

4 March 2004

J R Weiss
Director
Business Group



To All Customers

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Dear Customer

CORRUPTION AND MONEY LAUNDERING

I am writing to inform you that as from 1 May all applications to ECGD will need to be made on new forms that will incorporate enhanced provisions in respect of bribery and corruption, introduce new provisions in respect of money laundering, and contain slightly amended disclosure provisions. We shall also be amending our policy documentation to reflect the new provisions.

Also, for cases where documentation is finalised after 1 May, we will be expanding the scope of our audit provisions to cover the contract award process and arrangements for paying agent's commission as well as the steps taken to prevent corruption.

The new provisions, details of which are appended to this letter, are in the main being introduced to reflect lessons learned by ECGD and to ensure that we continue to play our part in the Government's drive to root out wrong doing in international business transactions, whether exporting, providing finance or investing. We believe that this will be to the ultimate benefit of all UK companies.

If you have any questions, or would like any further information on any of the new provisions, I suggest you contact Paul Hillman on 020 7512 7733 or Roy Donovan on 020 7512 7346. Copies of the new forms will be available on ECGD website (www.ecgd.gov.uk) or from our helpline (020 7512 7887 or help@ecgd.asi.gov.uk) as from 1 April.

Yours sincerely

J R Weiss

JOHN WEISS

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THE NEW PROVISIONS

Please note that the various examples of wording shown in *italics* below reflect that which will be used in the Export Insurance Policy (EXIP). The wording used in other products including those issued to banks may differ slightly, in order to conform with the terminology used in those products, but its effect will be the same.

Reminding Applicants of their legal obligations

All our new forms will contain a statement to remind applicants of the UK laws regarding bribery and corruption, and money laundering. The statement will also specifically draw the applicant's attention to the fact that, in relation to corruption, many criminal acts committed abroad now constitute criminal offences in the UK, under the terms of the Anti-terrorism, Crime and Security Act 2001. Applicants will also be alerted to the fact that ECGD refers allegations of bribery and corruption, and money laundering to the appropriate authorities.

Extending the range of the various declarations regarding corruption

The declaration in respect of blacklisting and convictions for Corrupt Activity and the assurance that Corrupt Activity will not occur in relation to the contract will be extended to include Affiliates. The purpose of this change is to ensure that ECGD is aware of the background of the applicant and its employees, together with that of any company group of which it is a member, and that of any other party who will be involved with the performance of the contract for which cover is sought. The definition of Affiliates will be –

'Affiliate' means in relation to our company, any company which is a member of the same group of companies or any company that is a party to any joint venture or consortium or other similar arrangement with our company in connection with the contract.

The inclusion of Affiliates means that the blacklisting and convictions declaration, which has also been extended to cover admissions of corruption, will read as follows –

to the best of our knowledge and belief neither we, or any of our Affiliates nor any of our or their directors or employees

appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, and

has at any time freely admitted or been found by a court to have engaged in any Corrupt Activity;

and that in respect of Corrupt Activity, will read as follows –

neither we nor to the best of our knowledge and belief any of our Affiliates nor anyone (including any of our or their employees) acting on our or their behalf with due authority or with our or their prior consent or subsequent acquiescence has engaged or will engage in any Corrupt Activity in connection with the contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind;

The implications for the applicant of any breach the above undertaking will remain similar to those in respect of the current undertaking, and will be detailed in the relevant product documentation.

Money Laundering

As the Government is committed to the elimination of money laundering, it is appropriate that ECGD should actively support that commitment. Hence, all applicants will be required to warrant that (to the best of their knowledge and belief) neither they, nor any of their employees, nor any Affiliate or its employees, has been convicted of or freely admitted to an offence that is or corresponds to an offence under the Proceeds of Crime Act 2002. This will be achieved by amending the definition of Corrupt Activity to include reference to the Act. The new definition will read as follows—

'Corrupt Activity' means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person and the concealment, use or facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which

1 is subsequently found by a court in a competent jurisdiction to have rendered the contract illegal, void, voidable or unenforceable under its governing law, or

2 we, any of our Affiliates or anyone (including any of our or any of our Affiliates' employees) acting on behalf of or with the prior consent or subsequent acquiescence of ourselves or any of our Affiliates has freely admitted engaging in, or

3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom to constitute an offence under any applicable law, or

4 is subsequently found by a court in the United Kingdom to constitute an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)

and which activity, in respect of paragraphs 1, 2, and 3 above corresponds to an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)

Codes of Conduct

While it is not for ECGD to prescribe the procedures that companies should adopt to try and ensure that their employees do not become involved in corrupt activity, we are of the view that company Codes of Conduct may be a useful tool in the fight against corruption. Hence, in the new application forms we will be asking those applicants who have a Code of Conduct to provide us with a copy.

As ECGD recognises that not all companies will have a Code, we will not be making the existence of one a requirement of our cover. However, we do regard it as important that all companies take steps to ensure that anyone acting on their behalf is aware that they should not become involved in corruption and that the company takes steps to check that they do not. Hence, all applicants will have to make an additional declaration in application forms on the following lines-

We declare that we have required and/or will require anyone (including any of our employees) acting on our behalf and directly or indirectly involved in obtaining or performing the contract not to engage in any Corrupt Activity in connection with the contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we will monitor compliance with our requirements, and we will take appropriate action against anyone found to have engaged in any Corrupt Activity.

Agents Commission

The use of agents to assist companies in winning contracts has for many years been an accepted and legitimate feature of the export trade. However, as agents can act as a conduit for improper payments, it is important that ECGD has detailed information about any agent involved with a contract for which cover is sought.

We have therefore decided, in the light of experience, that we need routinely to obtain supplementary information from applicants about the agency arrangements in respect of the contract. The various questions that all applicants will now have to answer about agents are as follows

Has any agent or other intermediary been, or will any agent or other intermediary be, involved directly or indirectly in the process leading to the contract being awarded to you, or in connection with any subsequent matters relating to the contract or any related agreement, undertaking consent, authorisation or arrangement of any kind?

☐

Yes

☐

No

(If Yes, you must complete the following sections. If more than one agent or intermediary is involved you must provide separate answers in respect of each party)

Name and address of agent or intermediary:

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4

Is the agent or intermediary acting for the Purchaser?

☐ Yes

☐ No

If Yes, please provide any information you may have regarding the relationship between the Purchaser and the agent or intermediary

Please give details of the services that the agent or intermediary is performing:

Will you or any Affiliate or anyone acting on your or any of your Affiliates' behalfs make any payments to the agent or intermediary in respect of the contract or any related agreement, undertaking consent, authorisation or arrangement of any kind?

☐ Yes

☐ No

If Yes, are all such payments included in the contract price shown at section XXX above?

☐ Yes

☐ No

(If No, please give details below of the value of any payments that are not included in the contract price together with an explanation)

Expanding ECGD's audit clause

To enable us to monitor compliance with the new provisions described above, we will be enhancing our audit clause to give us additional rights to inspect documents and seek information relating to a company's actions to obtain the contract, any payments it makes to agents or other intermediaries, and the steps it has taken to prevent Corrupt Activity. The new audit clause will be as follows -

The Insured shall allow any person authorised by ECGD access to its premises during business hours for the purpose of inspecting and taking copies of such records including electronic records as that person may reasonably require that relate to the Policy or the Contract (including but not limited to records that relate to the actions taken by the Insured to obtain the Contract, the Insured's performance and administration of the Contract, including the financing thereof, and any measures taken to prevent, detect and deal with Corrupt Activity, and the placing of any sub-contracts, and the employment of and payments to or for the benefit of any agents or other intermediaries involved directly or indirectly at any time with the Contract) and shall provide such explanation within its knowledge of those records as that person may reasonably require, provided that ECGD shall give no less than five business days' notice of such inspection and shall on request reimburse the Insured for the cost of such copies and shall respect any legal privilege that may exist in respect of those records and shall destroy or on request return those records to the Insured when ECGD considers they have served the purpose for which they were obtained and shall treat as confidential all information so obtained subject to ECGD's obligations at law or under the

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Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department and ECGD's right to disclose such information in confidence to its reinsurers or professional advisers in connection with its portfolio management.

You should note that ECGD would forward any information found in the course of an audit to relevant investigatory authorities if possible signs of fraud or corruption are detected.

Disclosure Provisions in respect of Buyer and Supplier Credit Loan Contracts

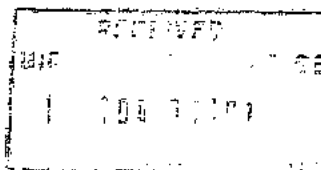
To enable ECGD to publish a fuller picture of the projects we support we will be expanding the disclosure provision in the relevant application forms. The new provisions will enable us to publish, after signature of the loan and related support documentation, the potential environmental and/or social impact category that we have applied to a project, in addition to the exporter's name and that of the buyer and the project, a description of the items supplied, and the amount of ECGD support.

ECGD March 2004

Confederation of British Industry
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Director General
City Point

CBI



John West, Esq.,
ECGD,
2 Exchange Tower,
Harbour Exchange Square,
P.O. Box 200,
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On 21/4/04

Mr. West

Mr. Jones
Mr. Giff
Mr. White

30 April 2004

Mr. Giff

Mr. Jones

*Grateful for draft reply please -
a fine suggestion for how to handle.*

Dear John,

Corruption and Money Laundering

JB 12/5

I regret that the CBI was not consulted prior to your letter to exporters of 4th March 2004 concerning ECGD's enhanced provisions in respect of bribery and corruption.

Members of the Export Finance Committee have written to you with their detailed individual comments, but as a Committee we are disappointed that additional and, in our view, unnecessary difficulties are once again being placed upon exporters.

As you know, we believe that ECGD's prime objective is to give international competitive support to UK exporters and investors overseas. We are not keen as any organisation to put our British exporters and companies at risk from international trade but the additional questions that you ask in connection with applications place an unacceptable burden on exporters.

All exporters are aware of the obligation in your policies that they should comply with all laws applicable to the insured transactions. We believe that emphasising this fact is all that is necessary for you to do in connection with this issue.

The requirement that any declaration extends to actions of affiliates is not reasonable and it is again disappointing to see the words "to the best of our knowledge and belief" preceding most of the new and proposed declarations. Legal advice obtained



by our members suggest that the company would have to make specific enquiries in such cases.

I realize that the new rules take effect from 1st May but I trust that you will take note of the specific comments that have been made and will attend the documentation to the adoption of them.

Yours sincerely,

James Larkin

James Larkin
Chairman
Export Finance Committee

cc. Peter Millett



AIRBUS

2A

RECEIVED IN
DIRECTOR'S OFFICE
13.04.04 00001

FROM
Benoît Debains

DATE
07 April 2004

PHONE
33 5 61 93 45 07

FAX
33 5 61 93 40 54

EMAIL
benoit.debains@airbus.com

OUR REFERENCE
530.0005/04

John Weiss, CEO
ECGD
2 Exchange Tower
Harbour Exchange Square
London E14 9GS

Mr Donovan

cc Mr Pentecost
Mr Welsh
Mr Yond

Dear Mr Weiss,

*I fear this misses out on the real point
of our new procedures. I would be
grateful for urgent advice on how I
should respond.*

We have received your letter of 4th March advising us of the new application form you wish customers to use for future business

This revised application form requests, in particular, information on agents or other intermediaries that may be involved in obtaining business.

We would like to highlight to you some of the concerns we have with this new application form and to propose to you an alternative.

As you can imagine, details of fees, if any, paid to consultants in connection with assistance or services they provide, constitutes commercially sensitive information. We feel very strongly that our network of consultants is part of our competitive advantage and that it is therefore inappropriate, in our view, to disclose this information outside our organisation.

As you are aware, Airbus signed a Letter of Undertaking in 2001 and signs every year a letter of indemnity with ECGD. We take the commitments set out therein very seriously indeed and we are sure that ECGD derives comfort from this. In order to alleviate any concerns you may have that public funds could be used to finance fees paid to consultants, we would respectfully suggest that we add a paragraph to our annual letter of indemnity confirming that the aircraft sales price does not include fees or commissions. Consequently, you may be assured that ECGD is not financing payments which are additional to the sales price and that you would have recourse to Airbus in case of breach.

**AIRBUS**

We also have concerns with the proposed ambit of the audit clause. As you know, we spent some time agreeing the form of Undertaking and annual letter and we feel that there is nothing in our conduct which could justify you requiring greater rights than those to which we have already consented.

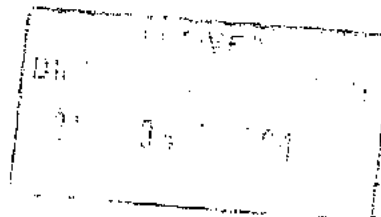
We trust you will understand our position and look forward to achieving a mutually satisfactory result.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'B. Debains', with a long horizontal stroke extending to the right.

Benoît Debains
Senior Vice President Finance

BAE SYSTEMS



24 May 2004

Mr J R Weiss
ECGD
PO Box 2200
2 Exchange Tower
Harbour Exchange Square
LONDON
E14 9GS

Mr Donovan

Mr Goths
Mr Ormerod
Mr Welsh
Mr Brupbach
Mr. Carvaj

Our Ref: MPR852004

For advice, please,
especially on the penultimate
paragraph.

EW 27/6

Dear John

Your letter of 4 March 2004 giving notification of ECGD's further revised requirements with regard to its application forms has come to my attention.

From earlier discussions, you will already be aware of our concerns about ECGD's previous request for detailed information. The new provisions are, in our view, unduly onerous and heighten those concerns. As a company we are well aware of our legal obligations, and do not believe that it is ECGD's role to attempt to regulate compliance.

We do not intend responding in detail to your letter, however, since we believe that our concerns are shared by other manufacturers, we will fully support those representations which we understand will be made to you by SBAC and/or other representative bodies.

In the meantime, I would reiterate that any information held by ECGD in connection with previous applications continues to be subject to confidentiality stipulations. I should be grateful for your confirmation and assurance that ECGD will not disclose either the information, or the fact of its disclosure to you, in breach of that confidence.

I hope we can discuss this and other more specific matters when we meet in the near future.

Yours sincerely

Mike Rouse

Mike Rouse
Group Marketing Director

cc Paul Buepbacher
Roy Donavan
David Atwood
Mara Carraval



J R Weiss
Director
Business Group

19 May 2004

James Larkin, Esq.
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Dear James

CORRUPTION AND MONEY LAUNDERING

Thank you for your letter of 30 April regarding the enhanced anti-bribery and corruption provisions that we have introduced

I note your disappointment that we did not consult the CBI on this occasion. However, I have to say that we do not share your belief that emphasising the need for compliance with applicable laws is all we need to do. The purpose of the additional requirements we have introduced is to support UK Government policy to deter and combat bribery and corruption and to promote the full implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. They follow a further review of our procedures called for by our Ministers. As I mentioned in my letter of 4 March, ECGD's intention is to ensure that we continue to play our part in the Government's drive to remove unethical and illegal practices from international business transactions; we believe this will be to the ultimate benefit of all companies with whom we do business. I welcome your statement confirming that you are as keen as we are to see an end to all forms of bribery and corruption in international trade.

With regard to the specific points you make I respond as follows:

- The purpose of including Affiliates in the declarations was set out in my letter of 4 March. ECGD needs to be assured that none of the parties directly or indirectly related to a contract supported by ECGD has admitted to or been convicted for a Corrupt Activity or has been the subject of blacklisting.



▪ Following extensive consultation with Trade Associations the expression "to the best of our knowledge and belief" has been used in ECGD application forms since September 2000. The legal advice we have received is that it does not require the applicant to make any specific enquiries or in any other way to seek to improve or augment its state of knowledge before making the statement.

My letter of 4 March makes clear that from 1 May ECGD will only accept applications made on the new forms; we have no valid reason for changing them. However, I hope the above will help to allay the concerns you have expressed. I would, of course, be happy to discuss this issue further if you would find this helpful.

Yours sincerely



JOHN WEISS
Acting Chief Executive

23 June 2004

The Rt Hon Patricia Hewitt MP
Secretary of State
Department of Trade and Industry
1 Victoria Street
London
SW1H 0ET

Dear Secretary of State

New ECGD regulations on Bribery and Corruption

You may already be aware that the CBI and other interested parties have made representations to the ECGD and DTI Ministers about this matter. The CBI understands that problems with the new ECGD requirements are now endangering a number of valuable contracts due to close this week. This is clearly a serious concern.

UK industry, including the Banking sector, fully accepts the need for effective legislation to curb illegal practices. In our view, the previous requirements were sufficiently stringent to meet, if not to exceed, international agreements and conventions. The new formula makes such additional demands on our members that their legal advice leaves them unable to approach the ECGD for export credit support and funding guarantees.

The CBI and many of its members have already made representations to ECGD advancing proposals for acceptable terminology. We would like to discuss at more length the wording of the ECGD application form including that relating to responsibility for the actions of Affiliates, one of the principal areas of concern. There are also a number of constructive ideas emerging to address the ECGD's requirements in relation to Agents and Agency payments and the Audit scope.

However, we feel that insufficient progress has been made to achieve a mutually acceptable formula and would suggest that, in the light of the scale of the contracts currently at risk, it would be prudent temporarily to revert to the status quo ante. This would enable the imminent deals to proceed without prejudice to further discussions on, and refinements to, the ECGD's proposals.



INVESTOR IN PEOPLE

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We represent the interests generally of UK industry in this matter, but we are aware of similar concerns that have been expressed in detail by the SBAC, BBA and BExA, as well as by many leading UK exporting companies

Yours sincerely

John Cridland

John Cridland

**SUMMARY OF COMPLAINTS RECEIVED BY ECGD
FROM CUSTOMERS
ON THE ENHANCED ANTI-CORRUPTION PROCEDURES
- AS AT 24 JUNE 2004 -**

ISSUE		COMPLAINANTS
<i>Sections in the application forms to which the complaints relate have been highlighted in the colours used here. The first four are general, do not relate to a specific text.</i>		
1	There was no formal consultation prior to implementation of procedures	CBI, British Consultants and Construction Bureau (BCCB), BExA, The Society of British Aerospace Companies Ltd (SBAC)
2	ECGD is placing unnecessary difficulties and bureaucracy on exporters.	CBI, BExA, SBAC, BAE
3	Unhappy about making declarations that would seem to be more stringent than those required by other ECAs. Felt that the insertion of the new "legal awareness" warning in application forms was all that was required.	Rolls-Royce, SBAC
4	Trading Associations should have been sent a copy of the letter ECGD sent directly to exporting customers.	BCCB
5	Anti-corruption declarations in application forms should not extend to Affiliates in connection with the contract. The definition of Affiliates is too broad and the applicant would have to make specific enquiries of its Affiliates - it's not practical.	Rolls-Royce, CBI, BBA, SBAC
6	They are disappointed that the words "to the best of our knowledge and belief" once again prefaced most of the anti-corruption declarations. Their legal advice suggests that companies would have to make specific enquiries in such cases.	Rolls-Royce, CBI, BExA, SBAC
7	Blacklist/conviction declaration should not extend to employees of the applicant and its Affiliates in connection with the contract. Applicant would have to make specific enquiries of such employees. An explanation was also sought as to what was meant by "freely admitted" in the context of this declaration being expanded to capture admissions of corrupt activity even where there has been no conviction. Additionally felt that the maintained reference to "found by a court" in relation to an engagement in any corrupt activity in this declaration was "too woolly".	Rolls-Royce
8		Rolls-Royce

9	Object to giving a declaration that (i) the applicant will require anyone acting on its behalf not to engage in any corrupt activity in relation to the contract, (ii) that it will monitor compliance with this and (iii) take appropriate action against anyone discovered to be acting otherwise. Believe that the applicants Code of Conduct is more than sufficient.	Rolls-Royce, BBA
10		Rolls-Royce, Airbus, SBAC
11	Right to inspect records held by applicants relating to business supported by ECGD should not be extended.	Rolls-Royce, Airbus, BBA
12		Rolls-Royce
13		Rolls-Royce
14		BBA
15	Code of Conduct should not be disclosed to third parties and no copies should be made of it.	Airbus
16		BBA
17	Why has "has been found" been changed to "is subsequently found" in the Corrupt Activity definition?	BBA

Summary of main complaints

- No prior consultation - CBI, BExA, BCCB, SBAC
- Unnecessary difficulties and bureaucracy being placed on exporters - CBI, BExA, SBAC, BAE
- Concerns about extending existing declarations to include affiliate companies and their employees, and, where not previously included, the applicant's employees - Rolls-Royce, CBI, BBA, SBAC
- Concerns that declarations would seem to be more stringent than those required by other ECAs - Rolls-Royce, SBAC

- Concerns in relation to having to give more details of payments to agents and other intermediaries - Rolls-Royce, Airbus, SBAC
- Concerns about wider rights of audit - Rolls-Royce, Airbus, BBA
- Concerns about extended disclosure provisions - Roll-Royce, BBA
- The Banks are concerned about how ECGD's requirements fit in with how they are regulated by the FSA - BBA

Notes of Decision on the above Complaints

The following was agreed at a meeting on 30th June 2004 with the Minister for Trade:

- (a) 1 to 4 - no immediate action required and no relation to the wording of application forms. Complaints relate largely to past process.
- (b) 5 - we should concede that there should be no penalty on an applicant for the actions of an affiliate it did not control. This to be done by amending the definition of affiliates so as to include only companies over which the applicant has control by virtue of shareholding, directorship or contract. There will however be an obligation immediately to notify ECGD if the applicant becomes aware of acts of corruption committed by an associated company that it does not control; tidying amendments will continue to ensure that the definitions will be such that the applicant's complicity in the corrupt activity of another will constitute corrupt activity by the applicant.
- (c) 6 - ECGD have offered a footnote definition of "best of our knowledge and belief". No further objection has been taken to that save by Airbus who do not like the concept that the applicant might be liable if he should have had cause to consider the warranty inaccurate. ECGD to consider whether a form of words can be found which cuts down the breadth of the obligation to consider whether the signatory had cause to consider the warranty inaccurate; but not to allow the signatory to be free of responsibility by being careful not to acquire actual knowledge.
- (d) 7 - the Blacklist/conviction declaration continued to apply to employees; the adverb "freely" is for the customers benefit to exclude admissions extorted hypothetically by duress - ECGD will explain but if the customers want the adverb removed, that is acceptable; the words "found by a court" need to be read with the rest of the sentence, are a traditional form of words in commercial contracts well known to the complainants and have already been explained to customers. Renewed explanation can be given if necessary.
- (e) 8 - "subsequent acquiescence" will be deleted insofar as it refers to non-controlled affiliates and will otherwise be dealt with by the drafting/tidying needed in 5 above. Insofar as it may be retained, it will be possible to define it and explain it
- (f) 9 - two steps:
 - (i) To check for those regulated by the FSA what the FSA requires in relation to declaration of compliance and monitoring. If sufficient it can be accepted that this declaration is replaced by one of compliance with the FSA's requirements.
 - (ii) To add concept of reasonableness regarding the monitoring

where there is no regulation by the FSA on which reliance can be placed and/or to substitute for this declaration, if appropriate, compliance with Codes of Conduct.

- (g) 10 - agents commission details must be given and be considered by decision makers but ECGD will consider ways of ensuring safe custody of the information provided.
- (h) 11 - ECGD has a negotiating mandate to concede that audit rights to the extended categories of documents be restricted to situations where it is aware of allegations of corruption.
- (i) 12 - the complaint is unacceptable.
- (j) 13 - 17 (inclusive) - minor, repetitive and in ECGD's view capable of being dealt with amicably without material concession.

NOTE OF MEETING HELD AT DTI CONFERENCE CENTRE, VICTORIA STREET ON MONDAY 5 JULY 2004

Attendees: *see attached*

The MfT opened the meeting with a short introduction setting out the UK Government line on combating bribery & corruption. HMG's position was clear, which was to be at the forefront. He did, however, recognise the business communities concerns and said that he and his officials were prepared to talk through the issues with the aim of resolving this matter quickly. The objective was to maintain HMG's position on bribery & corruption without jeopardising UK business competitiveness.

