Form for the submission of complaints concerning alleged unlawful State aid

The form sets out the information the Commission needs in order to be able to follow-up a complaint about alleged unlawful aid.

Please complete all the compulsory fields marked with a star (*).

1. Information regarding the complainant.

The complaint is made by two people, Nicholas Hildyard and Ann Feltham, as detailed below

A. Nicholas Hildyard

First Name:	Nicholas
Surname:	Hildyard
Address line 1:	The Corner House
Address line 2:	Station Road
Town/City:	Sturminster Newton
County/State/Province:	Dorset
Postcode:	DT10 1BB
Country:	United Kingdom
Telephone:	+44 (0)1258 473795
Mobile Telephone:	
E-mail address:	nick@fifehead.demon.co.uk
Fax:	+44 (0)1258 473795

B. Ann Feltham

First Name:	Ann
Surname:	Feltham
Address line 1:	Campaign Against Arms Trade
Address line 2:	11 Goodwin Street
Town/City:	London
County/State/Province:	London
Postcode:	N4 3HQ
Country:	United Kingdom
Telephone:	+44-(0)20 72810297
Mobile Telephone:	
E-mail address:	ann@caat.org.uk
Fax:	+44-(0)-20 72814369

2. We are submitting the complaint on behalf of somebody (a person or a firm)

Yes

The Complaint is submitted on behalf of two UK non-governmental organisations, Corner House Research and Campaign Against Arms Trade, details of which are given below

A. CORNER HOUSE RESEARCH

Name of the firm you represent*:	Corner House Research
Address line 1:	The Corner House

Address line 2: Station Road
Town/City: Sturminster Newton
County/State/Province: Dorset
Postcode: DT10 1BB
Country: United Kingdom
Telephone 1: +44 (0)1258 473795
Telephone 2:
E-mail address: enquiries@thecornerhouse.org.uk
Fax: +44 (0)1258 473795

You will be asked later to attach proof that the representative is authorized to act on behalf of this person/firm.

B. CAMPAIGN AGAINST ARMS TRADE

Name of the firm you represent*: Campaign Against Arms Trade
Address line 1: 11 Goodwin Street
Address line 2: Finsbury Park
Town/City: London
County/State/Province: London
Postcode: N4 3HQ
Country: United Kingdom
Telephone 1: +44-(0)-20 72810297
Telephone 2:
E-mail address: enquiries@caat.org.uk
Fax: +44-(0)-20 72814369

You will be asked later to attach proof that the representative is authorized to act on behalf of this person/firm.

If the complainant is an enterprise, a brief description of the complainant and its field (s) and place (s) of activity:

The Complainants are both UK-based non-governmental organisations.

a) Corner House Research is a research and advocacy group focussing on human rights, environment and development. A major area of its advocacy work over the past decade has been in monitoring the activities of the UK's Export Credits Guarantee Department;

b) Campaign Against Arms Trade works for the reduction and ultimate abolition of the international arms trade, together with progressive demilitarisation within arms-producing countries. Like The Corner House, it has monitored the work of the ECGD over the past decade.

Please select one of the following two options*

Yes, you may reveal our identities

Confidentiality: If you do not wish your identity or certain documents or information to be disclosed, please indicate this clearly, identify the confidential parts of any documents and give your reasons. The information contained in points 3, 4 and 5 cannot be designated as confidential.

3. Information regarding the Member State granting the aid*

a) Country: United Kingdom

b) Level at which the alleged unlawful State aid has been granted. Please specify which Ministry or institution if known:

Central government:
a) Export Credits Guarantee Department (ECGD)
b) Department of Business, Innovation and Skills
c) HM Treasury

Region (please specify):
other (please specify):

4. Information regarding the alleged aid measure.*

Please be aware: the information provided under this point is regarded as non-confidential.

a) To your knowledge when was the alleged aid given or granted?

The alleged aid has been given since at least 1999.

b) What is the amount of the alleged aid, if known? In what form is it given (loans, grants, guarantees, tax incentives or exemptions etc)?

The full extent of the alleged aid has not been publicly disclosed. However, from published sources, it would appear to amount to several billion pounds sterling since 1999 (see below for details)

The alleged aid takes the form of:

1. An unconditional and irrevocable *guarantee* by the Secretary of State for the Department of Business, Innovation and Skills (BIS) and his/her predecessors, acting through the UK Export Credits Guarantee Department (ECGD), to cover all "borrowing, loan stock and derivative liabilities"[1] incurred by the Guaranteed Export Finance Corporation Plc (GEFCO), a UK investment company.

2. *Loans from an exclusive loan facility* provided by the UK Treasury via ECGD to GEFCO to enable the latter to refinance ECGD-backed loans made under the Department's loss-making[2] Fixed Rate Export Financing (FREF) scheme.

