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Nick Hildyard  
The Corner House  
Station Road  
Sturminster Newton  
Dorset  
DT10 1YJ

13 December 2005

Dear Mr Hildyard

**Request for information regarding Baku-Tbilisi-Ceyhan oil pipeline project – IAR(05)35.**

Thank you for your request of 8 August 2005. I apologise for the length of time that it has taken to answer your request. This was a complex request requiring consultation with other Government Departments and the engineering company concerned in order to properly assess the information. You asked a number of questions concerning assessments and correspondence regarding the BTC project, firstly:

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- (i) A copy of the Business Principles Unit's Assessment Report on the BTC project as prepared for ECGD's Underwriting Committee;
- (ii) A list of all meetings held to discuss the BPU's assessment report, including attendees;
- (iii) All notes and/or minutes of meetings held to discuss the BPU's assessment report, including any written comments or appraisals;
- (iv) All correspondence with BP and/or BTC Co relating to the BPU's assessment report.

With regards to questions 1(i) and 1(iii) the information held by ECGD is enclosed within Annex A. The BPU's Assessment report contains environmental information, which falls under the Environmental Information Regulations 2004 (the "EIRs") and

non-environmental information, which falls under the Freedom of Information Act 2000. Please note that portions of the BPU's assessment are exempt under Sections 27 (1) (a) (International Relations), 36 (2) (b) and 36 (2) (c) (Effective Conduct of Public Affairs), and 42 (Legal Professional Privilege) of the FoIA and Reg. 12(4)(e) (internal communications) of the EIRs, by reason of prejudice to effective conduct of public affairs of the FoIA and have therefore been redacted. In relation to information exempt under s36 FoIA and Reg 12(4)(e) EIRs, it is important that the BPU is able to provide ECGD management with full and frank opinions on the environmental, social and human rights risks of a potential project and recommend such conditions in ECGD guaranteed loans as are necessary to take account of such risks. Disclosure of parts of the BPU's assessment would jeopardise this, as officials would inevitably be more circumspect in their views in future, undermining the integrity of the Department's underwriting process. Additionally, a minute from the Underwriting Committee meeting of the 5 December 2003 has not been disclosed under S36. It is important for the quality of decision making that ECGD's committees are able to discuss projects openly and are able to frankly debate issues relating to projects that ECGD is considering supporting. Disclosure of the minutes of this meeting would make committee members less likely to contribute fully to debate contributions if they perceive there to be a risk of minutes of meetings being wholly or selectively quoted from, reduce the likelihood that discussion would be properly documented and increase the likelihood of discussion taking place in an informal or undocumented manner. In relation to information exempt under Section 27, in complex projects such as this one, ECGD relies on being able to exchange information and views with Export Credit Agencies in other countries. These exchanges are conducted on the basis that they will not be disclosed other than in exceptional circumstances, and failure to observe such protocols could prejudice relations between the UK and other States. In relation to the legal advice for which Section 42 exemption is claimed, it is important that ECGD can receive legal advice with the standard protection of such advice being privileged.

### Public Interest

Turning to the public interest, it is recognised that there is a public interest in transparency of decision-making and accountability in the deployment of public funds, and that projects of the complexity and magnitude of the BTC project are always of particular interest to the public. However, ministers and officials need space in which to develop their thinking, and to think through all the implications of particular options. They need to be able to undertake rigorous and candid assessments of the risks to particular programmes and projects. Analysing the environmental, social and human rights impacts of this large project is the purpose of the BPU's assessment and as it is ECGD's purpose to underwrite risks on behalf of the taxpayer, it is therefore vital that the advice and opinions can be provided as freely and candidly as possible. In relation to information exempt under Section 27 (1)(a), there is a strong public interest in the effective conduct of the United Kingdom's international relations, and its ability to protect and promote its interests abroad. This would be compromised if other states or international organisations with whom ECGD regularly deals became concerned that the confidence within which they consider their exchanges with the United Kingdom to take place might not be respected. In relation to the legal advice received by ECGD and the Lender

group, it is in the public interest that the decisions taken by government are taken in a fully informed legal context where relevant. ECGD needs high quality comprehensive legal advice for the effective conduct of its business, and just as there is public interest in individuals being able to consult their lawyers in confidence, there is public interest in public authorities being able to do likewise.

For these reasons, we consider that the public interest in maintaining the above referenced exemptions under FoIA and exceptions under the EIRs outweighs the public interest in disclosure.