Gary Campkin (CBI) responded, on behalf of the business side (BS), welcoming the positive tone set by the MfT. Business also wanted a quick resolution provided the two main general issues of (i) practicality/legality and (ii) competitiveness for the UK were adequately addressed. The business side wanted to hear from ECGD what new ideas it had to propose to resolve customer concerns.

John Weiss proposed that in order to progress matters the first thing to be done was for both sides to take stock of and agree a list of the main customer complaints made to ECGD by both exporters and banks. A list of 16 such complaints (*see attached*) identified by ECGD was circulated and agreed by the business side as addressing their main concerns.

Points 1-4 were general rather than specific complaints that required no further discussion. The meeting then went through the rest of the list in reverse order.

16 – This change was made so as to clarify that it also covered future actions (ECGD). What about changes in the law that could then be applied retrospectively (BS)? It was recognised that UK criminal law did not operate retrospectively but there was the risk that foreign law might. BS also had concerns about timing, as an initial guilty verdict in a corruption trial might be subsequently overturned on appeal. ECGD would consider and revert. – Action: ECGD

15 – The bank representatives were asked to confirm that the FSA regulations were equivalent to ECGD's requirements (ECGD). Compliance was a big issue for banks. They are required by the FSA to have robust procedures/controls in place. The BBA was trying to find out what the FSA requirements were regarding bribery & corruption and would revert to ECGD asap. – Action: BBA

14 – ECGD confirmed that it would not disclose Codes of Conduct unless it has a legal obligation to do so.

13 – As with 14 ECGD will not disclose commercially confidential details unless it has a legal obligation to do so (ECGD). What about disclosure to reinsurers/professional advisors under ECA co-operation agreements and any portfolio management arrangement (BS). ECGD will consider, including looking at defining "professional advisor" - Action: ECGD

12 – Will ECGD consider notifying the exporter concerned and what about malicious/spurious allegations (BS)? ECGD is not an investigative authority so it would be difficult for it to decide which allegations are spurious and which merit further investigation. It does however try to sift out the most obviously malicious but if there are any doubts it will always refer the details to NCIS (ECGD). No

obvious objections to notifying the exporter concerned but each case would have to be looked at on its merits

11 – Customers feel very strongly that this is too intrusive and goes beyond what is required by law. There are also practicality/logistical issues for customers (BS). ECGD confirmed that these involve a small number of compliance visits carried out by ECGD's own internal audit team. ECGD must have the right to audit those deals it is supporting particularly where allegations of wrongdoing are made (ECGD). No agreement was reached.

10 – Airbus insisted that it will not provide any details relating to its agents. It entered into confidentiality agreements with its agents and regarded these arrangements as strictly a matter between the company and the agent involved. It was supported in this by Rolls-Royce. Airbus stated that it required its agents to comply with the company's Code of Conduct and to obey the law. It also carried out its own due diligence checks before appointing an agent. It was prepared to show ECGD the form of its standard agency agreement but would not provide any details as to how such agreements were modified for particular transactions. ECGD expressed surprise that companies were now refusing to provide the additional information on agent's commission that it required since most of these details had been specified in ECGD application forms since April 2003. ECGD regarded the provision of such information as important in ensuring that the business it supported was not tainted in anyway. No agreement was reached.

9 – This was too wide for customers, particularly the monitoring requirement (BS). ECGD will look at the wording again. - Action: ECGD

8 – This was not regarded as a major issue and would hopefully be resolved once agreement is reached on the definition of "Affiliates"

7 – The expression "*found by a court*" would be dealt with under 16 as the only remaining concern was in relation to appeals against a guilty verdict, "*freely admitted*" was explained and accepted. "*employees*" was a problem for customers as they may not know. The CBI would respond with alternative wording for ECGD to consider. - Action: CBI

6 - The CBI would respond with alternative wording for ECGD to consider. - Action: CBI

- The problem with the current definition of "Affiliates" presented for customers was the lack of control. The banks also had difficulties because of the large number of companies that were caught by this definition. They wanted it to be more transaction orientated. ECGD will consider tightening the definition in respect of control but will also require an information warranty to be given for non-controlled Affiliates. - Action: ECGD

An additional issue was also identified which was ECGD's requirement that the signatory of the application form should be someone "*with appropriate responsibility*". The CBI will revert with its comments. - Action: CBI

The bank representatives also raised a concern they had about including money laundering in the Corrupt Activity definition in the Letter of Undertaking that the banks are required to give ECGD as they felt that it was not applicable to banks. ECGD will consider removing the reference to money laundering from the Corrupt Activity definition. - Action: ECGD

Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 07 July 2004 16:46
To: Nicholas Ridley
Cc: John Weiss; John Ormerod; Roy Donovan; Charles Redfearn
Subject: ECGD Forms

Dear Mr Ridley

I am grateful to you for forwarding the letter from John Weiss attaching the revised drafts and commenting on the various points we have been considering. I will of course send all these documents to the CBI Group and invite their urgent consideration with your deadline in mind.

We will get back as soon as possible

Yours sincerely

Peter Malcolm

----- Forwarded by Peter Malcolm/CBI on 07/07/2004 16:32 -----

"Nicholas Ridley" <Nicholas.Ridley@ecgd.gsi.gov.uk> on 07/07/2004 16:25:59

To: Peter Malcolm/CBI@CBI
cc: "John Weiss" <John.Weiss@ecgd.gsi.gov.uk>, "John Ormerod" <JOHN.ORMEROD@ecgd.gsi.gov.uk>, "Roy Donovan" <Roy.Donovan@ecgd.gsi.gov.uk>, "Charles Redfearn" <Charles.Redfearn@ecgd.gsi.gov.uk>
Subject: ECGD Forms

Dear Mr Malcolm

Please see the attached letter from John Weiss and enclosed documents which refer to Monday's meeting

Yours sincerely

Nicholas Ridley

> > <<CBI Letter 7.07.04.doc>> > > <<BC Application v2.0.doc>> > > <<LoU-BC v2.0.doc>> > > <<DVComparison Form BCAP5-BC Application v2.doc>> > > <<DVComparison_LoU-BC v1.0-LoU-BC v2.doc>>

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www.mimesweeper.com

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7 July 2004

Mr P Malcolm
CBI
CBI Centre Point
103 New Oxford Street
London
WC1A 1DU

Dear Peter,

ECGD Forms

I said on Monday that we would revert with a redraft of those points which could be taken care of by drafting. I attach to this letter two versions of the standard Buyer Credit Application for support and two versions of a Bank's Letter of Undertaking to us. One version of each is in compare with the version which you last saw and the other version is "clean". Could you please circulate the drafts to your colleagues as appropriate.

I want to be quite clear with you what the purpose of these drafts is. First, what they do not do is deal with the two points we left over on Monday, that is to say the issue of the ambit of the audit clause and the provision of details of dealings with agents. Those matters we must address early next week. What these drafts do achieve in our opinion is a satisfactory resolution of all the other issues. I would be very disappointed if you did not feel so too; and would be grateful if you could indicate before the end of this week that next week's meeting may concentrate on the two "left over" points as far as the participants at the meeting of 5th July are concerned – I quite understand and this is in no way intend to prejudice the wider consultation which your organisation is undertaking.

To aid you in looking at these drafts I set out beneath a small number of comments on the more important points which we discussed on Monday and with which this draft deals. First, we have taken on board your difficulties with warranting the behaviour of companies not in your control. You will see how we have dealt with that. We have introduced the concept of a "Controlled Company" and an "Associate". Companies are only those companies controlled by the Applicant, and in respect of the more widely defined Associates the obligation is only one of notification. You will be aware of course that were an Applicant for our services to be themselves complicit in Corrupt Activity even if carried out by someone who is not a Company or Associate that will, obviously, be caught by the warranty. And the declaration, but not the warranty, includes other companies to the "best of our knowledge and belief".

We have additionally reduced the ambit of the warranty regarding Corrupt Activity to Corrupt Activity in relation to the contracts which we are supporting.

You raised concerns about the confidentiality provisions which are to be found under clause 8.2. We have indulged in some lateral thinking in this regard and separated out two different forms of matter to which confidentiality might relate. As to information about agents, their remuneration and contracts, we have introduced a special version of confidentiality which is much greater than will apply to other less sensitive areas. You will see how this works in the new clauses 8.2.4 and 8.2.5. We ask you to appreciate that this may cause difficulties for us with reinsurers and we would look to Applicants to co-operate in the release of that information if it was material to a reinsurance presentation.

As far as the phrase "to the best of our knowledge and belief" is concerned, we remain quite happy with the footnote definition which we have provided. We have not included the footnote in this current document since Rolls Royce wished to provide an alternative draft. We would ask that be provided to us as soon as possible and in any event before the end of the week. I do stress what was said at the Monday meeting, that is to say that any redraft must not allow Applicants deliberately to avoid gaining knowledge which might create difficulties for them in signing the Application.

We have dealt with the issue raised by Rolls Royce of appeals from a first instance judgement holding that there has been Corrupt Activity; we have deliberately not changed the wording in the declaration in Clause 5 of the Buyer Credit Application because we wish to be informed of a conviction even if an appeal is pending. But we ask you to warrant only that you will not engage in Corrupt Activity as ultimately found to exist, any appeal process having been exhausted.

We have dealt on your request with the definition of what Subsequent Acquiescence is. You will see that we have done this by reference to the new concept of "Appropriate Action" which is also a helpful definition, requested by you, for the monitoring clause.

The two versions of the two forms which we attach are to enable you to see how we propose to deal with the matters that you raised. It goes without saying that the terms will need to be carried into other documents and there will have to be such consequential grammatical amendments as the status of those documents (i.e. whether a contract or a pre-contractual representation etc, etc) may require.

I look forward to meeting you early next week to take up the two remaining issues and I would be very grateful for your confirmation before the end of this week that I may concentrate on the consideration of those.

Yours sincerely,

John Weiss



APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed.)

Nature of business:

Date Company was established:

Total annual turnover:

Number of employees:

Number of years exporting:

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CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.5 below)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied
(If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ Yes ☐ No

1 We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule").

2 Our Bankers, *[Name of Bankers]*, of *[Address of Bankers]*

have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the Borrower has *approved / *has yet to approve our Bankers for this purpose (*Delete as appropriate)

3 We undertake to notify you of any information we may receive about any proposed additional lending from any source in relation to this transaction.

4 We agree that for the purposes of this Application:

4.1 "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities;

4.2 "Associate" means any company (other than ourselves or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.3 "Borrower" means the party so described in the Schedule;

4.4 "Buyer" means the party so described in the Schedule;

4.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the issued share capital of that

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company and/or (3) having appointed, or having the power to appoint, the directors of that company;

4.6 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person and the concealment, use or facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which:

4.6.1 is subsequently found by a court in a competent jurisdiction to have rendered a contract illegal, void, voidable or unenforceable under its governing law, or

4.6.2 any Controlled Company or anyone (including any employee) acting on behalf of or with the prior consent or Subsequent Acquiescence of any Controlled Company, has freely admitted engaging in, or

4.6.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.6.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)

and which activity, in respect of paragraphs 4.6.1, 4.6.2, and 4.6.3 above corresponds to an offence under the any of the Relevant Acts.

4.7 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.8 "Guarantor" means any party so described in the Schedule;

4.9 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted);

4.10 "Supply Contract" means the entirety of the contract between ourselves and the Buyer which is referred to in the Schedule;

4.11 "Subsequent Acquiescence" means, in relation to any activity which would constitute an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it.

5 We declare that, to the best of our knowledge and belief, neither we nor any Controlled Company nor any of our direct or indirect parent companies or their respective direct or indirect subsidiaries nor any director or employee of ours or of any Controlled Company or of any such parent or subsidiary company:

5.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, and

5.2 has at any time freely admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity **

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form.)

6 We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different to the Buyer) and/or any Guarantor ***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form.)

- 7 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BCAP 5) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched2) provided to us by ECGD
- 8 We understand that

8.1 in our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

8.2 It will be a condition of a Buyer Credit guarantee being made available for the transaction described in the Schedule:

8.2.1 that neither we nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's prior consent or Subsequent Acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind;

8.2.2 that, if we become aware, or have reason to suspect, that any Associate, or anyone (including any of its employees) acting on its behalf with due authority, or with its prior consent or subsequent acquiescence, has engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, or suspected or alleged Corrupt Activity, in question;

8.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf and directly or indirectly involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, (2) we will monitor compliance with that requirement, and (3) we will take Appropriate Action against anyone found to have engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity); and

8.2.4 that (unless the parties agree otherwise) all discussions and correspondence relating to this Application are confidential and shall not be disclosed to any third party except:

8.2.4.1 by us in confidence to our banker or broker or other professional advisers, in each case for the purpose for which each of them has been employed by us; and

8.2.4.2 (subject to paragraph 8.2.5 below) by ECGD,

8.2.4.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department, or

8.2.4.2.2 in confidence to its reinsurers or to those persons to whom it is necessary to disclose the details of such discussions and correspondence in connection with ECGD's portfolio management activities, or

8.2.4.2.3 in confidence to other export credit agencies, other Government Departments or such other persons to whom it may be necessary to disclose details of such discussions and correspondence in connection with its assessment of this Application, or

8.2.4.2.4 prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports,**** and

8.2.4.2.5 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name the name of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project.****

8.2.5 that details of the use of agents or other intermediaries in the obtaining of the Supply Contract, and of any payments made to those agents or intermediaries, which are provided to ECGD in this Application or in any related discussions or correspondence shall be held in confidence by ECGD and not, without our prior consent, disclosed to any third parties except:

8.2.5.1 to ECGD's lawyers and auditors; and

8.2.5.2 by ECGD in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department *****

*(**** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form.)*

- 9 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the Schedule

Signed

On behalf of [Name of Applicant]

Address

Capacity of
Signatory

Date

- 1 In the case of incorporated companies, this Application must be signed by an authorised officer with appropriate responsibility on behalf of the company
- 2 In the case of partnerships, this Application must be signed by a partner or partners authorised.

(Form BCAP.5)

To: the Export Credits Guarantee Department ("ECGD")

Undertaking in respect of any Corrupt Activity associated with a Buyer Credit

Borrower:

Supplier:

Buyer:

ECGD Reference:

Supply Contract: Contract dated..... between the Buyer and the Supplier
for.....

Loan Agreement: Agreement for a loan of up to £..... to be made to the
Borrower by [us] [a syndicate of banks, including ourselves, lead by as
agent,] for the purpose of assisting the financing the Supply Contract

- 1 In order to induce ECGD to guarantee the Borrower's obligations under[,and to
provide interest rate support in relation to,] the Loan Agreement, and in
consideration of ECGD's agreeing to do so (which we acknowledge to be a
good and valuable consideration), we represent, warrant and undertake that:
 - 1.1 neither we, nor, to the best of our knowledge and belief, any Controlled
Company or anyone (including any employee) acting on our, or that
Controlled Company's, behalf with due authority or with our, or that
Controlled Company's, prior consent or Subsequent Acquiescence, has
engaged, or will engage, in any Relevant Corrupt Activity; and
 - 1.2 we have required and/or will require anyone (including any of our
employees) acting on our behalf and directly or indirectly involved in
obtaining the mandate to finance the Supply Contract or in its
subsequent financing under the Loan Agreement not to engage in any
Relevant Corrupt Activity, we will monitor compliance with that
requirement and we will take Appropriate Action against anyone found to
have engaged in any Relevant Corrupt Activity.
- 2 We declare that to the best of our knowledge and belief, neither we nor any
Controlled Company nor any of our direct or indirect parent companies or their
respective direct or indirect subsidiaries nor any director or employee of ours or
of any Controlled Company or of any such parent or subsidiary company, has

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at any time freely admitted engaging in, or been found by a court in any competent jurisdiction to have engaged in, any Corrupt Activity

3 In this Undertaking:

"Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining, investigating, and, if possible, remedying its effects and reporting it to the appropriate authorities;

"Controlled Company" means any company (in any jurisdiction) which is controlled by us;

"control" and "controlled" means, in relation to a company, control of that company by virtue of (1) any contractual arrangements, including, without limitation, provisions in that, or any other, company's memorandum and articles of association (or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) or and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the issued share capital of that company and/or (3) having appointed, or having the power to appoint, the directors of that company;

"Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person and the concealment, use or the facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which:

(1) is subsequently found by a court in a competent jurisdiction to have rendered the Loan Agreement [or the related Overseas Guarantee] illegal, void, voidable or unenforceable under its governing law, or

(2) any Controlled Company or anyone (including any of its employees) acting on its behalf, or with its prior consent or Subsequent Acquiescence, has freely admitted engaging in, or

(3) is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the United Kingdom to constitute an offence under any applicable law, or

(4) is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)

and which activity, in respect of paragraphs (1), (2), and (3) above corresponds to an offence under any of the Relevant Acts;

"Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted);

"Relevant Corrupt Activity" means Corrupt Activity in connection with (1) obtaining the mandate to finance the Supply Contract or (2) the Supply

Contract's subsequent financing under the Loan Agreement or (3) any agreement, undertaking, consent, authorisation or arrangement of any kind related to the Loan Agreement or the Supply Contract's financing under it; and

"Subsequent Acquiescence" means, in relation to any activity which constitutes an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it.

For and on behalf of

[Name of Bank]

Signature:

Name:

Position:

Date:

(This undertaking must be signed by an authorised officer)

(Form LoU-BC)



APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed.)

Nature of business:

Date Company was established:

Total annual turnover:

Number of employees:

Number of years exporting: _____

CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity? (as defined in paragraph 4.5 below)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes
(If not Previously Supplied, you must attach a copy)

☐ Previously Supplied

and

Has it been and will it be applied to obtaining and performing the contract?

☐ Yes ☐ No

1 4-We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule").

2 2-Our Bankers, _____ of _____

have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the Borrower has approved / has yet to approve our Bankers for this purpose (*Delete as appropriate*)

3 We undertake to notify you of any information we may receive about any proposed additional lending from any source in relation to this transaction

4 4-We agree that for the purposes of this Application:

4.1 "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities;

4.2 4.1 "Affiliate"/"Associate" means in relation to our company, any company (other than ourselves or a Controlled Company), person or other legal entity which is a member of the same group of companies or any other party to any joint venture or, consortium or other similar

arrangement with our company in connection with the Supply Contract (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.3 ~~4.2~~ "Borrower" means the party so described in the Schedule;

4.4 ~~4.3~~ "Buyer" means the party so described in the Schedule; "Buyer" means the party so described in the Schedule;

4.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the issued share capital of that company and/or (3) having appointed, or having the power to appoint, the directors of that company;

4.6 ~~4.4~~ "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person and the concealment, use or facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which;

4.6.1 ~~4.4.1~~ is subsequently found by a court in a competent jurisdiction to have rendered a contract illegal, void, voidable or unenforceable under its governing law, or

4.6.2 ~~4.4.2~~ we, any of our Affiliates ~~any Controlled Company~~ or anyone (including any of our or any of our Affiliates' employees ~~employees~~) acting on behalf of or with the prior consent or subsequent acquiescence of ourselves or any of our Affiliates ~~Subsequent Acquiescence of any Controlled Company~~, has freely admitted engaging in, or

4.6.3 ~~4.4.3~~ is subsequently found by a court in any competent jurisdiction outside the United Kingdom ~~(after all available rights of appeal have been exhausted)~~ to constitute an offence under any applicable law, or

4.6.4 ~~4.4.4~~ is subsequently found by a court in the United Kingdom ~~(after all available rights of appeal have been exhausted)~~ to constitute an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)

and which activity, in respect of paragraphs 4.6.1, 4.6.2, and 4.6.3 above corresponds to an offence under the any of the Relevant Acts.

4.7 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.8 "Guarantor" means any party so described in the Schedule.

4.9 ~~and which activity, in respect of paragraphs 4.4.1, 4.4.2, and 4.4.3 above corresponds to an offence under the~~ "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted);

4.5 "Guarantor" means any party so described in the Schedule;

4.10 ~~4.6~~ "Supply Contract" means the entirety of the contract between ourselves and the Buyer which is referred to in the Schedule;

4.11 "Subsequent Acquiescence" means, in relation to any activity which would constitute an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it.

5 ~~5~~—We declare that, to the best of our knowledge and belief, neither we, or nor any Controlled Company nor any of our Affiliates nor any of our or their directors or employees direct or indirect parent companies or their respective direct or indirect subsidiaries nor any director or employee of ours or of any Controlled Company or of any such parent or subsidiary company.

5.1 ~~5.1~~—appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, and"

5.2 ~~5.2~~—has at any time freely admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any -Corrupt Activity."

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form.)

6 ~~6~~—We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different to the Buyer) and/or any Guarantor.***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form.)

7 ~~7~~—We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BCap.5) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched2) provided to us by ECGD.

8 ~~8~~—We understand that

8.1 ~~8.1~~—In our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

8.2 ~~8.2~~—it will be a condition of a Buyer Credit guarantee being made available for the transaction described in the Schedule :

8.2.1 ~~that neither we nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's behalf with due authority, or with our, or that Controlled Company's prior consent or Subsequent Acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind;~~

8.2.2 ~~8.2.1 that neither we nor to the best of our knowledge and belief any of our Affiliates nor that, if we become aware, or have reason to suspect, that any Associate, or anyone (including any of our or their/its employees) acting on our or their behalf with due authority, or with our or their/its behalf with due authority, or with its prior consent or subsequent acquiescence, has engaged or will engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind; and, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, or suspected or alleged Corrupt Activity, in question;~~

8.2.3 ~~8.2.2—that (1) we shall have required, and/or will shall require, anyone (including any of our employees) acting on our behalf and directly or indirectly involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3~~

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or 4.6.4. would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, (2) we will monitor compliance with our that requirements, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4. would amount to Corrupt Activity); and

8.2.4 ~~8.2.3~~ that (unless the parties agree otherwise) all discussions and correspondence relating to this Application are confidential and shall not be disclosed to any third party except by:

8.2.4.1 ~~8.2.3.1~~ by us in confidence to our banker or broker or other professional adviser, or by advisers, in each case for the purpose for which each of them has been employed by us; and

8.2.4.2 (subject to paragraph 8.2.3.25 below) by ECGD,

8.2.4.2.1 ~~8.2.3.2.1~~ in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department, or

8.2.4.2.2 ~~8.2.3.2.2~~ in confidence to its reinsurers or professional advisers to those persons to whom it is necessary to disclose the details of such discussions and correspondence in connection with its ECGD's portfolio management activities, or

8.2.4.2.3 ~~8.2.3.2.3~~ in confidence to other export credit agencies, or other Government Departments, or its professional advisers, but only in so far as that is necessary or such other persons to whom it may be necessary to disclose details of such discussions and correspondence in connection with its assessment of this Application, or

8.2.4.2.4 ~~8.2.3.2.4~~ prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports,**** and

8.2.4.2.5 ~~8.2.3.2.5~~ after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project.****

8.2.5 that details of the use of agents or other intermediaries in the obtaining of the Supply Contract and of any payments made to those agents or intermediaries, which are provided to ECGD in this Application or in any related discussions or correspondence shall be held in confidence by ECGD and not, without our prior consent, disclosed to any third parties except:

8.2.5.1 to ECGD's lawyers and auditors; and

8.2.5.2 by ECGD in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department

*(**** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form.)*

9 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise

you promptly of any changes that may occur in the details shown in this Application or in the Schedule

Signed on _____

On behalf of the [Name] of Applicant

Address _____

Capacity of
Signatory _____

Date _____

Date _____

- 1 In the case of incorporated companies, this Application must be signed by an authorised officer with appropriate responsibility on behalf of the company
- 2 In the case of partnerships, this Application must be signed by a partner or partners authorised.