   Further details are provided below.

A. BIS/ ECGD Guarantee to GEFCO

BIS (and its predecessor departments) have an agreement with GEFCO, dating back at least to 1999, under which ECGD provides "support arrangements", in respect of "each lending transaction to which GEFCO is committed."[3] Prior to 5 June 2009, BIS was known as the Department of Business Enterprise and Regulatory Reform and previously as the Department for Trade and Industry.

GEFCO's 2009 Directors' Report (available at Annex 1) summarises the nature of the guarantees provided to GEFCO by BIS/ECGD:

"... borrowings, guaranteed loan stock and derivative liabilities are guaranteed unconditionally and irrevocably by the Secretary of the Department of Business, Enterprise and Regulatory Reform of Her Britannic Majesty's Government acting through ECGD"[4]

Inter alia, BIS/ECGD guarantee:

a) GEFCO's overdraft with Lloyds Banking Group Plc;[5]

b) Any losses arising from cross currency swaps[6] and other loans and derivative trades[7] which GEFCO has entered into in order to refinance ECGD's export credit loans;

c) Any adverse fluctuation in the fair value of GEFCO's assets.

GEFCO does not appear to pay any premium for the guarantees it receives.

As a direct result of the guarantees provided by BIS (and its predecessors) and ECGD, GEFCO's 2009 "Directors' Report and Financial Statement" records that:

a) GEFCO's credit risk exposure[8] has been reduced from a potential maximum of £822.9 million[9] to zero.

b) No financial assets have been pledged as collateral against GEFCO's credit risk liabilities.[10]

c) GEFCO's market risk exposure (including its exposure to interest rate and currency rate fluctuations) has been reduced to a level that has "no net impact".

   With respect to interest rate risks, GEFCO states: "A change in the interest rate risk would have no net impact on the income statement due to the support arrangements with the Secretary of the Department of Business, Enterprise and Regulatory Reform acting by the Export Credit [sic] Guarantee Department. Under this support arrangement, any gain or loss on the movement in interest income and expenses is payable to or receivable from ECGD. As a result the risk profile of the company is limited . . ."[11]

   With respect to currency rate risks, GEFCO states: "A change in the rate of exchange at the reporting date would have no net impact on the income statement due to the existence of foreign currency derivative instruments. Any un-hedged positions would be covered by the support arrangements with the Secretary of the Department of Business, Enterprise and Regulatory Reform acting by the Export Credit [sic] Guarantee Department. Under these support arrangements any charge or credit to the income statement arising on fair value movements caused by foreign currencies will be offset by an equal charge or credit made payable or receivable from the ECGD. As a consequence the risk profile of the company is limited."[12]

d) GEFCO's exposure to adverse movements in the fair value of its assets is reduced to being "insignificant". GEFCO states: "Due to the support arrangement with ECGD in which any default of the counterparty on any loan, derivative or other receivable can be offset against amounts payable to ECGD in funding, the net fair value movement arising due to credit risk is considered insignificant."[13]

In March 2007, ECGD also recorded that its guarantees have "meant that GEFCO could raise cheaper funds in the money market".[14]

The exact value of the alleged state aid provided through ECGD's guarantee to GEFCO is difficult to assess. However, one indication might be the maximum exposure to loss (deemed by GEFCO to be equivalent to the "balance sheet carrying amount")[15] that GEFCO would be forced to bear, absent ECGD's support. GEFCO's own valuations of such potential credit risk liabilities for 1999 through to 2009 are set out below (all figures are for 31 March of the given year):

1999	£1,486.4 million[16]
2000	£2,591.3 million[17]
2001	£3,923.6 million[18]
2002	£3,774.9 million[19]
2003	£3,633.5 million[20]
2004	£2,856.6 million[21]
2005	£2,292.4 million[22]
2006	£2,973.1 million[23]
2007	£1,969.5 million[24]
2008	£1,018.6 million[25]
2009	£ 822.9 million[26]

B. HM Treasury/ECGD Loans to GEFCO

Prior to 1999, GEFCO raised money on the capital markets by issuing ECGD-guaranteed bonds. In 1999, however, the UK Office of National Statistics ruled that the bonds should be counted as part of the UK Government's debt. Since GEFCO did not have sufficient funds to pay the bond principals on maturity, ECGD loaned the company £263 million to cover the shortfall.[27]

Subsequently, GEFCO's repurchases of ECGD export credit loans were financed directly by ECGD, through a loan facility that was originally set at £1 billion under an agreement dated 9 July 1999.[28] Subsequently the size of the facility was increased:

- from £1 billion to £2.5 billion on 27 July 2000;
- from £2.5 billion to £2.7 billion on 19 January 2001;
- from £2.7 billion to £3.3 billion on 6 April 2001;
- from £3.3. billion to £4.5 billion on 10th June 2002.