Paragraph 7.30 of the DEFRA guidance on Reg 12 (4) (e) advises that where the internal communications exception applies by reason of prejudice to the effective conduct of affairs, Departments should follow the same procedure with respect to requests for environmental information as with FoIA. We have followed the same procedure in respect of information exempt under FoIA S36 and Reg 12 (4) (e) EIRs.

To answer question 1(ii); One meeting took place to discuss the BPU's assessment report. This was an Underwriting Committee meeting that was held on 5<sup>th</sup> December 2004, the list of attendees is attached below.

### **UNDERWRITING COMMITTEE – 5 DECEMBER 2003**

Group Director, Business Group & UWC Chairman  
CEO  
Director Business Division 3  
Director Business Division 4  
Director Guarantee Management Division  
General Counsel  
Director Capital & Pricing Division  
Economic Adviser  
Financial Analyst  
Operational Research Analyst  
Business Principles Adviser  
Business Manager Construction & Airports  
Underwriter Telecoms and Transport (representing Business Division 1)  
Legal Adviser  
Legal Adviser  
Underwriter  
Underwriter  
Business Principles Analyst  
(Minutes Secretary)

ECGD does not hold any correspondence between us and BP or BTC Co relating to the assessment. Therefore, we are unable to answer question 1(iv)

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- (i) All correspondence with BP and/or BTC Co relating to the testing, selection and use of SPC 2888 as the field joint coating on the Georgia and Azerbaijan sections of the BTC oil pipeline;
- (ii) All correspondence with AMEC or other contractors on the BTC oil pipeline relating to the use of SPC 2888 as the field joint coating on the Georgia and Azerbaijan sections of the BTC oil pipeline;
- (iii) All correspondence with Parsons Energy and/or Worley Parsons relating to its assessment of the use of SPC 2888;
- (iv) A list of all meetings held to testing, selection and use of SPC 2888 as the field joint coating on the Georgia and Azerbaijan sections of the BTC oil pipeline;
- (v) All notes and/or minutes of meetings held to discuss the testing, selection and use of SPC 2888 as the field joint coating on the Georgia and Azerbaijan sections of the BTC oil pipeline.

In relations to questions 2(i), (ii), (iv) and (v), ECGD does not have any record of any direct correspondence between ECGD and BP, BTC or Amec regarding the use of SPC 2888. Additionally, there were no meetings held on the subject of SPC 288 and therefore no minutes on the subject.

The information held by ECGD in relation to question 2(iii) can be found in Annex B, though please note that some of the correspondence is exempt under S36 (2)(c) of the FoIA. Again, in order to fully appraise prior to issue of ECGD support, or monitor post issue of ECGD support the environmental, social and human rights risks of a project, it is important that those with expertise in this area are able to fully express their views on these issues. ECGD relies to a great extent on being able to obtain information informally (i.e. extraneous to formal reports) from independent experts instructed by lender groups in project finance transactions. Release of some exchanges between ECGD and experts working on behalf of ECGD in these circumstances could have the effect of making experts reluctant to provide frank views in writing, thus prejudicing the effectiveness of risk assessment and post-issue monitoring procedures. This would have a prejudicial effect on the effective conduct of ECGD's business.

#### Public Interest

We have considered the public interest in favour of disclosure and are mindful of the desirability of members of the public being confident that decisions are being taken on the basis of the best available information. But there is a strong public interest in ECGD ensuring that it is able to obtain the best possible information from experts in order to inform its decisions, policies and assessments both before and after committing public funds by issuing its guarantee. In this case, we consider that the public interest in maintaining the exemption outweighs the public interest in disclosure.

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### Complaint Under OECD Guidelines on Multinational Enterprises

- i) All correspondence, including correspondence with BP, relating to the Specific Instance submitted by NGOs under the OECD Guidelines on Multinational Enterprises against BP over the BTC oil pipeline;
- ii) A list of all meetings held to discuss the Specific Instance, including attendees;
- iii) All notes and/or minutes of meetings held to Specific Instance, including any written comments or appraisals.

Annex C contains the information held by ECGD that relate to these questions. Again, please note that some correspondence between ECGD and other Government Departments is exempt and has been withheld under S36 (2) (b) of the FOIA as there is a need for Government Departments to be able to discuss issues candidly and frankly in private before giving a united public response to an issue. We consider that the public interest in maintaining the exemption outweighs the public interest in disclosure.

The Minister for Trade has approved the use of S36 in all the above instances.

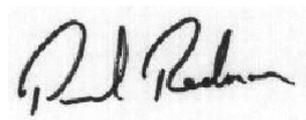
We acknowledge that you have requested an internal review. This is currently being processed.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely



Paul Redman  
Information Officer