(Form BCap.5)

Document comparison done by DeltaView on Wednesday, July 07, 2004 16:19:46

Input:	
Document 1	file://G:/GCO/Business Division 4/Bribery & Corruption/Form BCap5.doc
Document 2	file://G:/GCO/Business Division 4/Bribery & Corruption/BC Application v2.0.doc
Rendering set	ECGD

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary:		
No.	Change	Text
1	Insertion	C:\Documents and ... Application v2.0.doc
2	Change	"business: " changed to "business:"
3	Change	"established: " changed to "established:"
4	Change	"turnover; " changed to "turnover:"
5	Change	"employees: " changed to "employees:"
6	Change	"exporting: " changed to "exporting:"
7-8	Change	"Corrupt Activity?" changed to "Corrupt Activity (as... in paragraph 4.5 below)?"
9	Deletion	attach a copy)
10	Change	"We request you" changed to "1 We request you"

11	Change	"Our Bankers," changed to "2 Our Bankers,"
12	Change	"Our Banke....." changed to "Our Bankers,"
13	Deletion	of.....
14	Deletion
15	Deletion
16	Change	"We agree that" changed to "4 We agree that"
17-18	Insertion	4.1 "Appropriate Action"...appropriate authorities;
19-20	Change	"" means" changed to "4.1 "Affiliate"Associate" means"
21	Change	"" means in relation to our company, any company" changed to "" means any company"
22	Change	"any company which is a" changed to "any company (other than...legal entity which is a"
23	Change	"which is a member of the...any other party to any" changed to "which is a party to any"
24-25	Change	"joint venture or consortium" changed to "joint venture, consortium"
26	Deletion	arrangement with our company
27	Moved from	in connection with the Supply Contract
28-29	Change	"," changed to "(1) which is, or will be, ...we are also a party,"
30	Change	""Borrower" means" changed to "4.2 "Borrower" means"
31-32	Insertion	4.3 "Buyer" means the...in the Schedule;
33-34	Insertion	4.5 "control" and...of that company;
35	Change	""Corrupt Activity"" changed to "4.4"Corrupt Activity""
36	Insertion	conduct) which:
37	Change	"is subsequently" changed to "4.4.1 is subsequently"
38-39	Change	"or anyone (including" changed to "4.4.2 we, any of our...or anyone (including"

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40-41	Change	"(including any of our or...employees) acting on" changed to "(including any employee) acting on"
42-43	Change	"consent or subsequent...Affiliates has freely" changed to "consent or Subsequent...Company, has freely"
44	Change	"is subsequently" changed to "4.4 3 is subsequently"
45	Change	"United Kingdom to constitute" changed to "United Kingdom (after all...exhausted) to constitute"
46	Change	"is subsequently" changed to "4.4.4 is subsequently"
47	Change	"United Kingdom to constitute" changed to "United Kingdom (after all...exhausted) to constitute"
48	Moved to	and which activity, in respect of paragraphs 4.
49	Insertion	6.1, 4.6.2, and 4.6
50	Moved to	.3 above corresponds to an offence under the
51	Insertion	any of the Relevant Acts.
52-53	Insertion	4.7 "Controlled Company"...is controlled by us;
54	Insertion	4.8
55	Change	"" changed to ""Guarantor" means any...in the Schedule;"
56-57	Change	"4.1, 4.4.2, and 4.4" changed to "and which activity, in respect of paragraphs 4 "
58	Moved from	.3 above corresponds to an offence under the
59	Change	"Prevention" changed to ""Relevant Acts" means the Prevention"
60	Deletion	4.5
61	Moved from	"Guarantor" means any...in the Schedule;
62	Change	""Supply Contract"" changed to "4.6 "Supply Contract""
63-64	Insertion	4.11 "Subsequent...in relation to it.
65	Change	"We declare that" changed to "5 We declare that"
66	Change	"declare that to the best" changed to "declare that, to the best"
67	Change	"knowledge and belief neither we" changed to "knowledge and belief, neither we"
68-69	Change	"neither we, or any of our" changed to "neither we nor any...Company nor any of our"
70-71	Change	"any of our Affiliates ...directors or employees"

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		changed to "any of our direct or...or subsidiary company."
72	Change	"appears on any" changed to "5.1 appears on any"
73	Deletion	agency, and**
74	Change	"has at any time" changed to "5.2 has at any time"
75	Change	"freely admitted or been found" changed to "freely admitted having engaged, or been found"
76	Change	"by a court to have engaged" changed to "by a court in any...to have engaged"
77	Change	"have engaged in any" changed to "have engaged, in any"
78	Change	"in any -Corrupt Activity.***" changed to "in any Corrupt Activity.***"
79	Change	"We declare that" changed to "6 We declare that"
80	Change	"We declare that" changed to "7 We declare that"
81	Change	"We understand" changed to "8 We understand"
82	Change	"in our own interest," changed to "8.1 in our own interest,"
83	Change	"it will be a" changed to "8.2 it will be a"
84-85	Insertion	8.2.1 that neither we nor,
86	Moved to	to the best of our knowledge and belief
87	Insertion	, any Controlled Company...Controlled Company's,
88	Moved to	behalf with due authority
89	Insertion	, or with our, or that...in any Corrupt Activity
90	Moved to	in connection with the Supply Contract
91	Insertion	or any related agreement,...arrangement of any kind;
92	Insertion	8.2.1 that neither we nor
93	Moved from	to the best of our knowledge and belief
94-95	Change	"any of our Affiliates nor anyone (including" changed to "that, if we become aware,...or anyone (including"
96-97	Change	"(including any of our or their employees)" changed to "(including any of its employees)"
98	Deletion	employees) acting on our or their
99	Moved from	behalf with due authority
100-101	Change	"or with our or their prior consent" changed to "its behalf with due...with its prior consent"
102	Change	"acquiescence has engaged" changed to "acquiescence, has engaged"
103	Change	"has engaged or will engage in any Corrupt" changed to "has engaged in any Corrupt"
104	Change	"Corrupt Activity in connection" changed to "Corrupt Activity (or any...Activity) in

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		connection"
105-106	Change	"of any kind; and" changed to "of any kind, we shall...Activity, in question,"
107	Change	"that" changed to "8.2.2 that"
108	Change	"that we" changed to "that (1) we"
109	Change	"we have required" changed to "we shall have required"
110	Change	"have required" changed to "have required,"
111	Change	"and/or" changed to "or"
112-113	Change	"or will require" changed to "or shall require"
114	Change	"require anyone (including" changed to "require, anyone (including"
115	Change	"Corrupt Activity in connection" changed to "Corrupt Activity (or any...Activity) in connection"
116	Change	"of any kind, we will monitor" changed to "of any kind, (2) we will monitor"
117-118	Change	"compliance with our" changed to "compliance with that"
119	Deletion	requirements
120	Change	", and we will take" changed to ", and (3) we will take"
121-122	Change	"we will take appropriate" changed to "we will take Appropriate"
123-124	Change	"ppropriate action" changed to "ppropriate Action"
125	Change	"Corrupt Activity; and" changed to "Corrupt Activity (or any...Corrupt Activity); and"
126	Change	"that (unless" changed to "8.2.3 that (unless"
127-128	Change	"party except by" changed to "party except:"
129-130	Change	"us in confidence" changed to "8.2.3.1 by us in confidence"
131-132	Change	"professional adviser, or by" changed to "professional advisers, in. .been employed by us; and"
133	Change	"8.2." changed to "(subject to paragraph 8.2."
134-135	Change	"8.2.3.2 ECGD," changed to "8.2.5 below) by ECGD,"
136	Change	"in accordance" changed to "8.2.3.2.1 in accordance"
137	Change	"in confidence" changed to "8.2.3.2.2 in confidence"
138-139	Change	"reinsurers or professional advisers in connection" changed to "reinsurers or to those...in connection"
140-141	Change	"connection with its portfolio management" changed to "connection with ECGD's portfolio management"
142	Change	"portfolio management, or" changed to "portfolio management activities, or"
143	Change	"in confidence" changed to "8.2.3.2.3 in

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		confidence"
144-145	Change	"credit agencies, or Government" changed to "credit agencies, other Government"
146-147	Change	"Departments, or its ..necessary in connection" changed to "Departments or such other ..in connection"
148	Change	"prior to signature" changed to "8.2.3 2 4 prior to signature"
149	Change	"after signature" changed to "8.2 3.2.5 after signature"
150-151	Insertion	8.2.5 that details of the...third parties except:
152-153	Insertion	8.2.5.1 to ECGD's lawyers and auditors; and
154-155	Insertion	8.2.5 2 by ECGD in...a Government Department
156	Change	"We certify that" changed to "9 We certify that"
157	Change	"Signed on" changed to "Signed"
158	Change	"behalf of" changed to "On behalf of"
159-160	Change	"behalf of the Applicant" changed to "behalf of [Name of Applicant"
161	Deletion	Applicant...
162	Change	"I" changed to "I"
163	Change	"Address..." changed to "Address"
164	Deletion	Signatory
165	Deletion	Date
166	Insertion	Date
167	Change	"authorised officer on behalf of" changed to "authorised officer with...on behalf of"

Statistics:	
	Count
Insertions	76
Deletions	79
Moved from	6
Moved to	6
Style change	0
Format changed	0
Total changes	167

Redline options:	
	Status
Redline Statistics at End of Document	ON

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Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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To ECGD: the Export Credits Guarantee Department ("ECGD")

Undertaking in respect of any Corrupt Activity associated with a Buyer Credit

Name of Borrower

Name of Supplier

Name of Buyer

ECGD Reference

Supply Contract: Contract dated..... between the Buyer and the Supplier
for.....

Loan Agreement: Agreement for a loan of up to £..... to be made to the
Borrower by [us] [a syndicate of banks, including ourselves, lead by
..... as agent] for the purpose of assisting the financing the Supply
Contract

1 ~~1~~ In consideration of ~~In order to induce~~ ECGD agreeing to guarantee the
Borrower's obligations under ~~and to provide interest rate support in relation~~
to ~~the Loan Agreement, and in consideration of ECGD's agreeing to do so~~
(which we acknowledge to be a good and valuable consideration) we
undertake that, we represent, warrant and undertake that:

1.1 ~~1.1~~ in connection with obtaining the mandate to finance the Supply
Contract or its subsequent financing under the Loan Agreement and
in connection with any related agreement, undertaking, consent,
authorisation or arrangement of any kind neither we, nor, to the best
of our knowledge and belief, any of our Affiliates nor Controlled
Company or anyone (including any of our or their
employees/employee) acting on our, or their/that Controlled
Company's, behalf with due authority or with our, or their/that
Controlled Company's, prior consent or subsequent
acquiescence Subsequent Acquiescence, has engaged, or will
engage, in any Relevant Corrupt Activity; and

1.2 ~~1.2~~ we have required and/or will require anyone (including any of our
employees) acting on our behalf and directly or indirectly involved in
obtaining the mandate to finance the Supply Contract or in its
subsequent financing under the Loan Agreement not to engage in any

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~~Relevant~~ Corrupt Activity in connection with the ~~Loan Agreement or any related agreement, undertaking, consent, authorisation or arrangement of any kind~~, we will monitor compliance with our requirements, that requirement and we will take ~~a~~ Appropriate ~~a~~ Action against anyone found to have engaged in any Relevant Corrupt Activity

2 We declare that to the best of our knowledge and belief ~~neither we, or, neither we nor any Controlled Company nor any of our Affiliates nor any of our or their directors or employees~~ direct or indirect parent companies or their respective direct or indirect subsidiaries nor any director or employee of ours or of any Controlled Company or of any such parent or subsidiary company, has at any time freely admitted engaging in, or been found by a court in any competent jurisdiction to have engaged in, any Corrupt Activity

2 ~~We understand that for the purposes of this undertaking~~

3 In this Undertaking:

3.1 ~~"Affiliate"~~ "Appropriate Action" means, in relation to our company, any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining, investigating, and, if possible, remedying its effects and reporting it to the appropriate authorities;

"Controlled Company" means any company (in any jurisdiction) which is a member of the same group of companies; and controlled by us;

"control" and "controlled" means, in relation to a company, control of that company by virtue of (1) any contractual arrangements, including, without limitation, provisions in that, or any other, company's memorandum and articles of association (or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) or and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the issued share capital of that company and/or (3) having appointed, or having the power to appoint, the directors of that company;

3.2 ~~"Corrupt Activity"~~ means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person and the concealment, use or the facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which;

3.2.1 ~~(1)~~ is subsequently found by a court in a competent jurisdiction to have rendered the Loan Agreement [or the related Overseas Guarantee] illegal, void, voidable or unenforceable under its governing law, or

3.2.2 ~~we, any of our Affiliates~~ Controlled Company or anyone (including any of ~~our or any of our Affiliates'~~ its employees) acting on ~~its behalf of, or with its~~ the prior consent or ~~subsequent acquiescence of ourselves or any of our Affiliates~~ Subsequent Acquiescence, has freely admitted engaging in, or

(3.2.3) is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the United Kingdom to constitute an offence under any applicable law, or

2.2.(4) is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)

and which activity, in respect of paragraphs 3.2.(1), 3.2.(2), and (3.2.3) above corresponds to an offence under any of the Relevant Acts;

"Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted);

"Relevant Corrupt Activity" means Corrupt Activity in connection with (1) obtaining the mandate to finance the Supply Contract or (2) the Supply Contract's subsequent financing under the Loan Agreement or (3) any agreement, undertaking, consent, authorisation or arrangement of any kind related to the Loan Agreement or the Supply Contract's financing under it; and

"Subsequent Acquiescence" means, in relation to any activity which constitutes an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it.

For and on behalf of

[Name of Bank's]

Signature.....Date.....

Capacity of Signatory.....

Name of Bank.....

Address.....

.....

Name:

Position:

Date:

(This undertaking must be signed by an authorised officer with appropriate responsibility)

(Form LoU-BC)

c:\ED4\master\library\LoU-BC20040504

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Document comparison done by DeltaView on Wednesday, July 07, 2004 16:21:09

Input:	
Document 1	file://G:/GCO/Business Division 4/Bribery & Corruption/LoU-BC v1.0.doc
Document 2	file://G:/GCO/Business Division 4/Bribery & Corruption/LoU-BC v2.0.doc
Rendering set	ECGD

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary:		
No.	Change	Text
1	Insertion	C:\Documents and... v2.0.doc
2-3	Change	"To ECGD" changed to "To: the Export Credits... Department ("ECGD")"
4	Change	"Name of Borrower" changed to "Borrower"
5-6	Change	"Borrower" changed to "Borrower:"
7	Change	"Name of Supplier" changed to "Supplier"
8-9	Change	"Supplier" changed to "Supplier:"
10	Change	"Name of Buyer" changed to "Buyer"
11-12	Change	"Buyer" changed to "Buyer:"
13-14	Change	"ECGD Reference" changed to "ECGD Reference:"
15	Insertion	Supply Contract. Contract.....

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16	Insertion	Loan Agreement. Agreement ..the Supply Contract
17-18	Change	"ECGD" changed to "1 In consideration ofIn order to induce ECGD"
19	Change	"ECGD agreeing to guarantee" changed to "ECGD to guarantee"
20	Change	"obligations under the Loan Agreement" changed to "obligations under[,and to...to,] the Loan Agreement"
21	Change	"Loan Agreement (which we acknowledge" changed to "Loan Agreement, and in...so (which we acknowledge"
22-23	Change	"consideration) we undertake that" changed to "consideration), we...and undertake that:"
24	Insertion	1.1 in connection with
25	Moved from	obtaining the mandate to...the Supply Contract or
26	Change	"its subsequent financing ..of any kind neither we" changed to "neither we"
27	Change	"neither we nor" changed to "neither we, nor"
28	Change	"nor to the best" changed to "nor, to the best"
29	Change	"knowledge and belief any" changed to "knowledge and belief, any"
30-31	Change	"any of our Affiliates nor anyone (including" changed to "any Controlled Company or anyone (including"
32-33	Change	"(including any of our or...employees) acting on" changed to "(including any employee) acting on"
34	Change	"acting on our or" changed to "acting on our, or"
35-36	Change	"or their behalf with" changed to "or that Controlled Company's, behalf with"
37	Change	"or with our or" changed to "or with our, or"
38-39	Change	"or their prior consent" changed to "or that Controlled Company's, prior consent"
40-41	Change	"consent or subsequent acquiescence has engaged" changed to "consent or Subsequent Acquiescence, has engaged"
42	Change	"has engaged or will engage" changed to "has engaged, or will engage"
43	Change	"will engage in any" changed to "will engage,

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		in any"
44	Change	"in any Corrupt Activity;" changed to "in any Relevant Corrupt Activity;"
45	Change	"we have required" changed to "1.2 we have required"
46	Change	"Contract or its subsequent" changed to "Contract or in its subsequent"
47	Change	"engage in any Corrupt Activity" changed to "engage in any Relevant Corrupt Activity"
48	Change	"Corrupt Activity in... kind, we will monitor" changed to "Corrupt Activity, we will monitor"
49-50	Change	"compliance with our requirements, and we will" changed to "compliance with that requirement and we will"
51-52	Change	"we will take appropriate" changed to "we will take Appropriate"
53-54	Change	"ppropriate action" changed to "ppropriate Action"
55	Change	"engaged in any Corrupt Activity." changed to "engaged in any Relevant Corrupt Activity."
56	Change	"We declare that" changed to "2 We declare that"
57-58	Change	"knowledge and belief neither we, or any of our" changed to "knowledge and belief, ... Company nor any of our"
59-60	Change	"any of our Affiliates nor ...or employees has at any" changed to "any of our direct or . company, has at any"
61	Change	"freely admitted or been found" changed to "freely admitted engaging in, or been found"
62	Change	"by a court to have engaged" changed to "by a court in any .to have engaged"
63	Change	"have engaged in any Corrupt" changed to "have engaged in, any Corrupt"
64	Deletion	3 We understand that for.. of this undertaking
65-66	Insertion	3 In this Undertaking:
67-68	Change	"3.1 "Affiliate" means" changed to ""Appropriate Action" means"
69	Change	"" means in relation" changed to "" means, in relation"
70	Change	"relation to our company, any" changed to "relation to any"

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71	Insertion	any activity (or alleged appropriate authorities;
72	Change	"company" changed to ""Controlled Company" means any company"
73	Change	"company which is" changed to "company (in any jurisdiction) which is"
74-75	Change	"which is a member of the group of companies, and" changed to "which is controlled by us."
76	Insertion	"control" and...of that company;
77	Change	"3.2 "Corrupt Activity"" changed to ""Corrupt Activity""
78	Insertion	conduct) which:
79-80	Change	"3.2.1" changed to "(1"
81	Change	"1 is subsequently" changed to "1) is subsequently"
82-83	Change	"3.2" changed to "(2"
84-85	Change	"2.2 we, any" changed to "2) any"
86-87	Change	"any of our Affiliates or anyone (including" changed to "any Controlled Company or anyone (including"
88-89	Change	"(including any of our or... Affiliates' employees)" changed to "(including any of its employees)"
90	Change	"employees) acting on behalf" changed to "employees) acting on its behalf"
91-92	Change	"behalf of or with" changed to "behalf, or with"
93	Change	"or with the prior consent" changed to "or with its the prior consent"
94-95	Change	"consent or subsequent... Affiliates has freely" changed to "consent or Subsequent Acquiescence, has freely"
96	Change	"3" changed to "(3"
97-98	Change	"3.2.3 is subsequently" changed to "(3) is subsequently"
99	Change	"jurisdiction outside the" changed to "jurisdiction (after all...exhausted) outside the"
100-101	Change	"3.2.4" changed to "(4"
102	Change	"4 is subsequently" changed to "(4) is subsequently"
103	Change	"United Kingdom to constitute" changed to "United Kingdom (after all...exhausted) to constitute"
104-105	Change	"paragraphs 3.2.1" changed to "paragraphs (1"
106	Change	"1," changed to "(1),"
107-108	Change	", 3.2" changed to ", (2"
109-110	Change	"2.2, and" changed to "(2), and"
111	Change	", and 3" changed to ", and (3"
112-113	Change	"3 2.3 above corresponds" changed to "(3) above corresponds"
114	Insertion	offence under any of the Relevant Acts;

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115	Change	"the Prevention" changed to "Relevant Acts" means the Prevention"
116-117	Change	"re-enacted)." changed to "re-enacted)."
118	Insertion	"Relevant Corrupt...in connection with (1)
119	Moved to -	obtaining the mandate to ...the Supply Contract or
120	Insertion	(2) the Supply Contract's...financing under it; and
121	Insertion	"Subsequent Acquiescence"...in relation to it.
122	Insertion	For and on behalf of
123	Change	"Bank" changed to "[Name of Bank"
124-125	Change	"Bank's" changed to "Bank]"
126-127	Change	"Signature Da te....." changed to "Signature."
128	Deletion	Capacity of Signatory
129	Deletion	Name of Bank.....
130	Deletion	Address.....
131	Deletion
132	Deletion
133	Insertion	Name:
134	Insertion	Position:
135	Insertion	Date:
136	Change	"authorised officer)" changed to "authorised officer with...responsibility)"
137	Deletion	e:\BD4\masters\bribery\LoU-BC20040501

Statistics:	
	Count
Insertions	82
Deletions	53
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	137

Redline options:	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF

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Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 08 July 2004 16:22
To: John.Wise@ecgd.gsi.gov.uk; Claire.Stokes
Cc: Nicholas.Ridley; John.Ormerod; Roy.Donovan; Charles.Redfearn
Subject: PROPOSED MEETING

Dear John (via Claire)

When Claire 'phoned me before lunch today to ask about the next steps, I informed her that we were grateful to you and your colleagues for having sent the additional information yesterday evening which I had immediately circulated to our group. We are all well aware that you and your team at the ECGD had hoped for something from us on Friday this week.

However, our Group - some of whom are presently abroad, others, understandably engaged with other urgent previous business engagements - felt that there was much of importance to be considered in your own letter and the other material (which, of course, also deserved the fullest and most detailed consideration (perhaps ideally at a business meeting here)). As a result, I explained to Claire that I could not yet give our response as to the exact date of a response or a meeting. I suggested to her that perhaps we should speak early next week when both Andy Scott and Gary Campkin will be back (you are aware that we had earlier scheduled 19 July to meet, before the most useful meeting you called to allow us to meet the Minister, the DTI and your own ECGD team on Monday 5 July).

I certainly have carefully noted the points you have made in your latest note, including the Minister's view, and I assure you we will respond asap. I am so sorry that anyone should feel things are not moving fast enough, especially since (as I am duty bound to observe) business at least now feels that we are, at last, jointly beginning to address what are some really challenging issues for us.

Warmest regards

Peter

----- Forwarded by Peter Malcolm/CBI on 08/07/2004 14:42 -----

"Claire Stokes" <Claire.Stokes@ecgd.gsi.gov.uk> on 08/07/2004 14:37:59

To: Peter.Malcolm/CBI@CBI
cc:
Subject: PROPOSED MEETING

Dear Peter

Thank you for your message this morning. I understand that you don't feel in a position to fix another meeting at the moment. I was disappointed to hear this given the current problems we have with the proposed forms, with some companies accepting the new wording and others not. The Minister has made it clear that this is not a tolerable situation except in the shortest of terms. Although the forms we have sent you need to be read, they do relate to matters about which the colleagues accompanying you on Monday are complaining and are consequently very familiar with. Although this may sound like pressurising you I have to tell you that it is important that there is a meeting early next week and I think the latest and best time would be Wednesday morning (14th) at your

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premises

JOHN WEISS

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbl.org.uk]
Sent: 13 July 2004 14:32
To: John Wise@ecgd.gsi.gov.uk, Claire Stokes, Nicholas Ridley @ecgd.gsi.gov.uk, John Ormerod, Roy Donovan, Charles Redfern
Cc: CBI ECGD Solutions Group, Joanne Forde
Subject: CBI ECGD Solutions Group meeting Centre Point, Monday 19 July 2004

Our current intention is for the CBI ECGD "Solution" Group to meet (as already planned and advised) at 2.0pm on Monday 19 July here at Centre Point. We thought we might hopefully and usefully

finalise our business position then over a maximum of two hours and invite the ECGD to come along to meet us at 4.0pm that afternoon so that everyone might be able to understand the collective

business position of the CBI Group on these key issues. I would be most grateful if all recipients could very kindly advise me of the names of those who hope to attend at both 2.0pm and 4.0pm so

that we may advise security.