The facility was then again increased to £4.8 billion up to 2006.

Not all of the facility has been drawn upon each year. Nonetheless, the actual sums provided by HM Treasury to ECGD to support GEFCO's activities since 1999 have been considerable, totalling over £3.7 billion. HM Treasury give the following figures:

- 1999-2000: £ 777,059,000 [29]
- 2000-2001: £ 1,077,919,000 [30]
- 2001-2002: £ 235,124,000 [31]
- 2002-2003: £ 1,000,000,000 [32]
- 2003-2004: £ 166,803,000 [33]
- 2004-2005: £ 179,125,000 [34]
- 2005-2006: £ 116,922,000 [35]
- 2006-2007: £ 76,459,000 [36]
- 2007-2008: £ 49,408,000 [37]
- 2008-2009: £ 37,006,000 [38]

• 2009-2010: £ 24,599,000 [39]

GEFCO's 2009 accounts record the fair value of its outstanding debt to ECGD at £542.91 million (£735.3 million in 2008).[40]

We would propose that the value of the alleged aid given in the form of direct funding amounts to the sum of loans made to GEFCO by ECGD between 1999 and 2010, namely £3,740,424,000, less any repayments made by GEFCO.

c) Who is the beneficiary? Please give as much information as possible, including a description of the main activities of the beneficiary/firm (s) concerned

The primary beneficiary is Guaranteed Export Finance Corporation Plc (GEFCO), a public limited company registered and domiciled in the UK (company no: 01980873). The company's registered office is: Phoenix House, 18 King William Street, London EC4N 7HE. It was incorporated on 21 January 1986.

GEFCO was originally set up by Lloyds and ECGD in 1986. However, in 1989, it was restructured so that ECGD had no (legal) control over the company. For the purposes of the national accounts, GEFCO is held to be acting as an agent of the ECGD:[41] in November 2009, it was reclassified from a "private financial auxiliary" to a "public financial auxiliary".[42]

GEFCO's "borrowing and lending count as part of central government's in national accounts".[43] GEFCO's accounts are not, however, consolidated with ECGD's, despite ECGD guaranteeing all of GEFCO's liabilities (see above) and despite the requirements of Council Directive 98/29/EC and the ASCM (see also above)**.** The Department of Business, Innovation and Skills (BIS) justifies this on the grounds that: "Guaranteed Export Finance Corporation plc fell outside the departmental accounting boundary as defined in section 2.4 of the Financial Reporting Manual ("FReM") with which ECGD is required to comply in its preparing Resource Accounts On this basis, ECGD was not required to consolidate Guaranteed Export Finance Corporation plc into its Resource Accounts".[44]

GEFCO's main activity – and the purpose for which it has been established – is to refinance loans supported or guaranteed by Export Credits Guarantee Department, Britain's state-owned export credit agency.[45] GEFCO achieves this activity by raising funds "through the capital markets, from ECGD and from banks".[46] GEFCO also trades in financial instruments, including derivatives, "to reduce its exposure to fluctuations in interest and foreign exchange rates".[47]

For tax purposes, GEFCO is treated as "an investment company".[48]

In its 2009 Directors' Report, dated 5 June 2009, GEFCO states that it is controlled[49] and wholly owned by First Securitisation Company Limited,[50] a company incorporated in Great Britain and registered in England and Wales. First Securitisation Company Limited is also described as GEFCO's "ultimate parent undertaking".

However, this information (which is also contained in GEFCO's previous Directors' Report for 2008[51]) conflicts with that in GEFCO's Annual Returns to Companies House for 2008[52] and 2009[53], both of which record First Securisation Company Limited as holding just 0.5% of GEFCO's share capital, the rest being held by Royal Exchange Trustee Nominees Limited. The Annual Return for 2008 was filed with Companies House on 19 November 2008; that for 2009, on 20 October 2009.

First Securisation Company Limited's "Directors Report and Financial Statement" for 2009, filed on 5 June 2009, gives First Securitisation as owning 100 per cent of GEFCO's shares (a statement which, as noted above, conflicts with GEFCO's Annual Returns to Companies House).[54] The Directors Report also states that First Securitisation Company Limited is wholly owned by First Securitisation

Company Limited Discretionary Trust.[55] The Annual Return for 2009 for First Securitisation Company Ltd, however, gives the company as being jointly owned by Royal Exchange Assurance and Royal Exchange Trustee Nominees.[56]

ECGD's annual resource accounts for 2009-10, dated July 2009, give an entirely different ownership structure: namely that GEFCO is "owned by two charitable trust companies, First Securitisation Company Limited and its parent, Capita IRG Trustees Limited".[57] However, neither company is a registered charity[58] and neither appears to have charitable purposes.

