wider problem.
- 5.2.5 Council members said that it was anticipated that UK anti-corruption laws would be strengthened shortly, in addition to new OCED guidelines for multinationals. These would help to further deter potential criminals.
- 5.2.6 It was agreed that a letter would be sent to the Minister for Trade outlining the Council's conclusions on this issue. This would accept that there was an issue, but argue that the most durable and effective solution would be to tackle the wider problem, rather than attempt to fix this within ECGD.
- 5.2.7 Mr Weiss informed the Council of a related issue where a multinational had admitted to, and dealt with, a corruption problem, but a UK subsidiary was now seeking cover from ECGD. ECGD had responded with a series of questions on the company's procedures and policies. The explanations and answers had been judged to be more than satisfactory, and the conclusion had been that rogue individuals had created an isolated problem. ECGD would thus continue to do business with the UK exporter. Procedures had been changed to help recognise this problem in the future.

- 5.2.8 Council members were concerned about this development. They felt it would be an especially difficult presentational issue if the exporter were a very large firm or major customer. Although the steps taken and actions were appropriate, there was a significant reputational risk.
- 5.2.9 One Council member suggested that, in this case, a third party evaluating the decision would be valuable extra rigour. Other Council members disagreed, believing that it was important for ECGD to be seen as capable of coming to decisions using internal resources, particularly if this was to occur again.
- 5.2.10 It was agreed that it would be logical to codify the steps that had been taken in the decision making process. Factors that had been considered, such as the case not being connected to an ECGD contract and the fact that the firm had self-reported, would have to be applied on any subsequent problems.
- 5.2.11 Mr Brown said that the decision would ultimately be for the Minister.

6 EGAC REVIEW – EGAC(04)01

- 6.1 The Council were presented with a summary of their activity during the last year. The paper showed that all of the areas within the remit had been covered in recent meetings, and provided updates on outstanding actions or advice.
- 6.2 The proposed agenda for the March meeting was agreed.
- 6.3 With regard to meetings with ECGD stakeholders, it was agreed that a meeting with HMT should be sought as soon as possible. NGO representatives could be seen at the regular seminars. In light of earlier

discussions, it was agreed that a meeting with one of the bodies that investigated bribery and corruption allegations could be useful at some point.

- 6.4 Once the new Chief Executive was in post, the Council would need to discuss its place within the changed governance structure for ECGD, and consider whether there was a need for any changes to its remit.

7 ANY OTHER BUSINESS

There was none

GARETH WATERHOUSE

EGAC Secretariat