Many thanks

Kind Regards

Peter

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Helen Iossif - ECGD Requiements re Bribery and Corruption

From: "Peter Malcolm" <Peter.Malcolm@cbi.org.uk>
To: <John.Wise@ecgd.gsi.gov.uk>, "John Ormerod" <John.Ormerod@ecgd.gsi.gov.uk>, "Roy Donovan" <Roy.Donovan@ecgd.gsi.gov.uk>, "Charles Redfeam" <Charles.Redfeam@ecgd.gsi.gov.uk>
Date: 20/07/2004 09:51:15
Subject: ECGD Requiements re Bribery and Corruption

We much appreciated your coming along to our meeting yesterday and noting the key points made by our Group - particularly the Banking and Aerospace sectors. Sorry that some of your copies of the paper were spoilt by the overturned glass of water. As requested and promised I attach the electronic versions. We will, as agreed, be forwarding the schedule comments to you asap

Kindest regards

Peter

Banks

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 20 July 2004 09:51
To: John.Wise@ecgd.gsi.gov.uk; John Ormerod; Roy Donovan; Charles Redfearn
Subject: ECGD Requirements re Bribery and Corruption



Mac Word 3.0



Mac Word 3.0



ATT417652.txt



Mac Word 3.0



Mac Word 3.0

We much appreciated your coming along to our meeting yesterday and noting the key points made by our Group - particularly the Banking and Aerospace sectors. Sorry that some of your copies of the paper were spoilt by the overturned glass of water. As requested and promised I attach the electronic versions. We will, as agreed, be forwarding the schedule comments to you asap

Kindest regards

eter

Banks

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 27 July 2004 11:42
To: John Weiss
Cc: John Ormerod; Nicholas Ridley; Charles Redfearn; Roy Donovan; Claire Stokes
Subject: Bribery and Corruption wording

John

Many thanks to you and all your colleagues for your helpful follow-up note and attachments to our meeting with you last Monday. They have been the subject of carefully study over the past two days and some further consideration is being undertaken tomorrow. I wanted you all to know that we here are well seized of the need to get a satisfactory conclusion to this issue and I think there is a feeling in our team that the useful meeting with you and your colleagues here last Monday has led to our really playing together now on this. I hope to be able to relay the positions of our different sectors within a few days. As you know business is doing all possible to conclude the matter on mutually acceptable terms - at a difficult time of year for some people.

Thank you and your colleagues again for your help.

Kind regards

Peter

"John Weiss" <John.Weiss@ecgd.gsi.gov.uk> on 22/07/2004 17:45:43

To: Peter Malcolm/CBI@CBI
cc: "John Ormerod" <JOHN.ORMEROD@ecgd.gsi.gov.uk>, "Charles Redfearn" <Charles.Redfearn@ecgd.gsi.gov.uk>, "Roy Donovan" <Roy.Donovan@ecgd.gsi.gov.uk>
Subject: BRIBERY AND CORRUPTION WORDING

Peter

Please see the attached.

<<LET TO PETER MALCOLM AT CBI - BRIBERY & CORRUPTION WORDING.tif>>
<<Audit Clause for Banks.doc>> <<Audit Clause1.doc>> <<BC Application v3.01.doc>>
<<DVComparison BC Application v2.0-BC Application v3.doc>>
<<DVComparison LoU-BC v2.0-LoU-BC v3.doc>>
<<DVComparison LoU-BC v2.0-Non-UK entities LoU-BC v3.doc>>
<<LoU-BC v3.0 (Non-UK entities)1.doc>> <<LoU-BC v3.0 (UK entities)1.doc>>

Kindest regards

JOHN WEISS

John

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John Weiss CB
Deputy Chief
Executive



22nd July 2004

Mr Peter Malcolm
CBI
Centre Point
103 New Oxford Street
London
WC1A 1DU

PO Box 2200
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
Telex 290350 ECGD HQ G
Switchboard 020 7512 7000

email: john.weiss@ecgd.gsi.gov.uk

Fax Direct 020 7512 7400
Telephone Direct 020 7512 7376

Dear *Peter*

BRIBERY AND CORRUPTION WORDING

Thank you for hosting Monday's meeting, further to which please find attached:

- a revised version of the Bank's Undertaking for use where the bank is a company incorporated in the United Kingdom (including UK incorporated subsidiaries of overseas banks) together with a document comparing it with the previous version of the Bank's Undertaking;
- a revised version of the Bank's Undertaking for use in relation to London branches of banks incorporated overseas, together with a document comparing it with the previous version of the Bank's Undertaking;
- a revised draft of the Supplier's Application form, together with a document comparing it with the previous version of the Application form;
- a revised draft of the audit clause with changes shown in track changes mode; and
- a draft audit clause for insertion in Support Agreements between ECGD and lending banks.

With regard to the Bank's Undertaking, we have addressed your concerns regarding the need to obtain information from overseas head offices by restricting the scope of the undertakings to legal entities (or branches of overseas entities) within the United Kingdom which are regulated by the FSA and their respective employees. This



approach has resulted in there being a separate forms of Undertakings for UK banks, on the one hand, and UK branches of overseas banks, on the other (The alternative would be to produce a single form with a confusing mass of square-bracketed alternative wording.)

We have as requested, removed the reference to money laundering legislation from the definition of Corrupt Activity. However, with a view to avoiding ECGD supporting a transaction which involves money laundering, we have inserted a declaration in both the Bank's Undertaking and the Supplier's Application that the bank/supplier is not aware, and has no reason to suspect, that the relevant export contract and related arrangements are being used to launder money.

We have retained the requirement in paragraph 8.2.2 of the Supplier's Application for the supplier to advise ECGD accordingly if it becomes aware of a joint venture partner, or any other party to the arrangements relating to the supply contract, having, or being, engaged in corrupt activity.

In paragraph 8.2.4 of the Application, we have accepted the requirement to seek the supplier's consent before disclosing information in the Application to reinsurers, other ECAs and certain other persons except to other government departments and, for the purpose of advising on, and preparing documentation for, the proposed transaction, ECGD's external lawyers.

As we have not received any alternative wording from you regarding agent's commission, we have retained paragraph 8.2.5 of the Application in its existing form.

In the revised audit clause for our Supplier and Recourse Agreements, we have deleted the requirement for suppliers to provide information concerning their anti-corruption procedures and also limited our right to require information regarding the obtaining of the supply contract to circumstances where we wish to verify statements made, or information given, in the Application. We have also produced an audit clause along the same lines for inserting in our Support Agreements with lending banks.

Finally, with regard to the location of the audit clause, we feel that it is best placed in its present location in the transactional documentation (i.e. in the Supplier, Recourse and Support Agreements) rather than in the Application. The audit clause only appears in Airbus applications to avoid the need for Airbus to enter into Supplier Agreements. However, if Airbus would prefer to enter into a separate Supplier Agreement in respect of each ECGD-supported supply contract, I am sure that we could oblige.

I believe that the attached documents go a long way to addressing your concerns and I look forward to receiving such comments as you may have on them at your earliest convenience. I would hope that we could reach final agreement on them by early next week. If a further meeting would be helpful towards that end we stand ready to attend. We do, of course, await your proposed alternative wording with regard to agent's

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commission – the main remaining outstanding issue to resolve. I am personally out of the office for the whole of next week. John Ormerod and Nick Ridley will be leading for ECGD on this issue while I am away.

Yours sincerely



JOHN WEISS

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AUDIT CLAUSE FOR BANKS

11.1 The Banker shall -

11.1.5 permit any person authorised by ECGD to visit any of its premises where records relating to the administration of this Agreement and the Loan Agreement are kept during business hours for the sole purpose of inspecting auditing and taking copies of any records preserved in any medium or form including records stored electronically which

~~11.1.5.1 relate to any measures it has taken to prevent detect and deal with any Corrupt Activity in relation to it obtaining the mandate to finance the Supply Contract or its subsequent financing under the Loan Agreement~~

11.1.5.21 relate to it obtaining the mandate to finance the Supply Contract and

11.1.5.32 relate specifically to the administration of this Agreement and the Loan Agreement

provided that ECGD may only inspect, audit or take copies of records relating to the Banker obtaining the mandate to finance the Supply Contract for the purpose of verifying statements made, and information given, to ECGD by the Banker in "Form LoU-BC"

11.1.6 furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative may reasonably require and permit them to take any copies they may reasonably require upon condition that ECGD will

11.1.6.1 give not less than five Business Days notice of such visit

11.1.6.2 observe any legal privilege that may exist in respect of records held by the Banker

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11.1.6.3 on request pay to the Banker the cost of supplying any copies of records supplied and

11.1.6.4 hold in confidence subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department and ECGD's right to disclose such information in confidence to its reinsurers or professional advisers in connection with its portfolio management any information or copy record obtained from the Banker and destroy such records or if requested return them to the Banker when ECGD considers they have served the purpose for which they were obtained

Audit Clause

5.9 that any person authorised by ECGD may visit any of its premises where records relating to the administration of this Agreement and the Supply Contract are kept during business hours for the sole purpose of inspecting auditing and taking copies of any records preserved in any medium or form including records stored electronically which

~~5.9.1 relate to any measures it has taken to prevent detect and deal with any Corrupt Activity in relation to it obtaining the Supply Contract or its subsequent financing under the Loan Agreement~~

5.9.12 relate to its obtaining the Supply Contract

5.9 ~~23~~ relate to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement and

5.9.34 relate to the employment of and payments to or for the benefit of any agents or other intermediaries involved directly or indirectly at any time with the Supply Contract

provided that ECGD may only inspect, audit or take copies of records relating to the Supplier's obtaining of the Supply Contract for the purpose of verifying statements made, and information given, in the Application appended to this Agreement

5.10 that it will furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representatives may reasonably require and permit them to take any copies they may reasonably require upon condition that ECGD will;

5.10.1 give not less than five Business Days notice of such visit;

5.10.2 observe any legal privilege that may exist in respect of records held by the Supplier;

5.10.3 on request pay to the Supplier the cost of supplying any copies of records supplied; and

5.10.4 hold in confidence subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department and ECGD's right to disclose such information in confidence to its reinsurers or professional advisers in connection with its portfolio management any information or copy record obtained from the Supplier and destroy such records or, if requested, return them to the Supplier when ECGD considers they have served the purpose for which they were obtained



APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed.)

Nature of business:

Date Company was established:

Total annual turnover:

Number of employees:

Number of years exporting:

CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.5 below)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied
(If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ No

☐ Yes

☐ Yes, but only from the date on which it came into force, namely _____
(specify date)

- 1 We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule")
- 2 Our Bankers, _____
of _____
_____ have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the Borrower has *approved / *has yet to approve our Bankers for this purpose *(*Delete as appropriate)*
- 3 We undertake to notify you of any information we may receive about any proposed additional lending from any source in relation to this transaction.
- 4 We agree that for the purposes of this Application:

4.1 "Associate" means any company (other than ourselves or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.2 "Borrower" means the party so described in the Schedule;

4.3 "Buyer" means the party so described in the Schedule;

4.4 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership of shares in that company (whether directly or by nominees or trustees);

4.5 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which:

4.5.1 is subsequently found by a court in a competent jurisdiction to have rendered a contract illegal, void, voidable or unenforceable under its governing law, or

4.5.2 we have, or any Controlled Company or anyone (including any employee) acting on our, or any Controlled Company's, behalf (with due authority) or with our, or its, subsequent acquiescence has, other than under duress, admitted engaging in, or

4.5.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.5.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts

and which activity, in respect of paragraphs 4.6.1, 4.6.2, and 4.6.3 above corresponds to an offence under the Relevant Acts;

4.6 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.7 "Guarantor" means any party so described in the Schedule;

4.8 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

4.9 "Supply Contract" means the entirety of the contract between ourselves and the Buyer which is referred to in the Schedule;

5 We declare that we are not aware, and have no reason to suspect, that

6.1 we or any Controlled Company or any director or employee of ours or of any Controlled Company:

6.1.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, and

6.1.2 has at any time, other than under duress, admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity.**

6.2 the Supply Contract, or any arrangement connected with its financing or procurement, has been, or will be, used for the purposes of money laundering (as defined in the Proceeds of Crime Act 2002)

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form.)

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- 6 We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different to the Buyer) and/or any Guarantor.***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form.)

- 7 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BCAP 5) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched2) provided to us by ECGD
- 8 We understand that

8.1 in our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

8.2 it will be a condition of a Buyer Credit guarantee being made available for the transaction described in the Schedule:

8.2.1 that neither we nor, to the best of our knowledge and belief¹, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's prior consent or Subsequent Acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract;

8.2.2 that, if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, or suspected or alleged Corrupt Activity, in question;

8.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, (2) we will monitor compliance with that requirement, and (3) we will take Appropriate Action against anyone found to have engaged in any Corrupt Activity; and

8.2.4 that (unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to it are confidential and shall not be disclosed to any third party except:

8.2.4.1 by us in confidence to our banker or broker or other professional advisers, in each case for the purpose for which each of them has been employed by us; and

8.2.4.2 (subject to paragraph 8.2.5 below) by ECGD,

¹ "Best of our knowledge and belief" means a state of actual knowledge and belief held by the signatory at the time of signature which he either has never had any cause to consider inaccurate nor should have had; or has resolved any such cause by sufficient enquiry"

8.2.4.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department; or

8.2.4.2.2 in confidence (and with our prior written consent, such consent not to be unreasonably withheld or delayed) to (1) its re-insurers or to those persons to whom it is necessary to disclose the details of such discussions and correspondence in connection with ECGD's portfolio management activities or (2) other export credit agencies; or

8.2.4.2.3 In confidence to (1) its external legal advisers for the purpose of obtaining advice in relation to this Application or the documenting of ECGD's support for the Supply Contract or its financing or (2) other Government Departments; or

8.2.4.2.4 prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports;**** and

8.2.4.2.5 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project ****

8.2.5 that details of the use of agents or other intermediaries in the obtaining of the Supply Contract, and of any payments made to those agents or intermediaries, which are provided to ECGD in this Application or in any related discussions or correspondence shall be held in confidence by ECGD and not, without our prior consent, disclosed to any third parties except:

8.2.5.1 to ECGD's lawyers and auditors; and

8.2.5.2 by ECGD in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department

*(**** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form)*

- 9 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the Schedule

Signed

On behalf of *[Name of Applicant]*

Address

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Capacity of
Signatory

Date

- 1 *In the case of an incorporated company, this Application must be signed by a director or a person authorised by the company's board of directors to sign this Application, or documents of the same nature as this Application, on behalf of the company*
- 2 *In the case of a partnership, this Application must be signed by a partner.*

(Form BCAP.5)

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APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed.)

Nature of business:

Date Company was established:

Total annual turnover:

Number of employees:

Number of years exporting:

CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.5 below)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied
(If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ ~~Yes~~ No

☐ Yes

☐ No Yes, but only from the date on which it came into force, namely
(specify date)

1 We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule").

2 Our Bankers, _____
of _____

_____ have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the Borrower has *approved / *has yet to approve our Bankers for this purpose. (*Delete as appropriate)

3 We undertake to notify you of any information we may receive about any proposed additional lending from any source in relation to this transaction.

4 We agree that for the purposes of this Application:

~~4.1 "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities;~~

4.1 ~~4.2~~ "Associate" means any company (other than ourselves or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar

arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.2 4.2 "Borrower" means the party so described in the Schedule;

4.3 4.4 "Buyer" means the party so described in the Schedule;

4.4 4.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership of shares in that company (whether directly or by nominees or trustees) ~~of the majority of the issued share capital of that company and/or (3) having appointed, or having the power to appoint, the directors of that company;~~

4.5 4.6 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person ~~and the concealment, use or facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct~~) which:

4.5.1 4.6.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered a contract illegal, void, voidable or unenforceable under its governing law, or

4.5.2 4.6.2 ~~we have, or any Controlled Company or anyone (including any employee) acting on behalf of or with the prior consent or Subsequent Acquiescence of our, or any Controlled Company, has freely's, behalf (with due authority) or with our, or its, subsequent acquiescence has, other than under duress,~~ admitted engaging in, or

4.5.3 4.6.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.5.4 4.6.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the ~~Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)~~ Relevant Acts

and which activity, in respect of paragraphs 4.6.1, 4.6.2, and 4.6.3 above corresponds to an offence under the ~~any of the~~ Relevant Acts;

4.6 4.7 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.7 4.8 "Guarantor" means any party so described in the Schedule;

4.8 4.9 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 ~~(as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted);~~

4.9 4.10 "Supply Contract" means the entirety of the contract between ourselves and the Buyer which is referred to in the Schedule;

4.11 "Subsequent Acquiescence" means, in relation to any activity which would constitute an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take ~~Appropriate Action in relation to it.~~

5 We declare that we are not aware, and have no reason to suspect, that

~~5~~ We declare that, to the best of our knowledge and belief, neither we nor 5.1 we or any Controlled Company nor any of our direct or indirect parent companies or their respective

~~direct or indirect subsidiaries nor~~ any director or employee of ours or of any Controlled Company ~~or of any such parent or subsidiary company:~~

~~5.4-5.1.1~~ appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, and

~~5.2-5.1.2~~ has at any time ~~freely, other than under duress,~~ admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity **

5.2 the Supply Contract, or any arrangement connected with its financing or procurement, has been, or will be, used for the purposes of money laundering (as defined in the Proceeds of Crime Act 2002)

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form)

- 6 We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different to the Buyer) and/or any Guarantor.***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form)

- 7 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BCap 5) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched2) provided to us by ECGD
- 8 We understand that

8.1 in our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

8.2 it will be a condition of a Buyer Credit guarantee being made available for the transaction described in the Schedule:

8.2.1 that neither we nor, to the best of our knowledge and belief¹, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's prior consent or Subsequent Acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract ~~or any related agreement, undertaking, consent, authorisation or arrangement of any kind;~~

8.2.2 that, if we become aware, ~~or have reason to suspect,~~ that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority,) or with its ~~prior consent or~~ subsequent acquiescence, has engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.65.1, 4.65.3 or 4.65.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, or suspected or alleged Corrupt Activity, in question;

¹ "Best of our knowledge and belief" means a state of actual knowledge and belief held by the signatory at the time of signature which he either has never had any cause to consider inaccurate nor should have had; or has resolved any such cause by sufficient enquiry"

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8.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf and ~~directly or indirectly~~ involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, (2) we will monitor compliance with that requirement, and (3) we will take Appropriate Action against anyone found to have engaged in any Corrupt Activity ~~(or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity); and~~

8.2.4 that (unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to this Application are confidential and shall not be disclosed to any third party except:

8.2.4.1 by us in confidence to our banker or broker or other professional advisers, in each case for the purpose for which each of them has been employed by us; and

8.2.4.2 (subject to paragraph 8.2.5 below) by ECGD,

8.2.4.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department; or

8.2.4.2.2 in confidence to ~~its reinsurers~~ (and with our prior written consent, such consent not to be unreasonably withheld or delayed) to (1) its re-insurers or to those persons to whom it is necessary to disclose the details of such discussions and correspondence in connection with ECGD's portfolio management activities, or (2) other export credit agencies; or

8.2.4.2.3 in confidence to ~~other export credit agencies, other Government Departments or such other persons to whom it may be necessary to disclose details of such discussions and correspondence in connection with its assessment of this Application, or~~ (1) its external legal advisers for the purpose of obtaining advice in relation to this Application or the documenting of ECGD's support for the Supply Contract or its financing or (2) other Government Departments; or

8.2.4.2.4 prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports; **** and

8.2.4.2.5 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project ****

8.2.5 that details of the use of agents or other intermediaries in the obtaining of the Supply Contract, and of any payments made to those agents or intermediaries, which are provided to ECGD in this Application or in any related discussions or correspondence shall be held in confidence by ECGD and not, without our prior consent, disclosed to any third parties except:

8.2.5.1 to ECGD's lawyers and auditors; and

8.2.5.2 by ECGD in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department

*(*** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form)*

- 9 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the Schedule.

Signed

On behalf of *[Name of Applicant]*

Address

Capacity of
Signatory

Date

- 1 In the case of an incorporated company, this Application must be signed by an authorised officer with appropriate responsibility, director or a person authorised by the company's board of directors to sign this Application, or documents of the same nature as this Application, on behalf of the company.
- 2 In the case of partnership, this Application must be signed by a partner or partners authorised.