ECGD also describes GEFCO as making no profit[59] – but its accounts record profits of exactly £6000 in 2009, 2008 and 2007.

d) For what purpose was the alleged aid given (if known)?

To refinance ECGD's export credit loans.

5. Grounds of complaint.*

Please explain in detail the grounds for your complaint. If known, what rules of community law you think have been infringed by the granting of the alleged aid.

Please be aware: the information provided under this point is regarded as non-confidential.

Under the Act of Parliament that governs the ECGD (The Export and Investment Guarantees Act 1991), the Secretary of State responsible for ECGD is empowered to "make any arrangements which, in his opinion, are in the interests of the proper financial management of the ECGD portfolio".[60] The Secretary of State would therefore be entitled to enter into an agreement with GEFCO whereby GEFCO undertakes the refinancing of ECGD's export credit loans.

Such arrangements, however, must comply with EU laws governing subsidies.

In addition to the State Aid rules[61] laid down in the Treaty on the Functioning of the European Union (formerly Treaty establishing European Community), the UK is also legally bound by the export subsidy provisions laid down in Council Directive 98/29/EC[62] and in the World Trade Organisation (WTO)'s Agreement on Subsidies and Countervailing Measures (ASCM), to which both the UK and the EU are parties.[63] The latter require that the premiums charged by ECGD are adequate to cover the long-term operating costs and losses of its programmes.[64]

A. Contravention of Article 107 and 108 of the Treaty on the Function of the European Union

The Complainants contend that the guarantees and loans which ECGD provides GEFCO (as detailed above) contravene:

1. *Article 107.1 of the Treaty on the Functioning of the European Union[65] (previously Article 87.1 of the Treaty establishing the European Community)*,[66] in that the aid granted "distorts or threatens to distort competition by favouring certain undertakings . . .".

   More specifically, the loans and guarantees provided by ECGD to GEFCO

a) have not been offered or made available to other undertakings, thereby giving GEFCO a competitive advantage in the market for refinancing ECGD's export credit loans, amounting to an effective monopoly;

b) permits GEFCO to access capital at rates that are below market rates, giving GEFCO a competitive advantage over other undertakings operating in the capital markets;

c) permits GEFCO to employ all of its capital, without the need to set aside assets as collateral against credit, interest rate, currency and other market risks, again giving GEFCO a competitive advantage over other undertakings operating in the capital markets;

d) do not fall within any of the categories of aid, as listed in Articles 107.2 (a) to (c)[67] and 107.3 (a) to (d)[68] of the Treaty on the Functioning of the European Union, which would make them compatible with the rules of the Common Market.

2. *Article 108.3 of the Treaty on the Functioning of the European Union*,[69] in that we can find no public record of the UK government having informed the Commission of its intention to provide GEFCO with guarantees and loans through ECGD, either prior to the introduction of the aid or subsequently, nor of the Commission sanctioning the aid.

B. Contravention of Council Directive 98/29/EC and the WTO's Agreement on Subsidies and Countervailing Measures (ASCM)

The Complainants further contend that ECGD's use of GEFCO circumvents and subverts the UK's obligations under both Council Directive 98/29/EC and the ASCM.

The ASCM outlaws subsidies, which it defines, inter alia, as a financial contribution by a government or any public body within the territory of a Member where:

- government support involves "a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees)"[70]
- "a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions . . . which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments."[71]

The support granted to GEFCO thus constitutes an illegal subsidy within the terms of the ASCM, in that:

- ECGD has been directly transferring funds to GEFCO; *and*

- the refinancing of official export credit loans would normally be vested in governments.

In addition, Article 3 of the Directive and Annex 1 of the ASCM (both of which are binding on EU Member States and enforceable by the European Commission) outlaw the provision by official export credit agencies of export credit insurance programmes (which would include ECGD's FREF scheme) where premium rates are inadequate to cover the long-term operating costs and losses of the programmes.[72] The intention is to prevent export credit agencies from unfairly achieving a competitive advantage for their national exporters by subsidising their exports.

To comply with this break even requirement, the premiums charged by ECGD for its FREF scheme must therefore cover the costs of any refinancing of FREF loans, whether undertaken directly by

ECGD or by GEFCO with ECGD support, since such refinancing is integral to the operation of the FREF programme. Indeed, the intention of the break even requirement would clearly be undermined if ECGD were to hide or otherwise effect a reduction in its reported losses and operating costs.

The Complainants contend that ECGD's activities in relation to GEFCO breach both Council Directive 98/29/EC and the ASCM in that:

- ECGD does not consolidate its accounts with those of GEFCO.[73] The operating costs attendant on GEFCO's refinancing activities are thus removed from ECGD's balance sheet. As a result, ECGD's accounts do not reflect its true operating costs.