(Form BCAP.5)

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Document comparison done by DeltaView on Thursday, July 22, 2004 11:23:30

Input:	
Document 1	file://G:/GCO/Business Division 4/Bribery & Corruption/BC Application v2.0.doc
Document 2	file://G:/GCO/Business Division 4/Bribery & Corruption/BC Application v3.0.doc
Rendering set	ECGD

Legend:	
<u>Insertion</u>	
<u>Deletion</u>	
<u>Moved from</u>	
<u>Moved to</u>	
Style change	
Format change	
<u>Moved deletion</u>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary:		
No.	Change	Text
1-2	Change	"Settings\Temp\dvtemp5d4\dvo" changed to "Settings\Temp\dvtemp5d4\dvm"
3-4	Change	"26.tmp\BC Application" changed to "27.tmp\BC Application"
5-6	Change	"Application v2 0.doc" changed to "Application v3 0.doc"
7-8	Change	"Yes" changed to "No"
9-10	Insertion	Yes
11-12	Change	"No" changed to "Yes, but only from the...(specify date)"
13	Deletion	4.1 "Appropriate Action"...appropriate authorities;
14	Change	""Associate"" changed to "4.2 "Associate""
15	Change	""Borrower" means" changed to "4.3 "Borrower" means"
16	Change	""Buyer" means" changed to "4.4 "Buyer" means"

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17	Change	"control" and " changed to "4.5 "control" and"
18	Change	"(2) ownership (whether directly" changed to "(2) ownership of shares...(whether directly"
19	Change	"or trustees) of the...of that company;" changed to "or trustees);"
20	Change	"Corrupt Activity" changed to "4.6 "Corrupt Activity"
21	Change	"other person and the...criminal conduct) which:" changed to "other person) which."
22	Change	"is subsequently" changed to "4.6.1 is subsequently"
23	Change	"jurisdiction to have rendered" changed to "jurisdiction (after all...to have rendered"
24-25	Change	"any Controlled" changed to "4.6.2 we have, or any Controlled"
26-27	Change	"employee) acting on...of any Controlled" changed to "employee) acting on our, or any Controlled"
28-29	Change	"Controlled Company, has freely admitted engaging" changed to "Controlled Company's...admitted engaging"
30	Change	"is subsequently" changed to "4.6.3 is subsequently"
31	Change	"is subsequently" changed to "4.6.4 is subsequently"
32-33	Change	"offence under the...amended or re-enacted)" changed to "offence under the Relevant Acts"
34-35	Change	"paragraphs 4.6.1, 4." changed to "paragraphs 4.5.1, 4."
36-37	Change	".1, 4.6.2, and 4." changed to ".1, 4.5.2, and 4."
38-39	Change	".2, and 4.6.3 above corresponds" changed to ".2, and 4.5.3 above corresponds"
40	Change	"offence under the any of the Relevant Acts" changed to "offence under the Relevant Acts"
41-42	Change	"Relevant Acts." changed to "Relevant Acts;"
43	Change	"Controlled" changed to "4.7 "Controlled"
44	Change	"Guarantor" changed to "4.8 "Guarantor"
45	Change	"Relevant Acts" changed to "4.9 "Relevant

		Acts""
46	Change	"1889 to 1916 (as from...Act 2002 (as from time" changed to "1889 to 1916 (as from time"
47	Change	""Supply Contract"" changed to "4.10 "Supply Contract""
48	Deletion	4.11 "Subsequent...in relation to it.
49-50	Insertion	5 We declare that we are...reason to suspect, that
51	Deletion	5 We declare that, to the...belief, neither we nor
52	Change	"any Controlled" changed to "5.1 we or any Controlled"
53-54	Change	"Controlled Company nor...nor any director" changed to "Controlled Company or any director"
55	Change	"Controlled Company or of...or subsidiary company:" changed to "Controlled Company:"
56	Deletion	5.1
57	Change	"appears on any" changed to "5.1.1 appears on any"
58	Deletion	5.2
59	Change	"has at any time" changed to "5.1.2 has at any time"
60-61	Change	"at any time freely admitted having" changed to "at any time, other than...duress, admitted having"
62	Insertion	5.2 the Supply Contract,...of Crime Act 2002)
63	Insertion	knowledge and belief ¹
64	Insertion	¹ "Best of our knowledge...by sufficient enquiry"
65	Change	"Supply Contract or any...arrangement of any kind;" changed to "Supply Contract;"
66	Change	"become aware, or have.. that any Associate," changed to "become aware that any Associate,"
67	Change	"its behalf with due authority" changed to "its behalf (with due authority"
68-69	Change	"due authority, or with its" changed to "due authority) or with its"
70	Change	"or with its prior consent or subsequent" changed to "or with its subsequent"

71-72	Change	"paragraphs 4.6.1, 4." changed to "paragraphs 4.5.1, 4."
73-74	Change	".1, 4.6.3 or 4." changed to ".1, 4.5.3 or 4."
75-76	Change	".3 or 4.6.4, would amount" changed to ".3 or 4.5.4, would amount"
77	Change	"behalf and directly or indirectly involved in" changed to "behalf and involved in"
78-79	Change	"paragraphs 4.6.1, 4." changed to "paragraphs 4.5.1, 4."
80-81	Change	".1, 4.6.3 or 4." changed to ".1, 4.5.3 or 4."
82-83	Change	".3 or 4.6.4, would amount" changed to ".3 or 4.5.4, would amount"
84	Change	"Corrupt Activity (or any... Corrupt Activity); and" changed to "Corrupt Activity; and"
85	Change	"otherwise) all discussions" changed to "otherwise) this...and all discussions"
86-87	Change	"relating to this Application are confidential" changed to "relating to it are confidential"
88-89	Change	"Government Department, or" changed to "Government Department; or"
90-91	Change	"confidence to its reinsurers or to those" changed to "confidence (and with our...re-insurers or to those"
92	Change	"management activities, or" changed to "management activities or"
93	Insertion	or (2)
94	Moved to	other export credit agencies
95	Insertion	; or
96	Moved from	confidence to other export credit agencies
97-98	Change	", other Government...of this Application, or" changed to "(1) its external legal...Departments; or"
99-100	Change	"assessment reports,**** and" changed to "assessment reports,**** and"
101	Change	"the case of incorporated" changed to "the case of an incorporated"
102-103	Change	"incorporated companies" changed to "incorporated company"
104-105	Change	"be signed by an...on behalf of" changed to "be signed by a director...on behalf of"
106-107	Change	"the case of partnerships, this Application" changed to "the case of a partnership, this Application"
108	Change	"by a partner or partners authorised " changed to "by a partner."

Statistics	
	Count

Insertions	47
Deletions	59
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	108

Redline options:	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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To: the Export Credits Guarantee Department ("ECGD")

Undertaking in respect of any Corrupt Activity associated with a Buyer Credit

Borrower:

Supplier:

Buyer:

ECGD Reference:

Supply Contract: Contract dated..... between the Buyer and the Supplier
for.....

Loan Agreement: Agreement for a loan of up to £..... to be made to the
Borrower by [us] [a syndicate of banks, including ourselves, lead by, as
agent,] for the purpose of assisting the financing the Supply Contract

- 1 In order to induce ECGD to guarantee the Borrower's obligations under[, and to
provide interest rate support in relation to,] the Loan Agreement, and in
consideration of ECGD's agreeing to do so (which we acknowledge to be a
good and valuable consideration), we represent, warrant and undertake that:

1.1 the Financial Services Authority (the "FSA") regulates our compliance with the provisions of (1) the Financial Services and Markets Act 2000, and any Regulations made under it, (2) Part 7 of the Proceeds of Crime Act 2002 (3) the Money Laundering Regulations 2003 and (4) any rules or guidance published from time to time by the FSA, including, without limitation, the FSA's Money Laundering Sourcebook;

1.2 we are not aware, and have no reason to suspect, that the Supply Contract, or any arrangement connected with its financing or procurement, has been, or will be, used for the purposes of money laundering (as defined in the Proceeds of Crime Act 2002);

1.3 4.1—neither we, nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employee) acting on our, or that Controlled Company's, behalf with due authority or with our, or that Controlled Company's, prior consent or subsequent acquiescence, has engaged, or will engage, in any Relevant Corrupt Activity; and

1.4 4.2—we have required and/or will require anyone (including any of our employees) acting on our behalf and directly or indirectly involved in obtaining the mandate to finance the Supply Contract, or in its the Supply Contract's subsequent financing under the Loan Agreement,

not to engage in any Relevant Corrupt Activity, ~~we will monitor compliance with that requirement and we will take Appropriate Action against anyone~~appropriate action against any employee who freely admits having engaged in, or is found to have engaged in, any Relevant Corrupt Activity.

2 We declare that we are not aware, and have no reason to suspect, that:

2.1 we; or

2.2 any Controlled Company nor any of our direct or indirect parent companies or their respective direct or indirect subsidiaries who, in each case, engage in activities which are regulated by the FSA; or

2.3 any person who is, or who was during the past five years, a director or employee of ours or of any Controlled Company or of any such parent or subsidiary company and whose principal place of employment is, or was, the United Kingdom

~~2 We declare that to the best of our knowledge and belief, neither we nor any Controlled Company nor any of our direct or indirect parent companies or their respective direct or indirect subsidiaries nor any director or employee of ours or of any Controlled Company or of any such parent or subsidiary company, has at any time freely~~has at any time, other than under duress, admitted engaging in, or been found by a court in any competent jurisdiction to have engaged in, any Corrupt Activity.

3 In this Undertaking:

~~"Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining, investigating, and, if possible, remedying its effects and reporting it to the appropriate authorities;~~

"Controlled Company" means any company (incorporated in any jurisdiction) which is controlled by us;

"control" and "controlled" means, in relation to a company, control of that company by virtue of (1) any contractual arrangements, including, without limitation, provisions in that, or any other, company's memorandum and articles of association (or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) ~~ex~~ and/or (2) ownership of shares in that company (whether directly or by nominees or trustees) ~~of the majority of the issued share capital of that company and/or (3) having appointed, or having the power to appoint, the directors of that company;~~

"Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person ~~and the concealment, use or the facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct~~) which:

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(1) is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Loan Agreement [or the related Overseas Guarantee] illegal, void, voidable or unenforceable under its governing law, or

(2) ~~we have, or~~ any Controlled Company or anyone (including any of ~~its~~ our, or any Controlled Company's, employees) acting on our, or its, behalf, or with its the prior consent or Subsequent Acquiescence, has freely (with due authority) or with our, or its, subsequent acquiescence has, other than under duress, admitted engaging in, or

(3) is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the United Kingdom to constitute an offence under any applicable law, or

(4) is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the ~~Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)~~ Relevant Acts

and which activity, in respect of paragraphs (1), (2), and (3) above;

(a) corresponds to an offence under any of the Relevant Acts; or

(b) would, if it had taken place in the United Kingdom, amount to such an offence

"Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 ~~(as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)~~;

"Relevant Corrupt Activity" means Corrupt Activity in connection with (1) obtaining the mandate to finance the Supply Contract or (2) the Supply Contract's subsequent financing under the Loan Agreement or (3) any agreement, undertaking, consent, authorisation or arrangement of any kind related to the Loan Agreement or the Supply Contract's financing under it; and

~~"Subsequent Acquiescence" means, in relation to any activity which constitutes an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it.~~

For and on behalf of

[Name of Bank]

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Signature:

Name:

Position:

Date:

(This undertaking must be signed by an authorised officer with appropriate responsibility)

(Form LoU-BC)

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Document comparison done by DeltaView on Thursday, July 22, 2004 12:08:55

Input	
Document 1	file://G:/GCO/Business Division 4/Bribery & Corruption/LoU-BC v2.0.doc
Document 2	file://G:/GCO/Business Division 4/Bribery & Corruption/LoU-BC v3.0 (UK entities).doc
Rendering set	ECGD

Legend	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary		
No.	Change	Text
1-2	Change	"Settings\Temp\dvtemp740\ldvo" changed to "Settings\Temp\dvtemp740\ldvm"
3-4	Change	"38.tmp\LoU-BC" changed to "39.tmp\LoU-BC"
5-6	Change	".tmp\LoU-BC v2.0" changed to ".tmp\LoU-BC v3.0"
7	Change	".0.doc" changed to ".0 (UK entities).doc"
8	Change	"for a loan of up to £..... to be made to" changed to "for a loan to be made to"
9-10	Insertion	1.1 the Financial...Laundering Sourcebook;
11-12	Insertion	1.2 we are not aware, and...of Crime Act 2002);
13	Change	"neither we," changed to "1.1 neither we,"
14-15	Change	"consent or Subsequent" changed to "consent or subsequent"
16-17	Change	"ubsequent Acquiescence" changed to "ubsequent acquiescence"
18	Change	"we have required" changed to "1.2 we have required"
19	Change	"Supply Contract or in" changed to "Supply

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kept during business hours for the sole purpose of inspecting and auditing any records other than those covered by legal privilege preserved in any medium or form including records stored electronically which relate (a) specifically to the Supplier's obtaining of the Supply Contract or the employment of, and payments to or for the benefit of any agents or other intermediaries involved directly or indirectly at any time with the Supply Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and together with the Administration Records the "Records") provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made and information given to ECGD by the Supplier in the Application Form and

5.11 in relation to Clauses 5.9 and 5.10 that it will furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will

5.11.1 give not less than five Business Days notice of such visits referred to in Clauses 5.9 and 5.10

5.11.2 on request pay to the Supplier the cost of supplying any copies of the Administration Records

5.11.3 hold in confidence and not disclose to any third party without the Supplier's prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information") subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities provided in the case of such reinsurers or

professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this clause shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information and (b) to the extent permitted by law give the Supplier reasonable notice of its intention to disclose any Confidential Information under the Code and consult with the Supplier in deciding whether to disclose any Confidential Information under the Code and

5.11.4 destroy the Confidential Information or if so requested return it to the Supplier when ECGD considers that it has served the purpose for which it was obtained

5.12 that nothing in Clauses 5.9, 5.10 and 5.11 shall:

5.12.1 oblige the Supplier or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality or

5.12.2 be construed as consent by the Supplier to ECGD to disclose any Confidential Information in accordance with the Code

5.13 that if the Supplier or any Controlled Company or anyone (including any employees) acting on the Supplier's or that Controlled Company's behalf with due authority or with the Supplier's or that Controlled Company's prior consent or subsequent acquiescence has engaged or engages in any Corrupt Activity in connection with the Supply Contract the Supplier will on demand pay to ECGD

5.13.1 any amounts that ECGD certifies it has paid to the Banker in respect of any loss or expense the Banker has incurred in respect of amounts advanced under the Loan Agreement [and]

¹¹[5.13.2 any amounts that ECGD certifies as being the net cost to ECGD of making payments to the Banker in respect of advances under the Loan Agreement by way of interest equalisation or make up and]

5.13. [3] any amounts that ECGD certifies it has incurred by way of interest, costs, expenses and legal fees under or in connection with the Loan Agreement the Support Agreement or this Agreement

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Supply Contract or any related agreement undertaking consent authorisation or arrangement of any kind became illegal void or unenforceable under its governing law as a result of that activity

5.14 that if the Supplier becomes aware that any Associate or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence has engaged in Corrupt Activity in connection with the Supply Contract or any related agreement undertaking consent; authorisation or arrangement of any kind the Supplier shall promptly notify ECGD accordingly and supply ECGD will full details of the Corrupt Activity in question save where such notification would or might reasonably be argued to constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002

5.15 that the Supplier (1) shall have required or shall require anyone (including any of its employees) acting on its behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 2.7.1, 2.7.3 or 2.7.4 would amount to Corrupt Activity) in connection with the Supply Contract (2) will

¹¹ Delete if this is a pure cover loan

monitor compliance with that requirement and (3) will take appropriate action against anyone found to have engaged in Corrupt Activity

5.16 the Supplier will not unreasonably delay or withhold consent to disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Form

6 UNDERTAKING BY ECGD

Provided that

6.1 [the Supplier is not] [¹²[neither] of the Companies is] in breach of any of [its] [their] obligations to ECGD under this Agreement and the Supplier is not in breach of any of its obligations to the Buyer under the Supply Contract and

6.2 circumstances have arisen in which in accordance with the provisions of Clause 10 of the Loan Agreement the ¹³[Lenders] ¹⁴[Banker] and/or ECGD cease to be under any obligation to make further Advances and

¹⁵6.3 the Supplier is (and remains) entitled to terminate the Supply Contract by reason of those circumstances having arisen

ECGD hereby undertakes that it will direct the ¹²[Lenders] ¹³[Banker] to exercise ¹²[their] ¹³[its] option to make or continue to make Advances and to pay the same to the Supplier (and will itself where appropriate do likewise) subject always to the provisions of the Loan Agreement and provided always that if the Buyer has exercised its right to terminate the Supply Contract under any provision thereof or if ECGD requires the Supplier to exercise its right to terminate the Supply Contract the amount to be paid to the Supplier shall be limited to the amount due to it in

¹² If more than two Companies are to sign this Agreement replace "neither" with "none"

¹³ Delete for Sole Lender cases

¹⁴ Insert for Sole Lender cases

¹⁵ It is essential that the Supplier's attention is drawn to this important proviso as early as possible

respect of UK Goods and UK Services under the Supply Contract in the event of such termination

7 RECOURSE

7.1 The premium hereby payable is not intended to and does not cover payments made by ECGD to the Banker under Clauses 4 and/or 7 of the Support Agreement or under the equivalent clauses in any Eligible Bank Support Agreement by reason of any default by the Borrower at any time when

7.1.1 the Supply Contract has been terminated by the Buyer under the terms thereof owing to the default of the Supplier or

7.1.2 a default by the Supplier under the terms of the Supply Contract has occurred and remains unremedied

7.2 Whenever ECGD makes payment to the Banker of any sum under Clauses 4 and/or 7 of the Support Agreement or under the equivalent clauses in any Eligible Bank Support Agreement in either of the circumstances described in Clauses 7.1.1 and 7.1.2 the [Supplier] [Companies] shall pay to ECGD in dollars within 90 days of ECGD's demand in writing an amount equal to the sum so paid by ECGD to the Banker unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default. Payment shall be made to the account specified in Clause 3 quoting reference "ECGD – Recourse ¹⁶[]"

¹⁷[7.2 Whenever ECGD makes payment to the Banker of any sum under Clauses 4 and/or 7 of the Support Agreement or under the equivalent clauses in any Eligible Bank Support Agreement in either of the circumstances described in Clauses 7.1.1 and 7.1.2 the [Supplier]

¹⁶ ECGD Guarantee Reference

[Companies] shall pay to ECGD in sterling within 90 days of ECGD's demand in writing an amount equal to the sum so paid by ECGD to the Banker converted at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed at the close of business on the date on which such sum was paid by ECGD to the Banker unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default]

7.3 Whenever the Borrower fails to repay to ECGD through the Banker any amount due to ECGD under the provisions of the Loan Agreement at a time when the Supply Contract has been terminated by the Buyer under the terms thereof owing to the default of the Supplier or any default by the Supplier under the terms of the Supply Contract has occurred and remains unremedied the [Supplier] [Companies] shall pay to ECGD in dollars within 90 days of ECGD's demand in writing an amount equal to the amount so due to ECGD unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default. Payment shall be made to the account specified in Clause 3 quoting reference "ECGD – Recourse ¹⁸[]"

¹⁹*[7.3 Whenever the Borrower fails to repay to ECGD through the Banker any amount due to ECGD under the provisions of the Loan Agreement at a time when the Supply Contract has been terminated by the Buyer under the terms thereof owing to the default of the Supplier or any default by the Supplier under the terms of the Supply Contract has occurred and remains unremedied the [Supplier] [Companies] shall pay to ECGD in sterling within 90 days of ECGD's demand in writing an amount equal to the amount so due to ECGD converted at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed at the close of business on the due date*

¹⁷ This wording should be used for Clause 7.2 in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

¹⁸ ECGD Guarantee Reference

¹⁹ This wording should be used for Clause 7.3 in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

for payment of such amount unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default]

7.4 If any amount is not paid by the [Supplier] [Companies] in accordance with Clause 7.2 or 7.3 the [Supplier] [Companies] shall pay to ECGD from the date 90 days after the date of ECGD's written demand until the payment of such amount interest on such amount calculated from day to day at the rate of 1.5% above the CIRR Rate applicable to the period during which such amount remains unpaid or at 5% per annum whichever is the higher

7.5 If ECGD has exercised the option contained in Clause 7.1 of the Support Agreement or under the equivalent clause(s) in any Eligible Bank Support Agreement then for the purpose of Clause 7.2 ECGD shall be deemed to have made such payments at the time it would have made them under Clause 4 of the Support Agreement or under the equivalent clause(s) in any Eligible Bank Support Agreement had it not exercised the said option

7.6 Notwithstanding the above provisions the liability of the [Supplier] [Companies] under this Clause 7 shall not exceed \$

²⁰[7.6 Notwithstanding the above provisions the liability of the [Supplier] [Companies] under this Clause 7 shall not exceed ²¹£]

8 CONDITIONS FOR RELEASE FROM RECOURSE

8.1 The [Supplier] [Companies] will be released completely from [its] [their] obligations under Clauses 7.2 and 7.3 if ECGD is satisfied (and so states in writing) that

²⁰ This wording should be used in this Clause 7.6 in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

²¹ This sterling limit should be calculated by converting the dollar recourse amount required into sterling at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed at the close of business on a date four Banking Days prior to the date of this Agreement

8.1.1 the Buyer has given an unconditional acknowledgement in writing to the Supplier that all the Supplier's obligations under the Supply Contract have been performed and

8.1.2 the Supplier has given an unconditional certificate in writing to ECGD that all its said obligations have been performed; accompanied by a copy of the Buyer's said acknowledgement and any other documentation which ECGD may require in writing

8.2 The [Supplier] [Companies] may be released from [its] [their] obligations under Clauses 7.2 and 7.3 if the Supplier

8.2.1 can satisfy ECGD that a period of twelve months has elapsed following the expiry of any guarantee/warranty/maintenance period under the Supply Contract or under any bond or guarantee given in connection therewith and the Supplier gives an unconditional certificate in writing to ECGD that all its obligations under the Supply Contract have been performed together with any other documentation which ECGD may require in writing or

8.2.2 gives a conditional certificate in a form approved by ECGD

PROVIDED THAT

8.2.3 the [Supplier] [Companies] will not be released from [its] [their] obligations under Clauses 7.2 and 7.3 at any time when

8.2.3.1 an event of default has occurred and subsists under the Loan Agreement unless ECGD is satisfied that such default is due to or arises from an Immaterial Default or is unconnected with performance under the Supply Contract or arose solely from circumstances outside the knowledge or control of the Supplier or

8.2.3.2 the [Supplier] [Companies] [is] [are] in breach of any of [its] [their] obligations to ECGD hereunder

8.2.4 Notwithstanding the provisions of Clauses 8.2.1 and 8.2.2 if the certification given by the Supplier in accordance with those Clauses proves to the satisfaction of ECGD to have been untrue or incorrect in any respect (whether that fact was known to the [Supplier] [Companies or ²²[either] of them] when the certification was given or not) the [Supplier] [Companies] shall be bound by the provisions of Clauses 7.2 and 7.3 as if no release had been given by ECGD

[9] JOINT AND SEVERAL OBLIGATIONS

The obligations of the Companies under this Agreement shall be joint and several]

10 NO WAIVER OF RIGHTS

No failure to exercise nor any delay in exercising on the part of any party hereto any right power or remedy hereunder shall impair or operate as a waiver thereof nor shall any single or partial exercise of any right power or remedy prevent any further or other exercise thereof or the exercise of any other right power or remedy. The rights powers and remedies herein provided are cumulative and not exclusive of any rights powers or remedies provided by law

²³ [11] LAW

This Agreement shall be governed by and construed in accordance with English Law]

²² If more than two Companies are to sign this Agreement replace "either" with "any".

²³ Clause 11 should be included if the recourse backer is neither registered nor incorporated in the UK

²⁴12 RIGHTS OF THIRD PARTIES

For the avoidance of doubt the parties to this Agreement do not intend that any of the terms of this Agreement should be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement

²⁴ On no account should this clause be deleted or amended without the prior agreement of GCO and BD4/PSDB

IN WITNESS WHEREOF this Agreement has been signed in [duplicate] [triplicate]
on behalf of the parties hereto by persons duly authorised in that behalf the day
and year first above written

Signed
on behalf of ECGD

Signed
on behalf of [name of the Supplier]

Witness to the signature of
[full name of person signing
on behalf of ECGD]

Witness to the signature of
[full name of person signing
on behalf of the Supplier]

Signed

Signed

[Signed
on behalf of [name of recourse backer]

Witness to the signature of
[full name of person signing
on behalf of the recourse backer]

Signed

Examined

Date

BD4\MASTERS\13112NEW.doc

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TO ECGD

APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

CORRUPTION AND MONEY LAUNDERING

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

FROM – Airbus S.N.C., 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France

- 1 We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule").
- 2 Our Bankers
- of

have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the Borrower has *approved / *has yet to approve our Bankers for this purpose.

(*Delete as appropriate)

- 3 We undertake to notify you immediately of any information we may receive
 - 3.1 about any proposed additional lending from any source in relation to this transaction, and
 - 3.2 that might effect ECGD's decision as to whether to provide a Buyer Credit guarantee to our Bankers.
- 4 We agree that for the purposes of this Application:
 - 4.1 "Associate" means any company (other than us or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the

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performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.2 "Borrower" means the party so described in the Schedule;

4.3 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

4.4 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.5 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which

4.5.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Contract illegal, void, voidable or unenforceable under its governing law, or

4.5.2 we have, or any Controlled Company or anyone (including any employees) acting (with due authority) on our, or any Controlled Company's, behalf or with our, or its subsequent acquiescence has, other than under duress, admitted engaging in, or

4.5.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.5.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 4.5.1, 4.5.2 and 4.5.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect).

4.6 "Customer" means the party so described in the Schedule;

4.7 "Guarantor" means any party so described in the Schedule;

4.8 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

4.9 "Supply Contract" means the entirety of the contract between ourselves and the Customer which is referred to in the Schedule;

4.10 "Surety" means any party so described in the Schedule; and

4.11 the Applicant is referred to, in the body of this Application, as "we" and "us" and, in the Schedule, as "you"; and, where states of mind belonging to the Applicant are referred to such states of mind are, where the Applicant is an incorporated company, those of one or more board directors of the Applicant or the signatory to this form.

5 We declare that, to the best of our knowledge and belief:

5.1 neither we nor our managing director nor any of our executive vice presidents nor any Controlled Company nor any director of any Controlled Company:

5.1.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency; or**

5.1.2 has at any time during the last five years, other than under duress, admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity that has not previously been notified to ECGD, and**

5.2 the Supply Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002).

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form.)

6 We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Customer and/or the Borrower (if different to the Customer) and/or any Surety.**

(** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form.)