- The mechanisms used by ECGD to refinance loans through GEFCO obscures the true extent of the losses incurred by ECGD. When a refinanced loan goes into default, the default is covered by an additional loan – known as a WIGG[74] – to GEFCO from ECGD. The WIGG does not appear to be accounted for separately by either GEFCO or ECGD but is lumped in with other borrowings received. As a result, it is difficult to assess how much of the money voted to ECGD for GEFCO is for refinancing and how much for writing off bad debt. The full extent of ECGD's losses is thus hidden.

More specifically, the ECGD breaches:

1. *Annex 1 paragraph "k" of the ASCM* in that ECGD's failure to consolidate its accounts with those of GEFCO removes the operating costs of refinancing ECGD's loans from ECGD's balance sheet, contravening the break even requirement of the ACSM by distorting ECGD's (true) operating costs.

2. *Annex 1 paragraph "k" of the ASCM* in that the accounting of the WIGGs used by ECGD to pay for defaults on loans being refinanced by GEFCO obscures the losses incurred by ECGD on its export credit programmes, contravening the break even requirement of the ACSM by distorting ECGD's (true) losses.

3. *Council Directive 98/29/EC*, *"Chapter II: Premium", para 3*, in that ECGD's failure to consolidate its accounts with those of GEFCO removes the operating costs of refinancing ECGD's loans from ECGD's balance sheet, contravening the break even requirement of the Directive by distorting ECGD's (true) operating costs.

4. *Council Directive 98/29/EC, "Chapter II: Premium", para 3*, in that the accounting of the WIGGs used by ECGD to pay for defaults on loans being refinanced by GEFCO obscures the losses incurred by ECGD on its export credit programmes, contravening the break even requirement of the Directive by distorting ECGD's (true) losses.

6. Please summarize briefly to what extent the award of the alleged aid affects.*

a) your commercial interests / commercial interests of the person/firm you represent

The alleged aid does not affect the commercial interests of either Corner House Research or Campaign Against Arms Trade.

b) the market(s) in which the beneficiary(ies) of the alleged aid operate.

No quantative analysis is available of the impacts of the alleged aid on the derivative and capital markets in which GEFCO operates. Many of the trades entered into are over the counter (OTC) and are not disclosed.

7. Information on other procedures.*

a) Have you already approached the Commission's services or any other European or national institution concerning the same issue?

No

b) Approaches already made to national authorities or recourse to national courts or other procedures.

No

If yes, indicate whether there has already been a decision or award and attach a copy

No

8. I understand that for a faster treatment of the complaint the information provided above in point 3, 4 and 5 are non-confidential and can be sent to the Member State in question.*

Yes

9. Supporting documents

Please list any documents and evidence which is submitted in support of the complaint and add annexes if necessary

Whenever possible, a copy of the national law or other measure which provides the legal basis for the payment of the alleged aid should be provided

If the complaint is submitted on behalf of someone else (a person or a firm) please attach proof that you as a representative are authorized to act

- If the complainant is an enterprise, please feel free to attach a brief description of the complainant and its field(s) and place (s) of activity
- Copies of previous correspondence with the European Commission or any other European or national institution concerning the same issue
- If the issue has already been dealt with by a national Court, a copy of a judgement if available.

Annex 1:
Guaranteed Export Finance Corporation PLC, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", 2009.

Annex 2:
GEFCO, Annual Return to Companies House, 363a(ef), filed 20 October 2008.

Annex 3:
GEFCO, Annual Return to Companies House, AR01(ef), filed 20 October 2009.

Annex 4:
Export and Investment Guarantees Act 1991 -

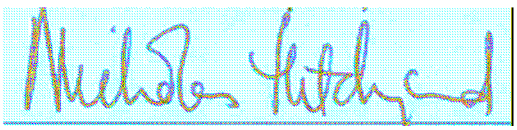
http://www.opsi.gov.uk/acts/acts1991/Ukpga_19910067_en_1.htm

Annex 5
Authorisation from Campaign Against Arms Trade

Annex 6
Authorisation from Corner House Research

Place, date and signature of complainant

Signed by



Nicholas Hildyard on behalf of Corner House Research

At The Corner House, Station Road, Sturminster Newton, Dorset, DT10 1BB

On 22 March 2010

Signed by

Ann Feltham on behalf of Campaign Against Arms Trade

At 11 Goodwin Street, London N4 3HQ

On 23 March 2010

---

1 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", p. 19.

2 The Treasury describes the losses under FREF as "massive" and estimated in 2004 that the scheme has cost the taxpayer more than £15 billion since 1972. See: "The Future of ECGD", Treasury briefing for Non-Governmental Organisation, 2004 (copy available on request).