7 We declare that none of the goods and/or services that are to be supplied under the terms of the supply contract will require an export licence to be issued by the UK Government or the Government of any other country.***

(***If you are unable to make this declaration you should delete it and provide details of the required licence, including the name and address of the issuing authority, on your headed notepaper and attach it to this form. If the licence has already been issued a certified true copy of it should also be attached.)

8 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee form number ABBCAp.1502022 or the questions posed in the ECGD Buyer Credit Guarantee Application Schedule provided to us by ECGD.

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9 We understand that

9.1 in our own interest, our Supply Contract should provide for our right to receive direct payment from the Customer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower,

9.2 It is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule:

9.2.1 that neither we nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's, prior consent or subsequent acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract;

9.2.2 that, if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;

9.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.5.1, 4.5.3 or 4.5.4, would amount to Corrupt Activity) in connection with the Supply Contract (2) we will monitor compliance with that requirement, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and

9.3 (unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to it are confidential and shall not be disclosed to any third party except except

9.3.1 by us in confidence to our banker or broker or other professional advisers, in each case for the purpose for which each of them has been employed by us; and

9.3.2 by ECGD,

9.3.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department or, subject to paragraph 7.4 below, to its external legal advisers and other Government Departments; and

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9.3.2.2 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the Customer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project;*****

*(***** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form.)*

9.4 it is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule that, where our consent or agreement is required for the disclosure by ECGD of the information referred to at the opening of paragraph 9.3, we will not unreasonably delay or withhold our agreement or consent to any such disclosure (for example, to reinsurers and outsource service providers in connection with ECGD's portfolio management activities, to other export credit agencies or other persons in connection with the assessment of this Application);

9.5 where ECGD discloses, pursuant to paragraph 9.3.2.1 above, to its external legal advisers or any other Government Department any information contained in this Application or its attachments, or provided in any discussions and correspondence relating to this Application, which has not entered the public domain (other than by a breach by ECGD of its obligations under paragraph 9.3 above) ECGD shall:

9.5.1 notify those legal advisers or, as the case may be, that other Government Department of the terms (as set out in paragraph 9.3 above) on which that information has been provided to ECGD; and

9.5.2 in the case of any disclosure to another Government Department, notify us of that disclosure (except where to do so would be unlawful or might prejudice an investigation by the Serious Fraud Office, the police or any other investigative authority).

10 In consideration of ECGD entering into a contract of support in relation to the transaction described in the Schedule, we shall:

10.1 permit any person authorised by ECGD and, if other than ECGD personnel, approved by us (such approval not to be unreasonably withheld or delayed by us) to visit any of our premises where records relating to the performance of the Supply Contract and the making of disbursement claims under the loan agreement relating to the Supply Contract are kept during business hours for the sole purpose of inspecting, auditing and taking copies of any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate specifically to the performance of the Supply Contract and the

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making of disbursement claims under the Loan Agreement (the "Administration Records");

10.2 If ECGD confirms in writing to us that it has reasonable grounds for suspecting that an employee, agent or intermediary of the Supplier has been engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.5.1, 4.5.3 and 4.5.4, would amount to Corrupt Activity) in connection with the Supply Contract, permit an independent third party acceptable to us and ECGD to visit any of our premises where records relating to the obtaining and performance of the Supply Contract and the making of disbursement claims under the loan agreement are kept during business hours for the sole purpose of inspecting and auditing any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate (a) specifically to our obtaining of the Supply Contract or the employment of, and payments to or for the benefit of, any agents or other intermediaries involved directly or indirectly at any time with the Supply Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and, together with the Administration Records, the "Records"), provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made, and information given, to ECGD by us in the application form which we have submitted to ECGD requesting it to give Buyer Credit support to the Supply Contract; and

10.3 In relation to paragraphs 10.1 and 10.2 furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will:

10.3.1 give not less than five Business Days notice of such visits referred to in paragraphs 10.1 and 10.2;

10.3.2 on request pay to us the cost of supplying any copies of the Administration Records;

10.3.3 hold in confidence, and not disclose to any third party without our prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities, provided, in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this paragraph shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information; and (b) to the extent permitted by law, give us reasonable notice of its intention to

disclose any Confidential Information under the Code and consult with us in deciding whether to disclose any Confidential Information under the Code; and

- 10.3 4 destroy the Confidential Information or, if so requested, return it to us when ECGD considers that it has served the purpose for which it was obtained.

11 Nothing in paragraph 10 above shall:

11.1 oblige us or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality; or

11.2 be construed as consent by us to ECGD to disclose any Confidential Information in accordance with the Code.

12 The procedure (e.g. open tender, negotiated contract) used or to be used for awarding the supply contract was or will be -

(Please specify)

13 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the schedule hereto.

Signed on behalf of the Applicant

Capacity of
Signatory

Date

This application should be signed by an authorised officer for and on behalf of Airbus S.N.C. and should state the capacity in which the signatory acts.

(ABBCAp 1502022)

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ECGD BUYER CREDIT APPLICATION – AIRBUS SCHEDULE

1. SUPPLIER

Airbus S.N.C
1 Rond-Point Maurice Bellonte
31707 Blagnac
France

2. CUSTOMER

(Airline/Operating Lessor)

Name:

Address:

Suggested Contact:

Email: Fax: Tel:

3. SURETY

(If different from Customer)

Name:

Address:

Suggested Contact:

Email: Fax: Tel:

4. STAGE OF NEGOTIATIONS REACHED

(Include, if applicable, date supply contract signed)

5. DESCRIPTION OF PROPOSED FINANCE STRUCTURE

(If Customer has identified significant problems with finance lease and assignment of sale contract to special purpose company.)

6. PROPOSED TERMS OF PAYMENT

Credit Period

12 Years ☐
10 Years ☐
Other ☐ (specify)

Loan % of net aircraft price

85% ☐
Other ☐ (specify)

7. PROPOSED COMMERCIAL LOAN

(Provide details if known, including percentage of net aircraft price)

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8. MISMATCH LOAN

(Provide details if known, including date and amount of maximum percentage of net aircraft price)

9. AGENTS

9.1 Has any agent or other intermediary been, or will any agent or other intermediary be, involved by you or any Controlled Company directly or indirectly in the process leading to the Supply Contract being awarded to you or in connection with any subsequent matters relating to the Supply Contract or any related agreement, undertaking consent, authorisation or arrangement of any kind?

☐ Yes

☐ No

please complete the sections 9.2 to 9.6 below. If more than one agent or intermediary is involved please provide separate answers in respect of each party)

9.2 Name and address of agent or intermediary *(If you are unable to provide this information, please give your reason(s) for not being able to do so):*

9.3 Does any improper relationship exist between the agent or intermediary and the Customer named in section 2 of this Schedule?

☐ Yes

☐ No

9.4 Is all or any part of the commission payable to the agent or intermediary included in the contract price or intended to be covered by ECGD support?

☐ Yes

☐ No

9.5 If your answer to the question in section 9.4 above is "no", does the commission paid, or to be paid, to the agent or intermediary exceed the lesser of (1) £2,000,000 (or the equivalent in foreign currency or payments in kind) and (2) 5% of the contract price?

☐ Yes

☐ No

9.6 If your answer either to the question in section 9.4 above or to the question in section 9.5 above is 'yes', please:

9.6.1 give details of the services which the agent or intermediary has provided or is providing:

9.6.2 specify the amount (or, if in the form of payments in kind, the value) of the commission payable to the agent or intermediary;

9.6.3 specify the country or countries where the commission is payable:
(If payment is to be made outside the Customer's country, please give an explanation)

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10. OTHER RELEVANT DETAILS

Details of any other security offered or available _____

Other _____

Currency of Finance (if not US \$) _____

Date ECGD's standard questions sent to airline/operating lessor: _____

11. CODE OF CONDUCT

(Please complete)

Does your company have a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.5 of this Application)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied

(If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ No
☐ Yes
☐ Yes, but only from the date on which it came into force, namely _____ (specify date)

12 see next page

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12.

PRICE (US\$M)*														
1 A/C No. or MSN	2 Airframe Type	3 Engine Type	4 Month of Delivery	5 UK Share	AIRFRAME				ENGINES					8 Total Net Price
					6.1 Airframe	6.2 Spare Parts	6.3 Buyer F.E.	6.4 Total Gross Price	6.5 Credits/Price Reductions	6.6 Net Price	7.1 Gross Price	7.2 Credits/Price Reductions	7.3 Net Price	

* If any price is not yet known, insert date (month) when it will be ascertained and in Column 8 insert Airbus Industrie's current best estimate of Total Net Price which will guide the maximum figure for which underwriting approval may be sought, and the calculation of whether a margin of 50 basis points will be sufficient premium.

(302249)

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APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed.)

Nature of business:

Date Company was established:

Total annual turnover:

Number of employees:

Number of years exporting:

- 771
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and which activity, in respect of paragraphs 4.6.1, 4.6.2, and 4.6.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect);

4.7 "Guarantor" means any party so described in the Schedule;

4.8 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

4.9 "Supply Contract" means the entirety of the contract between ourselves and the Buyer which is referred to in the Schedule;

4.10 "Surety" means any party so described in the Schedule; and

4.11 the Applicant is referred to, in the body of this Application, as "we" and "us" and, in the Schedule, as "you"; and, where states of mind belonging to the Applicant are referred to such states of mind are, where the Applicant is an incorporated company, those of one or more board directors of the Applicant or the signatory to this form and, where the Applicant is a partnership, those of one or more of the partners.

5 We declare that, to the best of our knowledge and belief:

5.1 we or any Controlled Company or any board director of ours or of any Controlled Company:

5.1.1 neither appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, nor**

5.1.2 has at any time during the last five years, other than under duress, admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity that has not previously been notified to ECGD; and**

5.2 the Supply Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002)

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form.)

6 We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different from the Buyer) and/or any Guarantor or Surety ***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form.)

7 We declare that none of the goods and/or services to be supplied under the terms of the Supply Contract will require an export licence to be issued by the UK Government or the Government of any other country ****

(**** If you are unable to make this declaration you should delete it and provide details of the required licence, including the name and address of the issuing authority, on your headed notepaper and attach it to this form. If the licence has already been issued a certified true copy of it should also be attached.)

8 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BC Ap 6) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched3) provided to us by ECGD.

9 We understand that

9.1 in our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

9.2 it is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule:

9.2.1 that neither we nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's, prior consent or subsequent acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract;

9.2.2 that, if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;

9.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract (2) we will monitor compliance with that requirement, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and

9.3 (unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to it are confidential and shall not be disclosed to any third party except:

9.3.1 by us in confidence to our banker or broker or other professional advisers, in each case for the purpose for which each of them has been employed by us; and

9.3.2 by ECGD,

9.3.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department or, subject to paragraph 9.5 below, to its external legal advisers and other Government Departments;

9.3.2.2 prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports; and*****

9.3.2.3 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project. *****

*(***** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form.)*

9.4 it is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule that, where our consent or agreement is required for the disclosure by ECGD of the information referred to at the opening of paragraph 9.3, we will not unreasonably delay or withhold our agreement or consent to any such disclosure (for example, to reinsurers and outsource service providers in connection with ECGD's portfolio management activities, to other export credit agencies or other persons in connection with the assessment of this Application).

9.5 Where ECGD discloses, pursuant to paragraph 9.3.2.1 above, to its external legal advisers or any other Government Department any information contained in this Application or its attachments, or provided in any discussions and correspondence relating to this Application, which has not entered the public domain (other than by a breach by ECGD of its obligations under paragraph 9.3 above) ECGD shall:

9.5.1 notify those legal advisers or, as the case may be, that other Government Department of the terms (as set out in paragraph 9.3 above) on which that information has been provided to ECGD; and

9.5.2 in the case of any disclosure to another Government Department, notify us of that disclosure (except where to do so would be unlawful or might prejudice an investigation by the Serious Fraud Office, the police or any other investigative authority).

10 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the Schedule.

Signed

On behalf of *[Name of Applicant]*

Address

Capacity of
Signatory

Date

- 1 *In the case of an incorporated company, this Application must be signed by a director or a person authorised by the company's board of directors or an officer of the company in accordance with the company's articles of association or equivalent constitutional document to sign this Application, or documents of the same nature as this Application, on behalf of the company*
- 2 *In the case of a partnership, this Application must be signed by a partner.*

(Form BCAP.6)



ECGD BUYER CREDIT GUARANTEE APPLICATION SCHEDULE

IMPORTANT INFORMATION CONCERNING THIS SCHEDULE

All relevant questions in this Schedule must be answered fully and truthfully to the best of your knowledge and belief. If the space provided is insufficient, please continue answers on your headed notepaper and attach it to this form

Sections 5 b vi, 5 b.vii and 5 e of this form contain questions in respect of the potential environmental and social impacts relating to the goods and/or services to be supplied and/or rendered under the supply contract and their destination. Prior to completing these sections you should read the "Impact analysis - Customers' guidance notes", which are available from ECGD and can also be found on ECGD's website at www.ecgd.gov.uk. Please note that you do not need to complete the questions in sections 5 b vi, 5.b.vii and 5 e.ii if this Schedule is in respect of:

- (i) defence business that requires an export licence or is subject to the 680 clearance procedure; or
- (ii) aerospace business, which meets International Civil Aviation Organisation standards.

CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.6 of this Application)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied

(If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ No
☐ Yes
☐ Yes, but only from the date on which it came into force, namely _____
(specify date)

1. a. SUPPLIER

(Name, Address and Company Registration Number)

b. SUPPLIER'S ULTIMATE HOLDING COMPANY

(Name, Address and Company Registration Number)

2. BUYER <i>(Name and Address)</i>	
3. a. BORROWER <i>(Name and Address)</i> b. GUARANTOR <i>(Name and Address)</i>	
4. STAGE OF NEGOTIATIONS REACHED	

5. a i. Description of the overall project including elements of non-UK contractual responsibility
- ii. Total basic price
- iii. Estimated final price
- b i. Description of goods and/or services for which the Supplier has contractual responsibility (*please indicate if any of the goods are second hand*)
- ii. Basic price of elements described at b.i
- iii. Estimated final price of elements described at b.i
- iv. Give details of the procedure (e.g. open tender, negotiated contract) used or to be used for awarding the supply contract.

Please see note on Important information at the beginning of this Schedule prior to completing, if appropriate, sections 5.b.vi and 5.b.vii

- v. Will the goods and/or services have actual or potential direct environmental, health and safety, or social impacts in any of the following areas? (*Please tick all relevant boxes and, where possible, under Additional Information quantify the impacts.*)

Beneficial Impacts

Please specify:

Adverse Impacts

Water pollution or extraction
 Local air quality
 Climate change (Kyoto Protocol)
 Acid deposition
 Ozone depletion (Montreal Protocol)
 Use of hazardous substances
 Production of damaging or toxic waste
 Noise pollution
 Degradation of land (e.g. soil contamination, erosion or salinisation)
 Other adverse impacts, please specify:

Additional Information:

- vi. Could the goods and/or services that are being supplied be sold in

8. DETAILS OF SUPPLIER'S CONTRACTUAL RESPONSIBILITY	DESCRIPTION	PRICE IN CURRENCY OF CONTRACT
a UK ELEMENT		
i Goods		
ii Services		
		Sub-total
b OTHER EU ELEMENT		
i Goods		
ii Services		
		Sub-total
c OTHER FOREIGN ELEMENT		
i Goods		
ii Services		
		Sub-total
d. BUYER'S COUNTRY ELEMENT		
i Local labour and basic building materials (eg sand, cement, gravel)		
ii Locally-manufactured goods		
iii Services (other than labour)		
		Sub-total
e OVERSEAS AGENT'S COMMISSION (See section 7)		
		Sub-total
		TOTAL PRICE

7. AGENTS

7.1 Has any agent or other intermediary been, or will any agent or other intermediary be, involved by you or any Controlled Company directly or indirectly in the process leading to the Supply Contract being awarded to you or in connection with any subsequent matters relating to the Supply Contract or any related agreement, undertaking consent, authorisation or arrangement of any kind?

☐

Yes

☐

No

(If Yes, please complete the sections 7.2 to 7.6 below. If more than one agent or intermediary is involved please provide separate answers in respect of each party)

7.2 Name and address of agent or intermediary (if you are unable to provide this information, please give your reason(s) for not being able to do so):

7.3 Does any improper relationship exist between the agent or intermediary and the Buyer named in section of this Schedule?

☐

Yes

☐

No

7.4 Is all or any part of the commission payable to the agent or intermediary included in the contract price or intended to be covered by ECGD support?

☐

Yes

☐

No

7.5 If your answer to the question in section 7.4 above is "no", does the commission paid, or to be paid, to the agent or intermediary exceed the lesser of (1) £2,000,000 (or the equivalent in foreign currency or payments in kind) and (2) 5% of the contract price?

☐

Yes

☐

No

7.6 If your answer either to the question in section 7.4 above or to the question in section 7.5 above is 'yes', please:

7.6.1 give details of the services which the agent or intermediary has provided or is providing:

7.6.2 specify the amount (or, if in the form of payments in kind, the value) of the commission payable to the agent or intermediary;

7.6.3 specify the country or countries where the commission is payable:
(If payment is to be made outside the Buyer's country, please give an explanation)

9. PROPOSED CONTRACTUAL TERMS OF PAYMENT (Separate details are required if the terms for any element - UK, other EU, other foreign or Buyer's country - differ from the others)	FROM BUYER DIRECT	
	On/within	days of contract
	Within	months of date of contract
	On shipment/delivery/completion/commissioning	
	Other	
	FROM LOAN (subject to its continued availability)	
	Progress payments between	and
		months from date of contract
	On shipment/delivery/performance of services	
	On completion/commissioning	

10 SUPPLIER'S CONTRACTUAL PROGRAMME (A separate programme should be provided for each part of the project for which the Supplier is responsible)	(Expressed in months from date of contract)	
	COMMENCE	COMPLETE
	Shipment/delivery	
	Installation/Erection/Provision of Services	
	Preliminary Testing	
Commissioning		
11 PROPOSED TERMS OF REPAYMENT OF LOAN		By equal half-yearly instalments, the first due 6 months after

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<p>12 DETAILS OF ANY ANCILLARY COVER REQUIRED</p> <p>a Supplemental Pre-Credit Risk Cover</p> <p>b Bond Risk Cover</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, a Proposal for an Export Insurance Policy should be attached)</i></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, a Proposal for a Bond Insurance Policy should be attached)</i></p>
<p>13 ANY OTHER RELEVANT DETAILS</p> <p>a. Sources of foreign competition (and terms offered, if known)</p> <p>b. Details of any additional security offered or available</p> <p>c. Other</p>	

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 15 September 2004 16:52
To: Nicholas Ridley
Cc: Patrick Crawford; John Weiss; John Ormerod; Charles Redfearn; Roy Donovan;
james.larkin@alc.aon.co.uk; john.tyler@chq.aistom.com; sue.walton@rolls-royce.com;
james.caldwell@baesystems.com; julia.aldrige@baesystems.com;
andy.ingram@baesystems.com; dominic.cronin@baesystems.com;
nigel.taylor@airbus.com; mary-jane.little@airbus.com; david.moden@airbus.com;
clive.jones@lloyds.tsb.co.uk; chris.pocock@hsbcib.com; deborah.bass@uk.ca-
indosuez.com; Andy Scott; Gary Campkin; rupert.cazalet@baesystems.com;
joanna.carver@airbus.com; yvette.brock@sbac.co.uk; hendrond@shorts.co.uk;
helen.kennett@uk.thalesgroup.com; Marc.Meicche@bcgroup.com;
itm.myers@bombardier.com; jan.walker@baesystems.com; keith.hayward@sbac.co.uk;
Lucy Findlay; Peter Malcolm; BexaMail@aol.com; stephen.fisk@rolls-royce.com;
swaiton@dircon.co.uk
Subject: ECGD Documentation

r Nicholas

Thank you for your letter and the documents attached to it which I am now copying to the CBI Solutions Group.

Regards

Peter

----- Forwarded by Peter Malcolm/CBI on 15/09/2004 16:47 -----

"Nicholas Ridley" <Nicholas.Ridley@ecgd.gsi.gov.uk> on 15/09/2004 16:36:22

To: Peter Malcolm/CBI@CBI
cc: "Patrick Crawford" <Patrick.Crawford@ecgd.gsi.gov.uk>, "John Weiss" <John.Weiss@ecgd.gsi.gov.uk>, "John Ormerod" <JOHN.ORMEROD@ecgd.gsi.gov.uk>, "Charles Redfearn" <Charles.Redfearn@ecgd.gsi.gov.uk>, "Roy Donovan" <Roy.Donovan@ecgd.gsi.gov.uk>
ect: ECGD Documentation

Dear Peter,

Please see the attached letter and enclosed documents.

Regards,

Nicholas Ridley

<<CBI Letter 4.doc>>

<<Airbus Undertaking Letter 200409.doc>>

<<13112NEW.DOC>>

<<Airbus Application Form 200409151.doc>>

<<Airbus Schedule 20040915.doc>>

<<Form BCApp6.doc>>

<<Form BCSCHEB3 DOC>>

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbl.org.uk]
Sent: 16 September 2004 10:14
To: Nicholas Ridley
Cc: Patrick Crawford, John Weiss, Claire Stokes, John Ormerod, Charles Redfern, Roy Donovan, Angela Cooper, Gordon Welsh
Subject: RE: ECGD Documentation

Dear Nicholas

Please forgive me for being the bearer of requests and views from the CBI group
And that they could probably cause you and your colleagues some additional work.
They are summed-up by the following example of responses.

Your help is much appreciated.

Regards

Peter

To: Peter Malcolm/CBI@CBI
cc:
Subject: RE: ECGD Documentation

Peter,

Could you please ask ECGD for red-line copies so we can see where the
changes were made.
(That's what it had been expected they would send)

Thank you.

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details.

In case of problems, please call your organisational IT helpdesk

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Agreement and the Airbus letter) between their format on 1st May 2004 and the format in which they are cast as a result, on the one hand, of the agreement of 2nd September and, on the other, the Secretary of State's views conveyed to you on 13th September.

Yours sincerely,

Nicholas Ridley

<<DVComparison_Form BCAP5-Form BCAP6 doc>>

<<DVComparison_Form BCSCHEB2-Form BCSCHEB3 doc>>

<<DVComparison_Airbus Application Form 2004022416-Airbus Application Form 2004091311.doc>>

<DVComparison_Airbus Schedule 2004022414-Airbus Schedule 200409152 doc>>

<<DVComparison_13112NEW-13112NEW.doc>>

<<DVComparison_Airbus Undertaking Letter (previous version) v29-Airbus Undertaking Letter 2004092 doc>>

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Please see <http://www.gsi.gov.uk/main/notices/information/gsi-003-2002.pdf> for further details.

In case of problems, please call your organisational IT helpdesk

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 15 September 2004 17:24
To: Nicholas Ridley
Cc: Patrick Crawford, John Weiss, John Ormerod, Charles Redfearn, Roy Donovan,
james.larkin@aic.zon.co.uk, john.tyler@chq.aislom.com, sue.walton@rolls-royce.com,
james.caldwell@baesystems.com, julia.aldrige@baesystems.com,
andy.ingram@baesystems.com, dominic.cronin@baesystems.com,
nigel.taylor@airbus.com, mary-jane.little@airbus.com, david.moden@airbus.com,
clive.jones@lloydstsb.co.uk, chris.pocock@hsbcib.com, deborah.bass@uk.ca-
indosuez.com, Andy Scott, Gary Campkin, rupert.cazalet@baesystems.com,
joanna.carver@airbus.com, yvette.brock@sbac.co.uk, hendrond@shors.co.uk,
helen.kennett@uk.thalesgroup.com, Marc_Meloche@bcgroup.com,
tim.myers@bombardier.com, jan.walker@baesystems.com, keith.hayward@sbac.co.uk,
Lucy Findlay, Peter Malcolm, BexaMail@aol.com, stephen.fisk@rolls-royce.com,
swalton@dircon.co.uk
Subject: ECGD Documentation



Internet HTML



Mac Word 3.0



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Mac Word 3.0

Dear Nicholas,

I am most grateful to you for providing the Deltaview comparisons of the four documents for our Group along with your explanation of the documentary formats and dates under comparison. Thank you very much indeed.