3 Guaranteed Export Finance Corporation PLC, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", p.2, available at Annex 1.

4 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, p. 19.

5 ECGD, Resource Accounts 2008-09, Note 37, p.108, http://www.ecgd.gov.uk/ecgd-resource-accounts-2008-09.pdf. “GEFCO has an overdraft facility with Lloyds which is guaranteed by ECGD.”

6 ECGD, Resource Accounts 2008-09, Note 37, p.108, , http://www.ecgd.gov.uk/ecgd-resource-accounts-2008-09.pdf. “GEFCO has, in connection with its refinancing of export credit loans in foreign currency entered into cross currency swaps and its obligations under these swaps are guaranteed by ECGD”.

7 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, note 18, p. 16. Under “Credit Risk Management”, GEFCO states: “The company has entered into support arrangements with ECGD in respect of each lending transaction to which the company is committed. Under these arrangements, any default of the counterparty or any other loan, derivative or other receivable will be offset against amounts payable to ECGD on the funding that they have provided. Under each of these support arrangements the company has undertaken not to enter into any new borrowing, lending or derivative without consent of ECGD.” Consequently, GEFCO’s accounts record that the company’s credit risk exposure as “zero”.

8 GEFCO defines credit risk as “the risk that a third party will default on its obligations under an agreement”. See: GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, p. 16.

9 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, p. 16. The potential exposure in 2008 was higher, at £1,018 million.

10 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, p. 17. “The company has not pledged any financial assets as collateral against its liabilities”.

11 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, Note 18, “Financial Risk Management – Interest Rates Risk Management”, p. 17.

12 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, Note 18, “Financial Risk Management – Currency Risk”, p. 17.

13 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, Note 18, “Financial Risk Management – Fair Value”, p. 19.

14 ECGD, Treasury Division, “Guaranteed Export Finance Corporation plc ‘GEFCO’”, March 2007.

15 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, Note 18, “Financial Risk Management – Credit Risk Management”, p. 16.

16 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 1999”, “Balance sheet at 31 March 1999, p.6.

17 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2000”, “Balance sheet at 31 March 2000, p.7.

18 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2001”, “Balance sheet at 31 March 2001, p.7.

19 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2002”, “Balance sheet at 31 March 2002, p.7.

20 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2003”, “Balance sheet at 31 March 2003, p.7.

21 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2004”, “Balance sheet at 31 March 2004, p.6.

22 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2005”, “Balance sheet at 31 March 2005, p.6.

23 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2006”, “Balance sheet at 31 March 2006, p.7.

24 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2007”, “Balance sheet at 31 March 2007, p.7. We note that a lower figure (£1,427.2 million) for 2007 is given in GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2008”, Note 18, “Financial Risk Management – Credit Risk Management”, p. 17.

25 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2008”, Note 18, “Financial Risk Management – Credit Risk Management”, p. 17.

26 GEFCO, “Report of the Directors and Financial Statements for the Year Ended 31 March 2009”, Note 18, “Financial Risk Management – Credit Risk Management”, p. 16.

27 ECGD, Treasury Division, "Guaranteed Export Finance Corporation plc 'GEFCO'", March 2007.

28 ECGD, Treasury Division, "Guaranteed Export Finance Corporation plc 'GEFCO'", March 2007.

29. HM Treasury, Main Supply Estimates 1999-2000, DTI Programmes and Administration 1999-2000, Class IX, Vote 5, Part II, line D ("funding for the Guarantee Export Finance Corporation GEFCO), p.121, http://www.hm-treasury.gov.uk/d/ACF1ADA.pdf. Reproduced at Annex 1.

30. HM Treasury, Supply Estimates 2000-01, Main Estimates, Class IX, Vote 6, Part II, line B, p.127, http://www.hm-treasury.gov.uk/d/estimates.pdf. Reproduced at Annex 2.

31. HM Treasury, Central Government Supply Estimates 2001-02, Export Credits Guarantee Department, p.67, http://www.hm-treasury.gov.uk/d/41.pdf.

32. HM Treasury, Main estimates 2002-03, Part 2, ECGD, "RfR1: Export Finance Assistance", p.236 and "Part II: Subhead detail",p.239, http://www.hm-treasury.gov.uk/d/mainestimates2002_02.pdf. "The £1,000 million loan being provided by ECGD . . . "

33 HM Treasury, Main estimates 2003-04, Part 3, ECGD, "Part II: Subhead detail", Line B, p.366, http://www.hm-treasury.gov.uk/d/MainSupplyEstPart3%28568kb%29.pdf.

34 HM Treasury, Main estimates 2004-05, ECGD, "Part II: Subhead detail", Line B, p.368, http://www.hm-treasury.gov.uk/d/28_ECGD.pdf.