Yours sincerely

Peter

----- Forwarded by Peter Malcolm/CBI on 16/09/2004 17:13 -----

"Nicholas Ridley" <Nicholas.Ridley@ecgd.gsi.gov.uk> on 16/09/2004 17:06:58

Peter Malcolm/CBI@CBI

"Patrick Crawford" <Patrick.Crawford@ecgd.gsi.gov.uk>, "John Weiss"

<John.Weiss@ecgd.gsi.gov.uk>, "John Ormerod"

<JOHN.ORMEROD@ecgd.gsi.gov.uk>, "Charles Redfearn"

<Charles.Redfearn@ecgd.gsi.gov.uk>, "Roy Donovan"

<Roy.Donovan@ecgd.gsi.gov.uk>

Subject: ECGD Documentation

Dear Peter,

Thank you for your email this morning. I am sorry if we have been at cross purposes. We have had read your note to Patrick Crawford of 14th September as requesting a clean set of all the documents setting out the result of our agreements. It was that which I sent you yesterday. We had not on the 13th September contemplated sending the Airbus letter or Premium and Recourse Agreement even in clean form since the only alteration to them after I sent you copies of them reworked in accordance with our agreement of 2nd September was the excision from the Airbus letter of the Audit Clause at Airbus' request.

Nonetheless we have produced here during the day a Deltaview comparison of the four documents (being the Standard Buyer Credit Application Form, Airbus Application Form (in both cases with the Schedules), the Premium and Recourse



APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed.)

Nature of business:

Date Company was established:

Total annual turnover:

788

298

Number of employees:

Number of years exporting:

~~CODE OF CONDUCT~~
(Please complete)

~~Has your company got a code of conduct and procedures in place to discourage and prevent~~
~~Corrupt Activity?~~

~~Yes~~ ~~No~~

~~If Yes:~~

~~Is a copy of your latest code attached?~~

~~Yes~~ ~~Previously Supplied~~
(If not Previously Supplied, you must attach a copy)

~~and~~

~~Has it been and will it be applied to obtaining and performing the contract?~~

~~Yes~~ ~~No~~

1 4-We request you to inform us whether, and if so on what terms, you would be prepared to make
a Buyer Credit guarantee available to our Bankers for the transaction described in the attached
schedule ("the Schedule").

2 2 Our
Bankers,
of
.....
.....

have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange
for, a loan to be made to finance this transaction, and the Borrower has *approved / *has yet to
approve our Bankers for this purpose. (*Delete as appropriate)

3 We undertake to notify you of any information we may receive about any proposed additional
lending from any source in relation to this transaction.

4 4-We agree that for the purposes of this Application:

4.1 4.1 "Affiliate"/"Associate" means in relation to our company, any company which is a
member of the same group of companies or any other any company (other than ourselves
or a Controlled Company), person or other legal entity which is a party to any joint venture

~~or, consortium or other similar arrangement with our company in connection with (1) which is, or will be, involved in the performance or financing of all or any part of the Supply Contract; and (2) to which we are also a party;~~

4.2 4.2 "Borrower" means the party so described in the Schedule;

4.3 4.3 "Buyer" means the party so described in the Schedule;

4.4 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

4.5 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.6 4.4 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person and the concealment, use or facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which;

4.6.1 4.4.1—is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered a contract illegal, void, voidable or unenforceable under its governing law, or

4.6.2 4.4.2— we have, or any of our Affiliates Controlled Company or anyone (including any of our or any of our Affiliates' employees) acting on behalf of employee) acting (with due authority) on our, or any Controlled Company's, behalf or with the prior consent of, or its, subsequent acquiescence of ourselves or any of our Affiliates has freely has, other than under duress, admitted engaging in, or

4.6.3 4.4.3—is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.6.4 4.4.4—is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted) Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect);

and which activity, in respect of paragraphs 4.4.1, 4.4.2, and 4.4.3 above corresponds to an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted) Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect);

4.7 4.5 "Guarantor" means any party so described in the Schedule;

4.8 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

4.9 ~~4.6~~ "Supply Contract" means the entirety of the contract between ourselves and the Buyer which is referred to in the Schedule;

4.10 "Surety" means any party so described in the Schedule; and

4.11 the Applicant is referred to, in the body of this Application, as "we" and "us" and, in the Schedule, as "you"; and, where states of mind belonging to the Applicant are referred to such states of mind are, where the Applicant is an incorporated company, those of one or more board directors of the Applicant or the signatory to this form and, where the Applicant is a partnership, those of one or more of the partners.

5 ~~5~~ We declare that, to the best of our knowledge and belief neither we, or any of our Affiliates nor any of our or their directors or employees;

5.1 we or any Controlled Company or any board director of ours or of any Controlled Company;

5.1.1 neither appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, and nor**

5.1.2 has at any time freely during the last five years, other than under duress, admitted having engaged, or been found by a court in any competent jurisdiction to have engaged in any Corrupt Activity, in any Corrupt Activity that has not previously been notified to ECGD; and**

5.2 the Supply Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002)

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form)

6 ~~6~~ We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different ~~to~~from the Buyer) and/or any Guarantor or Surety.***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form)

7 We declare that none of the goods and/or services to be supplied under the terms of the Supply Contract will require an export licence to be issued by the UK Government or the Government of any other country.****

(****If you are unable to make this declaration you should delete it and provide details of the required licence, including the name and address of the issuing authority, on your headed notepaper and attach it to this form. If the licence has already been issued a certified true copy of it should also be attached.)

8 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BCAP 56) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched23) provided to us by ECGD.

8.2 We understand that

8.2.1 in our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

~~8.2~~ It is or will be a condition of a Buyer Credit guarantee being made available, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule:

~~8.2.1~~ that neither we nor, to the best of our knowledge and belief, any of our Affiliates nor Controlled Company or anyone (including any of our or their employees) acting on our, or their, that Controlled Company's, behalf with due authority, or with our, or their, that Controlled Company's, prior consent or subsequent acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract;

8.2.2 that, if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged or will engage in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind; and, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;

~~8.2.2-3~~ that (1) we shall have required, and/or will shall require, anyone (including any of our employees) acting on our behalf with due authority and directly or indirectly involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind; (2) we will monitor compliance with our that requirements, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and

9.3 8.2.2 that (unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to this Application are confidential and shall not be disclosed to any third party except by:

9.3.1 8.2.2.4 by us in confidence to our banker or broker or other professional adviser, or by advisers, in each case for the purpose for which each of them has been employed by us; and

9.3.2 8.2.2.2 by ECGD,

9.3.2.1 8.2.2.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department; or

~~8.2.2.2.2 in confidence to its reinsurers or professional advisers in connection with its portfolio management, or 8.2.2.2.3 in confidence to, subject to paragraph 9.5 below, to its external legal advisers and other expert credit agencies, or Government Departments, or its professional advisers, but only in so far as that is necessary in connection with its assessment of this Application;~~
~~or;~~

~~8.2.2.2.4-2~~ prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports;****; and *****

9.3.2.3 8.2.2.2.5 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name

of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project.*****

(***** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form.)

9 4. It is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule that, where our consent or agreement is required for the disclosure by ECGD of the information referred to at the opening of paragraph 9.3, we will not unreasonably delay or withhold our agreement or consent to any such disclosure (for example, to reinsurers and outsource service providers in connection with ECGD's portfolio management activities, to other export credit agencies or other persons in connection with the assessment of this Application);

9.5. where ECGD discloses, pursuant to paragraph 9.3.2.1 above, to its external legal advisers or any other Government Department any information contained in this Application or its attachments, or provided in any discussions and correspondence relating to this Application, which has not entered the public domain (other than by a breach by ECGD of its obligations under paragraph 9.3 above) ECGD shall:

9.5.1 notify those legal advisers or, as the case may be, that other Government Department of the terms (as set out in paragraph 9.3 above) on which that information has been provided to ECGD; and

9.5.2 in the case of any disclosure to another Government Department, notify us of that disclosure (except where to do so would be unlawful or might prejudice an investigation by the Serious Fraud Office, the police or any other investigative authority).

10 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the Schedule.

Signed on

On behalf of the Applicant.....[Name of Applicant]

Address.....

.....

.....

.....

.....

Capacity of

Signatory

Date.....

Date.....

- 1 In the case of an incorporated company, this Application must be signed by an authorised officer, director or a person authorised by the company's board of directors or an officer of the company in accordance with the company's articles of association or equivalent constitutional document to sign this Application, or documents of the same nature as this Application, on behalf of the company
- 2 In the case of partnerships a partnership, this Application must be signed by a partner ~~or partners~~ authorised.

(Form BCap 6/6)

Input:	
Document 1	file://E:/Ud1/MASTERS/Application Forms/Form BCap5.doc
Document 2	file://G:/BD4/Supp/Brib&Corr-2004/Brib& Corr-Oct04 Final/Applications/Form BCap6.doc
Rendering set	ECGD

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary		
No.	Change	Text
1	Insertion	C:\Documents and... BCap6.doc
2	Change	"business:" changed to "business."
3	Change	"established:" changed to "established:"
4	Change	"turnover:" changed to "turnover."
5	Change	"employees:" changed to "employees:"
6	Change	"exporting: " changed to "exporting."
7	Deletion	CODE OF CONDUCT
8	Deletion	(Please complete)
9	Deletion	Has your company got a...Corrupt Activity?

795
305

10-13	Deletion	Yes No
14	Deletion	If Yes:
15	Deletion	Is a copy of your latest code attached?
16-19	Deletion	Yes Previously Supplied
20	Deletion	(If not Previously... you must attach a copy)
21	Deletion	and
22	Deletion	Has it been and will it...performing the contract?
23-26	Deletion	Yes No
27	Change	"We request you" changed to "1 We request you"
28	Change	"Our Bankers," changed to "2 Our Bankers,"
29	Change	"Our Banke....." changed to "Our Bankers,"
30	Deletion	of.....
31	Deletion
32	Deletion
33	Change	"We agree that" changed to "4 We agree that"
34-35	Change	" means" changed to "4.1 "Affiliate"Associate" means"
36-37	Change	" means in relation to ...any other party to any" changed to " means any company...which is a party to any"
38-39	Change	"joint venture or consortium" changed to "joint venture, consortium"
40-41	Change	"arrangement with our...with the Supply" changed to "arrangement (1) which is...any part of the Supply"
42-43	Change	"Supply Contract;" changed to "Supply Contract and (2)...we are also a party;"

44	Change	""Borrower" means" changed to "4.2 "Borrower" means"
45	Change	""Buyer" means" changed to "4.3 "Buyer" means"
46-47	Insertion	4.4 "control" and. capital of that company,
48-49	Insertion	4.5 "Controlled Company"...is controlled by us;
50	Change	""Corrupt Activity"" changed to "4.4"Corrupt Activity""
51	Change	"other person and the ...criminal conduct) which" changed to "other person) which"
52	Insertion) which:
53	Change	"is subsequently" changed to "4.4.1 is subsequently"
54	Change	"jurisdiction to have rendered" changed to "jurisdiction (after all...to have rendered"
55	Change	"" changed to "4.4.2"
56	Change	"we," changed to "we have,"
57	Change	", any" changed to ", or any"
58-59	Change	"any of our Affiliates or anyone (including" changed to "any Controlled Company or anyone (including"
60-61	Change	"(including any of our or...on behalf of or with" changed to "(including any employee)...behalf or with"
62-63	Change	"or with the prior consent or" changed to "or with our, or"
64	Change	"or subsequent" changed to "or its, subsequent"
65-66	Change	"acquiescence of ourselves.. freely admitted engaging" changed to "acquiescence has, other...admitted engaging"
67	Change	"is subsequently" changed to "4.4.3 is subsequently"
68	Change	"United Kingdom to constitute" changed to "United Kingdom (after all...exhausted) to constitute"
69	Change	"is subsequently" changed to "4.4.4 is subsequently"
70	Change	"United Kingdom to constitute" changed to

797
307

		"United Kingdom (after all exhausted) to constitute"
71-72	Change	"offence under the...amended or re-enacted)" changed to "offence under the...retrospective effect)"
73-74	Change	"paragraphs 4.4.1, 4." changed to "paragraphs 4.6.1, 4."
75-76	Change	".1, 4.4.2, and 4." changed to ".1, 4.6.2, and 4."
77-78	Change	".2, and 4.4.3 above corresponds" changed to ".2, and 4.6.3 above corresponds"
79-80	Change	"offence under the...amended or re-enacted);" changed to "offence under the...retrospective effect);"
81	Change	""Guarantor"" changed to "4.5 "Guarantor"
82-83	Insertion	4.8 "Relevant Acts" means...amended or re-enacted);
84	Change	""Supply Contract"" changed to "4.6 "Supply Contract"
85-86	Insertion	4.10 "Surety" means any...in the Schedule; and
87-88	Insertion	4.11 the Applicant is...or more of the partners.
89	Change	"" changed to "5"
90	Change	"declare that to the best" changed to "declare that, to the best"
91-92	Change	"knowledge and belief...directors or employees" changed to "knowledge and belief:"
93	Insertion	5.1 we or any Controlled...any Controlled Company:
94	Change	"5.1 appears on" changed to "5.1.1 neither appears on"
95-96	Change	"aid agency, and"" changed to "aid agency, nor""
97	Change	"5.2 has at any" changed to "5.1.2 has at any"
98-99	Change	"at any time freely admitted" changed to "at any time during the...under duress, admitted"
100	Change	"admitted or been found" changed to "admitted having engaged, or been found"
101	Change	"by a court to have engaged" changed to "by a court in any...to have engaged"
102-103	Change	"have engaged in any -Corrupt Activity."" changed to "have engaged, in any...notified to ECGD; and""
104	Insertion	5.2 the Supply Contract,...of Crime Act 2002)
105	Change	"" changed to "6"
106-107	Change	"(if different to the Buyer)" changed to "(if

		different from the Buyer)"
108	Change	"any Guarantor.****" changed to "any Guarantor or Surety.****"
109	Insertion	7 We declare...any other country.****
110	Insertion	(****If you are unable to...also be attached.)
111	Change	"We declare that" changed to "8 We declare that"
112-113	Change	"(Form BC Ap.5) or questions" changed to "(Form BC Ap.6) or questions"
114-115	Change	"(Form BC Sched2) provided to" changed to "(Form BC Sched3) provided to"
116-117	Change	"8" changed to "9"
118-119	Change	"8.1" changed to "9.1"
120-121	Change	"8.2" changed to "9.2"
122	Change	".2 it will be" changed to ".2 it is, or will be"
123-124	Change	"will be a condition of a...for the transaction" changed to "will be, a contractual...ECGD for the transaction"
125-126	Change	"8.2.1 that neither" changed to "9.2.1 that neither"
127	Change	"neither we nor to the best" changed to "neither we nor, to the best"
128	Change	"knowledge and belief any" changed to "knowledge and belief, any"
129-130	Change	"any of our Affiliates nor anyone (including" changed to "any Controlled Company or anyone (including"
131	Change	"(including any of our or their employees) acting" changed to "(including any employees) acting"
132	Change	"acting on our or" changed to "acting on our, or"
133-134	Change	"or their behalf with" changed to "or that Controlled Company's, behalf with"
135	Change	"due authority or with our" changed to "due authority, or with our"
136	Change	"or with our or" changed to "or with our, or"
137-138	Change	"or their prior consent" changed to "or that Controlled Company's, prior consent"
139	Insertion	acquiescence, shall have. the Supply Contract;
140	Change	"has engaged" changed to "9.2.2 that, if we become...has engaged"
141	Change	"has engaged or will engage in any Corrupt" changed to "has engaged in any Corrupt"
142-143	Change	"of any kind; and" changed to "of any kind, we shall...of Crime Act 2002;"
144-145	Change	"8.2." changed to "9.2."

146-147	Change	".2.2 that" changed to ".2.3 that"
148	Change	"that we" changed to "that (1) we"
149	Change	"we have required" changed to "we shall have required"
150	Change	"have required" changed to "have required,"
151	Change	"and/or" changed to "or"
152-153	Change	"or will require" changed to "or shall require"
154	Change	"require anyone (including" changed to "require, anyone (including"
155	Change	"our behalf and" changed to "our behalf with due authority and"
156	Change	"and directly or indirectly involved in" changed to "and involved in"
157	Change	"Corrupt Activity in connection" changed to "Corrupt Activity (or any...Activity) in connection"
158-159	Change	"Supply Contract or any...kind, we will monitor" changed to "Supply Contract (2) we will monitor"
160-161	Change	"compliance with our" changed to "compliance with that"
162	Deletion	requirements
163	Change	", and we will take" changed to ", and (3) we will take"
164	Change	"(unless the" changed to "8.2.3 that (unless the"
165	Change	"otherwise) all discussions" changed to "otherwise) this...and all discussions"
166-167	Change	"relating to this Application are confidential" changed to "relating to it are confidential"
168-169	Change	"party except by" changed to "party except:"
170-171	Change	"us in confidence" changed to "8.2.3.1 by us in confidence"
172-173	Change	"professional adviser, or by" changed to "professional advisers, in...been employed by us; and"
174-175	Change	"ECGD," changed to "8.2.3.2 by ECGD,"
176	Change	"in accordance" changed to "8.2.3.2.1 in accordance"
177	Change	"Government Department, or" changed to "Government Department or"
178	Deletion	8.2.3 2.2 in confidence...portfolio management, or
179-180	Change	"8.2.3.2.3 in confidence to other" changed to ", subject to paragraph...legal advisers and other"
181	Change	"other export credit...Government Departments" changed to "other Government

		Departments"
182	Deletion	Departments, or its...in connection with its
183	Moved from	assessment of this Application
184-185	Change	", or" changed to ";"
186-187	Change	"8.2.3.2." changed to "9.3.2."
188-189	Change	"3.2 4 prior to signature" changed to "3 2.2 prior to signature"
190-191	Change	"assessment reports,**** and" changed to "assessment reports; and"
192	Insertion	and *****
193	Change	"after signature" changed to "8.2.3.2.5 after signature"
194	Insertion	project.*****
195	Change	"(**** If you" changed to "(***** If you"
196	Insertion	9 .4 it is, or will be,...in connection with the
197	Moved to	assessment of this Application
198	Insertion);
199	Insertion	9.5 where ECGD...9.3 above) ECGD shall:
200	Insertion	9.5.1 notify those legal...provided to ECGD; and
201	Insertion	9.5.2 in the case of any...authority).
202	Change	"We certify that" changed to "10 We certify that"
203	Change	"Signed on" changed to "Signed"
204	Change	"behalf of" changed to "On behalf of"
205	Deletion	behalf of the Applicant.....
206	Change	"" changed to "[Name of Applicant]"
207	Change	"Address....." changed to "Address"
208	Deletion	Signatory
209	Deletion	Date.....
210	Insertion	Date
211	Change	"the case of incorporated" changed to "the case of an incorporated"
212-213	Change	"incorporated companies" changed to "incorporated company"
214-215	Change	"be signed by an authorised officer on behalf of" changed to "be signed by a director...on behalf of"
216-217	Change	"the case of partnerships, this Application" changed to "the case of a partnership, this Application"
218	Change	"by a partner or partners authorised." changed

		to "by a partner."
219-220	Change	"(Form BCAP.5)" changed to "(Form BCAP.6)"

Statistics	
	Count
Insertions	107
Deletions	111
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	220

Redline options	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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ECGD BUYER CREDIT GUARANTEE APPLICATION SCHEDULE

IMPORTANT INFORMATION CONCERNING THIS SCHEDULE

All relevant questions in this Schedule must be answered fully and truthfully to the best of your knowledge and belief. If the space provided is insufficient, please continue answers on your headed notepaper and attach it to this form.

Sections 5 b vii, 5 b viii and 5 e of this form contain questions in respect of the potential environmental and social impacts relating to the goods and/or services to be supplied and/or rendered under the supply contract and their destination. Prior to completing these sections you should read the "Impact analysis - Customers' guidance notes", which are available from ECGD and can also be found on ECGD's website at www.ecgd.gov.uk. Please note that you do not need to complete the questions in sections 5 b vii, 5 b viii and 5 e if this Schedule is in respect of:

- (i) defence business that requires an export licence or is subject to the 680 clearance procedure, or
- (ii) aerospace business, which meets International Civil Aviation Organisation standards

CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity as defined in paragraph 4.6 of this Application?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied

If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ No

☐ Yes

☐ Yes, but only from the date on which it came into force, namely

(specify date)

1. a SUPPLIER

(Name, Address and Company Registration Number)

b. SUPPLIER'S ULTIMATE HOLDING COMPANY

(Name, Address and Company Registration Number)

<p>2 BUYER (Name and Address)</p>	
<p>3 a BORROWER (Name and Address)</p> <p>b GUARANTOR (Name and Address)</p>	
<p>4. STAGE OF NEGOTIATIONS REACHED</p>	
<p>5. a. i. Description of the overall project including elements of non-UK contractual responsibility</p> <p>ii. Total basic price</p> <p>iii. Estimated final price</p> <p>b. i. Description of goods and/or services for which the Supplier has contractual responsibility (please indicate if any of the goods are second hand)</p> <p>ii. Basic price of elements described at b.i</p> <p>iii. Estimated final price of elements described at b.i</p> <p>iv. Give details of the procedure (e.g. open tender, negotiated contract) used or to be used for awarding the supply contract.</p> <p>v. Will an export licence be required for any of the goods and/or services to be supplied and/or rendered under the supply contract?</p>	

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Please see note on Important Information at the beginning of this Schedule prior to completing, if appropriate, sections 5.b.iv and 5.b.vii

vii Will the goods and/or services have actual or potential direct environmental, health and safety, or social impacts in any of the following areas? (Please tick all relevant boxes and, where possible, under Additional Information quantify the impacts.)

~~Yes~~ ~~No~~
(If Yes, please provide details of the required licence, including the name and address of the issuing authority. If the licensee has already been issued a certified true copy should be attached to this form)

Beneficial Impacts

☐ Please specify:

Adverse Impacts

- ☐ Water pollution or extraction
- ☐ Local air quality
- ☐ Climate change (Kyoto Protocol)
- ☐ Acid deposition
- ☐ Ozone depletion (Montreal Protocol)
- ☐ Use of hazardous substances
- ☐ Production of damaging or toxic waste
- ☐ Noise pollution
- ☐ Degradation of land (e.g. soil contamination, erosion or salinisation)
- ☐ Other adverse impacts, please specify:

Additional Information:

viii Could the goods and/or services that are being supplied be sold in the UK without any modification? (i.e. do the goods and/or services meet all relevant UK standards?)

c i Extent of Supplier's contractual responsibilities (eg supply (fob/cif)/ installation/erection/construction/ commissioning)

ii Are you performing the Supply Contract as a:

a. main contractor?

b. sub contractor?