35 HM Treasury, Main estimates 2005-06, ECGD, "Part II: Subhead detail", Line B, p.384, http://www.hm-treasury.gov.uk/d/main_est_2005_28_export.pdf.

36 HM Treasury, Main estimates 2006-07, ECGD, "Part II: Subhead detail", Line B, p.419, http://www.hm-treasury.gov.uk/d/cm1035_exportcredits.pdf.

37 HM Treasury, Main estimates 2007-08, ECGD, "Part II: Subhead detail", Line B, p.437, http://www.hm-treasury.gov.uk/d/hc438_exports_35.pdf.

38 HM Treasury, Main estimates 2008-09, ECGD, "Part II: Subhead detail", Line B, p.427, http://www.hm-treasury.gov.uk/d/mainest08_29_ecgd.pdf.

39 HM Treasury, Main estimates 2009-10, ECGD, "Part II: Subhead detail", Line B, p.427, http://www.hm-treasury.gov.uk/d/13403_me28_ecgd_1st.pdf.

40. GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", p. 11. Available at Annex 1

41 HM Treasury, Public Expenditure Statistical Analysis 1999-2000, The Stationary Office, Cm 4201, p.24. "Guaranteed Export Finance Corporation plc is now held for national accounts to be acting as an agent of the Export Credits Guarantee Department when refinancing export-related loans benefiting from fixed rate export finance."

42 Office of National Statistics, "Latest Updates to the Sector Classification Guide", 30 November 2009, http://www.statistics.gov.uk/downloads/theme_economy/MA23_monthly_update.pdf.

43 H.M. Treasury, "Public Expenditure Statistical Analyses 2001-02", The Stationary Office, http://www.archive.official-documents.co.uk/document/hmt/5101/5101-gls.htm.

44 Hansard, 26 Oct 2009: Column 118W, http://www.parliament.the-stationery-office.co.uk/pa/cm200809/cmhansrd/cm091026/text/91026w0025.htm.

45 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", p. 2. Available at Annex 1

46 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", p. 2. Available at Annex 1

47 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", p. 2. Available at Annex 1

48 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", Note 8, p. 12. Available at Annex 1

49 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", Note 4, p. 10. Available at Annex 1

50 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", Note 17, p. 15. Available at Annex 1

51 GEFCO, "Report of the Directors and Financial Statements for the Year Ended 31 March 2008", Note 17, p.15.

52 GEFCO, Annual Return to Companies House, 363a(ef), filed 20 October 2008. Available at Annex 2

53 GEFCO, Annual Return to Companies House, AR01 (ef), filed 20 October 2009. Available at Annex 3.

54 First Securitisation Company Limited, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", Note 17, p.17.

55 First Securitisation Company Limited, "Report of the Directors and Financial Statements for the Year Ended 31 March 2009", Note 15, p.16.

56 First Securitisation Company Limited, Annual Return, AR01 (ef), 19 October 2009.

57 ECGD, Resource Accounts 2008-09, Note 37, p.108, http://www.ecgd.gov.uk/ecgd-resource-accounts-2008-09.pdf

58 Hansard, 22 Oct 2009: Column 1651W, http://www.parliament.the-stationery-office.co.uk/pa/cm200809/cmhansrd/cm091022/text/91022w0022.htm.

59 ECGD, Treasury Division, "Guaranteed Export Finance Corporation plc 'GEFCO'", March 2007

60 Export and Investment Guarantees Act 1991, Article 3.1, http://195.99.1.70/acts/acts1991/Ukpga_19910067_en_1.htm (available at Annex 4).

61 Title VII Common Rules on Competition, Taxation and Approximation of Laws, Section 2 Aids granted by States, Article 107.1, Treaty on the Functioning of the European Union (formerly Treaty establishing European Community), "Consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union", Official Journal C115 of 9 May 2008, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML.

62. **"**Council Directive 98/29/EC of 7 May 1998 on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover**",** http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:148:0022:0032:EN:PDF.

63 World Trade Organisation, "Agreement on Subsidies and Countervailing Measures" (ASCM), http://www.wto.org/english/docs_e/legal_e/24-scm.pdf. The ASCM is an international treaty to which both the European Community (EC) and the UK are parties. It therefore automatically forms a part of UK law in accordance with constitutional principles and section 1(2) of the European Communities Act 1972. The Commission can enforce its provisions against a Member State in the same way it enforces other aspects of EC law. The ASCM came into force in 1995.

64 Council Directive 98/29/EC, "Chapter II: Premium", para 3, requires, *inter alia*, that "*the premium charged for export credit insurance shall correspond to the risk (country, sovereign, public and/or private risk) covered, adequately reflect the scope and the quality of the cover granted, [and] not be inadequate to cover long-term operating costs and losses*" The ASCM (Annex 1, "Illustrative List Export Subsidies") contain the same requirements at paragraph k.

65 Title VII Common Rules on Competition, Taxation and Approximation of Laws, Section 2 Aids granted by States, Article 107.1, Treaty on the Functioning of the European Union (formerly Treaty establishing European Community), "Consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union", Official Journal C115 of 9 May 2008, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML. "Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market". See also: "Treaty establishing the European Community (consolidated text)", Official Journal C 325 of 24 December 2002, Article 87.1, http://eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E_EN.pdf; Treaty of Rome, Section 3 (Aids Granted by State), Article 92.1, http://www.eurotreaties.com/rometreaty.pdf.

66 The Treaty of Lisbon, which came into force on 1 December 2009, amended the European Union's two core treaties, the Treaty on European Union and the Treaty establishing the European Community. The latter was renamed the Treaty on the Functioning of the European Union. In addition, several Protocols and Declarations are attached to the Treaty. See: http://europa.eu/lisbon_treaty/full_text/index_en.htm.

67 Title VII Common Rules on Competition, Taxation and Approximation of Laws, Section 2 Aids granted by States, Article 107.2, Treaty on the Functioning of the European Union (formerly Treaty establishing European Community), "Consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union", Official Journal C115 of 9 May 2008, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML. "The following shall be compatible with the common market: (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned; (b) aid to make good the damage caused by natural disasters or exceptional occurrences; (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division." ". See also: "Treaty establishing the European Community (consolidated text)", Official Journal C 325 of 24 December 2002, Article 87.2, http://eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E_EN.pdf; Treaty of Rome, Section 3 (Aids Granted by State), Article 92.2, http://www.eurotreaties.com/rometreaty.pdf.

68 Title VII Common Rules on Competition, Taxation and Approximation of Laws, Section 2 Aids granted by States, Article 107.3 (a) to (c), Treaty on the Functioning of the European Union (formerly Treaty establishing European

Community), "Consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union", Official Journal C115 of 9 May 2008, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML. "The following may be considered to be compatible with the common market: (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment; (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State; (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest. However, the aids granted to shipbuilding as of 1 January 1957 shall, in so far as they serve only to compensate for the absence of customs protection, be progressively reduced under the same conditions as apply to the elimination of customs duties, subject to the provisions of this Treaty concerning common commercial policy towards third countries; (d) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission." See also: "Treaty establishing the European Community (consolidated text)", Official Journal C 325 of 24 December 2002, Article 87. 3 (a) to (c), http://eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E_EN.pdf; Treaty of Rome, Section 3 (Aids Granted by State), Article 92. 3 (a) to (c), http://www.eurotreaties.com/rometreaty.pdf.

69 Title VII Common Rules on Competition, Taxation and Approximation of Laws, Section 2 Aids granted by States, Article 108.3, Treaty on the Functioning of the European Union (formerly Treaty establishing European Community), "Consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union", Official Journal C115 of 9 May 2008, http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2008:115:SOM:EN:HTML. "The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the common market having regard to Article 107, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision." See also: "Treaty establishing the European Community (consolidated text)", Official Journal C 325 of 24 December 2002, Article 88.3, http://eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E_EN.pdf; Treaty of Rome, Section 3 (Aids Granted by State), Article 93.3, http://www.eurotreaties.com/rometreaty.pdf.

70 World Trade Organisation, Agreement on Subsidies and Countervailing Measures, Part 1: General Provisions, Article 1.1 (a) (1) (i), http://www.wto.org/english/docs_e/legal_e/24-scm.pdf.

71 World Trade Organisation, Agreement on Subsidies and Countervailing Measures, Part 1: General Provisions, Article 1.1 (a) (1) (iv), http://www.wto.org/english/docs_e/legal_e/24-scm.pdf.

72 Council Directive 98/29/EC, "Chapter II: Premium", para 3, requires, *inter alia*, that "*the premium charged for export credit insurance shall correspond to the risk (country, sovereign, public and/or private risk) covered, adequately reflect the scope and the quality of the cover granted, [and] not be inadequate to cover long-term operating costs and losses*" The ASCM (Annex 1, "Illustrative List Export Subsidies") contain the same requirements at paragraph k.

73 ECGD, Resource Accounts 2008-09, Note 10, page 52, and note 37, p.108, http://www.ecgd.gov.uk/ecgd-resource-accounts-2008-09.pdf. See also: Hansard, Column 118W, 26 October 2009, "Guaranteed Export Finance Corporation", http://services.parliament.uk/hansard/Commons/ByDate/20091026/writtenanswers/part019.html.

74 ECGD, Treasury Division, "Guaranteed Export Finance Corporation plc 'GEFCO'", March 2007.