☐ Yes

☐ No

(If No, please provide an explanation)

☐ Yes

☐ No

☐ Yes

☐ No

(If Yes, please provide details of the main contractor and outline the payment arrangements)

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<p>c member of a joint venture or consortium?</p> <p>d Description of those elements of the project for which the Buyer has contractual responsibility (eg provision and/or preparation of site)</p> <p>e Destination of goods and/or services:</p> <p>i Give the exact geographical location at which the goods will be used and/or the services will be performed (if possible, please provide a map)</p> <p><i>Please see note on Important Information at the beginning of this Schedule prior to completing, if appropriate, section 5.e.ii</i></p> <p>ii Describe the activities carried out at the location where the goods will be used and/or the services will be performed</p> <p>a Current activities</p> <p>b Proposed future activities if different from the current activities</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(If Yes, please give full details on a separate sheet, including the name and address of each of the other parties involved)</p>
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	DESCRIPTION	PRICE IN CURRENCY OF CONTRACT
6 DETAILS OF SUPPLIER'S CONTRACTUAL RESPONSIBILITY		
a UK ELEMENT		
i. Goods		
ii. Services		
		Sub-total
b. OTHER EU ELEMENT		
i. Goods		
ii. Services		
		Sub-total
c. OTHER FOREIGN ELEMENT		
i. Goods		
ii. Services		
		Sub-total
d BUYER'S COUNTRY ELEMENT		
i. Local labour and basic building materials (eg sand, cement, gravel)		
ii. Locally-manufactured goods		
iii. Services (other than labour)		
		Sub-total
e OVERSEAS AGENT'S COMMISSION (See section 7)		
		Sub-total
		TOTAL PRICE

7 AGENTS COMMISSION

7.1 Has any agent or other intermediary been, or will any agent or other intermediary be, involved by you or any of your Affiliates/Controlled Company directly or indirectly in the process leading to the Supply Contract being awarded to you or in connection with any subsequent matters relating to the Supply Contract or any related agreement, undertaking consent, authorisation or arrangement of any kind?

☐

Yes

☐

No

(If Yes, you must please complete the following sections 7.2 to 7.6 below. If more than one agent or intermediary is involved you must please provide separate answers in respect of each party)

7.2 Name and address of agent or intermediary:

~~7.2 Is the agent or intermediary acting for the Purchaser?~~

~~Yes~~

~~No~~

~~If Yes, please (if you are unable to provide any this information you may have regarding the please give your reason(s) for not being able to do so).~~

~~7.3 Does any improper relationship exist between the Purchaser and the agent or intermediary, and the Buyer named in section 2 of this Schedule?~~

☐

~~Yes~~

~~No~~

~~7.4 Please give details of the services that the agent or intermediary is performing:~~

~~7.5 Will you or any Affiliate or anyone acting on your or any of your Affiliates' behalf make any payments is all or any part of the commission payable to the agent or intermediary in respect of the Supply Contract or any related agreement, undertaking consent, authorisation or arrangement of any kind included in the contract price or intended to be covered by ECGD support?~~

☐

~~Yes~~

☐

~~No~~

~~If Yes, are all such payments included in the Supply Contract price shown at section 5 above?~~

~~7.5 If your answer to the question in section 7.4 above is "no", does the commission paid, or to be paid, to the agent or intermediary exceed the lesser of (1) £2,000,000 (or the equivalent in foreign currency or payments in kind) and (2) 5% of the contract price?~~

☐

~~Yes~~

☐

~~No~~

~~(If No, please give details below of the value of any payments that are not included in the contract price together with an explanation)~~

7.6 If your answer either to the question in section 7.4 above or to the question in section 7.5 above is 'yes', please:

7.6.1 give details of the services which the agent or intermediary has provided or is providing:

7.6.2 specify the amount (or, if in the form of payments is kind, the value) of the commission payable to the agent or intermediary:

7.6.3 specify the country or countries where the commission is payable:
(If payment is to be made outside the Purchaser's country, please give an explanation)

9 PROPOSED CONTRACTUAL TERMS OF PAYMENT (Separate details are required if the terms for any element - UK, other EU, other foreign or Buyer's country - differ from the others)	FROM BUYER DIRECT	
	On/within	days of contract
	Within	months of date of contract
	On shipment/delivery/completion/commissioning	
	Other	
	FROM LOAN (subject to its continued availability)	
	Progress payments between	and
		months from date of contract
	On shipment/delivery/performance of services	
	On completion/commissioning	

10. SUPPLIER'S CONTRACTUAL PROGRAMME (A separate programme should be provided for each part of the project for which the Supplier is responsible)	(Expressed in months from date of contract)	
	COMMENCE	COMPLETE
	Shipment/delivery	
	Installation/Erection/Provision of Services	
	Preliminary Testing	
Commissioning		
11 PROPOSED TERMS OF REPAYMENT OF LOAN	By equal half-yearly instalments, the first due 6 months after	

<p>12. DETAILS OF ANY ANCILLARY COVER REQUIRED</p> <p>a. Supplemental Pre-Credit Risk Cover</p> <p>b. Bond Risk Cover</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, a Proposal for an Export Insurance Policy should be attached)</i></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, a Proposal for a Bond Insurance Policy should be attached)</i></p>
<p>13. ANY OTHER RELEVANT DETAILS</p> <p>a. Sources of foreign competition (and terms offered, if known)</p> <p>b. Details of any additional security offered or available</p> <p>c. Other</p>	

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Input:	
Document 1	file://E:/Ud1/MASTERS/Application Forms/Form BCSCHED2.DOC
Document 2	file://G:/BD4/Supp/Brib&Corr-2004/Brib& Corr-Oct04 Final/Applications/Form BCSCHED3.DOC
Rendering set	ECGD

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary:		
No.	Change	Text
1-2	Change	"Form BC Sched2" changed to "Form BC Sched3"
3-4	Change	"Sections 5.b.vi, 5.b." changed to "Sections 5.b.v, 5.b."
5-6	Change	", 5.b.vii and 5.e of" changed to ", 5.b.vi and 5.e of"
7-8	Change	"sections 5.b.vi, 5.b." changed to "sections 5.b.v, 5.b."
9-10	Change	", 5.b.vii and 5.e.ii" changed to ", 5.b.vi and 5.e.ii"
11	Insertion	CODE OF CONDUCT
12	Insertion	(Please complete)
13	Insertion	Has your company got a ...of this Application)?
14-17	Insertion	Yes No
18	Insertion	If Yes:
19	Insertion	Is a copy of your latest code attached?
20-23	Insertion	Yes Previously Supplied
24	Insertion	(If not Previously. you must attach a copy

25	Insertion	and
26	Insertion	Has it been and will it...performing the contract?
27-28	Insertion	No
29-30	Insertion	Yes
31-32	Insertion	Yes, but only from the...(specify date)
33	Deletion	v. Will an export...the supply contract?
34-35	Change	"sections 5.b.vi and 5.b." changed to "sections 5 b.v and 5.b."
36-37	Change	"and 5.b.vii" changed to "and 5.b.vi"
38-39	Change	"vi. Will the goods" changed to "v. Will the goods"
40-41	Change	"vii. Could the" changed to "vi. Could the"
42-45	Deletion	Yes No
46	Deletion	(If Yes, please provide... attached to this form)
47	Deletion	7. AGENTS COMMISSION
48-49,	Change	"you or any of your Affiliates directly or" changed to "you or any Controlled Company directly or"
50-51	Change	"(If Yes, you must complete" changed to "(If Yes, please complete"
52	Change	"complete the following sections" changed to "complete sections"
53	Change	"sections. If more than" changed to "sections 7.2 to 7.6 below. If more than"
54-55	Change	"is involved you must provide separate" changed to "is involved please provide separate"
56	Deletion	intermediary:
57	Deletion	7.3 Is the agent or...for the Purchaser?
58-61	Deletion	Yes No
62-63	Change	"If Yes, please provide" changed to "(If you are unable to provide"
64-65	Change	"provide any information" changed to "provide this information"
66-67	Change	"information you may have regarding the" changed to "information, please give...being able to do so):"
68	Change	"relationship" changed to "7.3 Does any improper relationship"

69	Change	"relationship between the" changed to "relationship exist between the"
70	Change	"between the Purchaser and...agent or intermediary" changed to "between the agent or intermediary"
71-72	Change	"intermediary." changed to "intermediary and the...2 of this Schedule?"
73-76	Insertion	Yes No
77	Deletion	7.4 Please give details...is performing:
78-79	Change	"7.5 Will you or any...payments to the agent" changed to "Is all or any part of the...payable to the agent"
80-81	Change	"intermediary in respect...arrangement of any kind?" changed to "intermediary included in...covered by ECGD support?"
82	Deletion	If Yes, are all such...at section 5 above?
83	Insertion	7.5 If your answer to...of the contract price?
84	Deletion	(If No, please give...with an explanation)
85	Insertion	7.6 If your answer...above is 'yes', please:
86	Insertion	7.6.1 give details of...or is providing:
87	Insertion	7.6.2 specify the amount...agent or intermediary;
88-89	Change	"7.6 Country or countries" changed to "7.6.3 specify the country or countries"

Statistics:	
	Count
Insertions	52
Deletions	37
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	89

Redline options:	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON

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Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF



TO ECGD

APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

CORRUPTION AND MONEY LAUNDERING

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the UK applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

FROM – Airbus S.N.C., 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

~~1~~ We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule").

2 Our Bankers

of

have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the ~~b~~Borrower has *approved / *has yet to approve our Bankers for this purpose.

(*Delete as appropriate)

3 We undertake to notify you immediately of any information we may receive

3.1 about any proposed additional lending from any source in relation to this transaction; and

3.2 that might effect ECGD's decision as to whether to provide a Buyer Credit guarantee to our Bankers.

4 We agree that for the purposes of this Application:

4.1 "Associate" means any company (other than us or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will

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be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.2 "Borrower" means the party so described in the Schedule;

4.3 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

4.4 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.5 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which

4.5.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Contract illegal, void, voidable or unenforceable under its governing law, or

4.5.2 we have, or any Controlled Company or anyone (including any employees) acting (with due authority) on our, or any Controlled Company's, behalf or with our, or its subsequent acquiescence has, other than under duress, admitted engaging in, or

4.5.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.5.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 4.5.1, 4.5.2 and 4.5.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect).

4.6 "Customer" means the party so described in the Schedule;

4.7 "Guarantor" means any party so described in the Schedule;

4.8 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

4.9 "Supply Contract" means the entirety of the contract between ourselves and the Customer which is referred to in the Schedule;

4.10 "Surety" means any party so described in the Schedule; and

4.11 the Applicant is referred to, in the body of this Application, as "we" and "us" and, in the Schedule, as "you"; and, where states of mind belonging to the Applicant are referred to such states of mind are, where the Applicant is an incorporated company, those of one or more board directors of the Applicant or the signatory to this form.

5 We declare that, to the best of our knowledge and belief:

5.1 neither we nor our managing director nor any of our executive vice presidents nor any Controlled Company nor any director of any Controlled Company:

5.1.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency; or**

5.1.2 has at any time during the last five years, other than under duress, admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity that has not previously been notified to ECGD; and**

5.2 the Supply Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002).

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form.)

6 4-We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Customer and/or the Borrower (if different to the Customer) and/or any Surety.**

*(** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form.)*

7 5-We declare that none of the goods and/or services that are to be supplied under the terms of the supply contract will require an export licence to be issued by the UK Government or the Government of any other country.***

*(***If you are unable to make this declaration you should delete it and provide details of the required licence, including the name and address of the issuing authority, on your headed notepaper and attach it to this form. If the licence has already been issued a certified true copy of it should also be attached.)*

8 6-We declare that where this aApplication and the attached scheduleSchedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee

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form number ABBCAp.15020242 or the questions posed in the ECGD Buyer Credit Guarantee Application Schedule provided to us by ECGD.

9 ~~7~~-We understand that

9.1 ~~7.1~~-in our own interest, our ~~e~~Supply ~~e~~Contract should provide for our right to receive direct payment from the Customer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the ~~borrower~~. Borrower;

9.2 it is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule;

9.2.1 that neither we nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's, prior consent or subsequent acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract;

9.2.2 that, if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;

9.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.5.1, 4.5.3 or 4.5.4, would amount to Corrupt Activity) in connection with the Supply Contract (2) we will monitor compliance with that requirement, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and

9.3 ~~7.2~~-(unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to this Application ~~it~~ are confidential and shall not be disclosed to any third party except ~~by~~except

9.3.1 ~~7.2.1~~ by us in confidence to our banker or broker or other professional adviser, or by advisers, in each case for the purpose for which each of them has been employed by us; and

9.3.2 ~~7.2.2~~ by ECGD;

9.3.2.1 ~~7.2.2.1~~ in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department, or, subject to paragraph 7.4 below, to its external legal advisers and other Government Departments; and

~~7.2.2.2~~ in confidence to its reinsurers or professional advisers in connection with its portfolio management; or

~~7.2.2.3~~ in confidence to other export credit agencies, or Government Departments, or its professional advisers, but only in so far as that is necessary in connection with its assessment of this Application, and

9.3.2.2 ~~7.2.2.4~~ after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the eCustomer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project. ~~*****~~

*(***** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form.)***

9.4 it is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD for the transaction described in the Schedule that, where our consent or agreement is required for the disclosure by ECGD of the information referred to at the opening of paragraph 9.3, we will not unreasonably delay or withhold our agreement or consent to any such disclosure (for example, to reinsurers and outsource service providers in connection with ECGD's portfolio management activities, to other export credit agencies or other persons in connection with the assessment of this Application);

9.5 where ECGD discloses, pursuant to paragraph 9.3.2.1 above, to its external legal advisers or any other Government Department any information contained in this Application or its attachments, or provided in any discussions and correspondence relating to this Application, which has not entered the public domain (other than by a breach by ECGD of its obligations under paragraph 9.3 above) ECGD shall:

9.5.1 notify those legal advisers or, as the case may be, that other Government Department of the terms (as set out in paragraph 9.3

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above) on which that information has been provided to ECGD:
and

9.5.2 in the case of any disclosure to another Government Department,
notify us of that disclosure (except where to do so would be
unlawful or might prejudice an investigation by the Serious Fraud
Office, the police or any other investigative authority).

10 In consideration of ECGD entering into a contract of support in relation to
the transaction described in the Schedule, we shall:

7.3

8 We shall allow 10.1 permit
any person authorised by ECGD access to our premises and, if other
than ECGD personnel, approved by us (such approval not to be
unreasonably withheld or delayed by us) to visit any of our premises
where records relating to the performance of the Supply Contract and
the making of disbursement claims under the loan agreement relating
to the Supply Contract are kept during business hours for the sole
purpose of inspecting, auditing and taking copies of such records
including electronic records as that person may reasonably require
that relate to the administration of the supply contract and related
Buyer Credit Support (including but not limited to records that relate
to the actions taken by us to obtain the supply contract, our
administration of the supply contract, including the financing thereof,
and any measures taken to prevent, detect and deal with Corrupt
Activity, and the placing of any sub-contracts, and the employment
of any records, other than those covered by legal privilege, preserved
in any medium or form including records stored electronically which
relate specifically to the performance of the Supply Contract and the
making of disbursement claims under the Loan Agreement (the
"Administration Records"):

10.2 If ECGD confirms in writing to us that it has reasonable grounds for
suspecting that an employee, agent or intermediary of the Supplier
has been engaged in any Corrupt Activity (or any activity which,
subject to the occurrence of the subsequent events referred to in
paragraphs 4.5.1, 4.5.3 and 4.5.4, would amount to Corrupt Activity) in
connection with the Supply Contract, permit an independent third
party acceptable to us and ECGD to visit any of our premises where
records relating to the obtaining and performance of the Supply
Contract and the making of disbursement claims under the loan
agreement are kept during business hours for the sole purpose of
inspecting and auditing any records, other than those covered by
legal privilege, preserved in any medium or form including records
stored electronically which relate (a) specifically to our obtaining of
the Supply Contract or the employment of, and payments to or for the
benefit of, any agents or other intermediaries involved directly or indirectly
at any time with the supply contract) and shall provide such explanation
within our knowledge of these records as that person may reasonably
require, provided that ECGD shall give no less than five business
days' notice of such inspection and shall on request reimburse us for
the cost of such copies and shall respect any legal privilege that may

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~~exist in respect of these records and shall destroy or on request return these records to us when ECGD considers they have served the purpose for which they were obtained and shall treat as confidential all information so obtained subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department and ECGD's right to disclose such information in confidence to its reinsurers or professional advisers in connection with its portfolio management. Supply Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and, together with the Administration Records, the "Records"), provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made, and information given, to ECGD by us in the application form which we have submitted to ECGD requesting it to give Buyer Credit support to the Supply Contract; and~~

10.3 in relation to paragraphs 10.1 and 10.2 furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will:

10.3.1 give not less than five Business Days notice of such visits referred to in paragraphs 10.1 and 10.2;

10.3.2 on request pay to us the cost of supplying any copies of the Administration Records;

10.3.3 hold in confidence, and not disclose to any third party without our prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities, provided, in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this paragraph shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information; and (b) to the extent permitted by law, give us reasonable notice of its intention to disclose any Confidential Information under the Code and consult with us in deciding whether to disclose any Confidential Information under the Code; and

10.3.4 destroy the Confidential Information or, if so requested, return it to us when ECGD considers that it has served the purpose for which it was obtained.

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11 Nothing in paragraph 10 above shall:

11.1 oblige us or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality; or

11.2 be construed as consent by us to ECGD to disclose any Confidential Information in accordance with the Code.

12 ~~9~~ - The procedure (e.g. open tender, negotiated contract) used or to be used for awarding the supply contract was or will be -

(Please specify)

13 ~~10~~ - We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the schedule hereto.

Signed on behalf of the Applicant

Capacity of
Signatory

Date

This application should be signed by an authorised officer for and on behalf of Airbus S.N.C. and should state the capacity in which the signatory acts.

(ABBCAp 1502024)2)

Input:	
Document 1	file://E:/Ud1/MASTERS/Application Forms/Airbus Application Form 2004022416.doc
Document 2	file://G./BD4/Supp/Brib&Corr-2004/Brib& Corr-Oct04 Final/Applications/Airbus Application Form 2004091511.doc
Rendering set	ECGD

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary:		
No.	Change	Text
1-2	Change	"and to the UK law on money" changed to "and to the applicable law on money"
3	Deletion	1
4	Change	"We request you" changed to "1 We request you"
5	Change	"attached schedule." changed to "attached schedule ("the Schedule")."
6-7	Change	"transaction, and the borrower" changed to "transaction, and the Borrower"
8-9	Change	"transaction, and" changed to "transaction; and"
10-11	Insertion	4 We agree that for the...of this Application:
12	Insertion	4.1 "Associate" means any... we are also a party;
13	Insertion	4.2 "Borrower" means the...in the Schedule;
14	Insertion	4.3 "control" and...capital of that company;
15	Insertion	4.4 "Controlled Company"...is controlled by us;

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16	Insertion	4.5 "Corrupt Activity"...or other person) which
17	Insertion	4.5.1 is subsequently...its governing law, or
18	Insertion	4.5.2 we have, or any...admitted engaging in, or
19	Insertion	4.5.3 is subsequently...any applicable law, or
20	Insertion	4.5.4 is subsequently...retrospective effect)
21	Insertion	and which activity, in...retrospective effect).
22	Insertion	4.6 "Customer" means the...in the Schedule;
23	Insertion	4.7 "Guarantor" means any...in the Schedule;
24	Insertion	4.8 "Relevant Acts"...amended or re-enacted);
25	Insertion	4.9 "Supply Contract"...to in the Schedule;
26	Insertion	4.10 "Surety" means any...in the Schedule; and
27	Insertion	4.11 the Applicant is...signatory to this form.
28-29	Insertion	5 We declare that, to the...knowledge and belief:
30	Insertion	5.1 neither we nor our...any Controlled Company:
31	Insertion	5.1.1 appears on any...aid agency; or**
32	Insertion	5.1.2 has at any time...notified to ECGD; and**
33	Insertion	5.2 the Supply Contract,...of Crime Act 2002).
34	Insertion	(** If you are unable to...attach it to this form.)
35	Change	"We declare that" changed to "4 We declare that"
36	Change	"We declare that" changed to "5 We declare that"
37	Change	"We declare that" changed to "6 We declare that"
38-39	Change	"where this application" changed to "where this Application"
40-41	Change	"pplication and the...has been transmitted" changed to "pplication and the Schedule has been transmitted"
42-43	Change	"ABBCAp.1502021 or the questions" changed to "ABBCAp.1502022 or the questions"

the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information; and (b) to the extent permitted by law, give the Banker reasonable notice of its intention to disclose any Confidential Information under the Code and consult with the Banker in deciding whether to disclose any Confidential Information under the Code; and

~~44.1.6.53~~ destroy the Confidential Information or if requested return ~~it~~ them to the Banker when ECGD considers that it has ~~they have~~ served the purpose for which it ~~was~~ ~~they were~~ obtained.

11.2 Nothing in ~~this~~ Clause 11.1 shall:

11.2.1 -oblige the Banker or ECGD to act unlawfully or in breach of any regulation or requirement of any ~~its~~ regulatory or investigatory bodies or any duty of confidentiality; or

11.2.2 ~~Nothing herein shall~~ be construed as consent by the Banker to ECGD to disclose any Confidential Information in accordance with the Code.

AUDIT CLAUSE FOR SUPPLIERS

5.9 that the Supplier shall:

5.9.1 permit any person authorised by ECGD to visit any of its UK premises where records relating to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting, auditing and taking copies of any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate specifically to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement (the "Administration Records");

5.9.2 if ECGD confirms in writing to the Supplier that it has reasonable grounds for suspecting that an employee, [partner]¹, agent or intermediary of the Supplier has been engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in Clauses 2.7.4.1, 2.7.4.3 and 2.7.4.4, would amount to Corrupt Activity) in connection with the Supply Contract, permit ECGD personnel to visit any of its UK premises where records relating to the obtaining and performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting and auditing any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate (a) specifically to the Supplier's obtaining of the Supply Contract or the employment of, and payments to or for the benefit of, any agents or other intermediaries involved directly or indirectly at any time with the Supply Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and, together with the Administration Records, the "Records"), provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made, and information given, to ECGD by the Supplier in the Application Form; and

5.9.3 furnish such oral or written explanations thereof within its knowledge as ECGD's

¹ Include if supplier is a partnership

authorised representative or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will.

5.9.3.1 give not less than five Business Days notice of such visit;

5.9.3.2 on request pay to the Supplier the cost of supplying any copies of the Records;

5.9.3.3 hold in confidence, and not disclose to any third party without the Supplier's prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities, provided, in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this clause shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information; and (b) to the extent permitted by law, give the Supplier reasonable notice of its intention to disclose any Confidential Information under the Code and consult with the Supplier in deciding whether to disclose any Confidential Information under the Code; and

5.9.3.4 destroy the Confidential Information or, if so requested, return it to the Supplier when ECGD considers that it has served the purpose for which it was obtained,

5.10 that nothing in Clause 5.9 shall:

11.2.1 oblige the Supplier or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality; or

11.2.2 be construed as consent by the Supplier to ECGD to disclose any Confidential Information in accordance with the Code

CLAUSE 2 INTERPRETATION

In this Agreement

2.1 "Application Form" means the application form submitted by the Supplier to ECGD requestion ECGD to support the financing of the Supply Contract, a copy of which application form is annexed to this Agreement: "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offense under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities;

2.2 "Associate" means any company (other than the Supplier or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which the Supplier is also a party;

2.3 "CIRR Rate" means the 2-5 year Sterling contract Commercial Interest Reference Rate specified under the OECD Consensus and displayed from time to time on the ECGD website @ www.ecgd.gov.uk

2.4 "Consensus" means the OECD arrangements on guidelines for officially supported export credits

2.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

2.6 "Controlled Company" means any company (in any jurisdiction) which is controlled by the Supplier,

2.7 "Corrupt Activity" means any activity (including without limitation, the offering of any payment reward or other advantage to any public official or other person) which:

2.7.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Supply Contract illegal, void, voidable or unenforceable under its governing law, or

2.7.2 the Supplier, or any Controlled Company or anyone (including any employee) acting (with due authority) on the Supplier's, or any Controlled Company's behalf of or with the Supplier's, or its, Subsequent Acquiescence has, other than under duress, admitted engaging in, or

2.7.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

2.7.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 2.7.1, 2.7.2 and 2.7.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect):

2.8 "Eligible Bank Support Agreement" means an agreement between an Eligible Bank which has taken an assignment of all or any part of the rights and benefits under the Loan Agreement² [either of a Lender in accordance with Clause 11.3 thereof or] of ECGD² [thereunder] in accordance with Clause 11.4 thereof of the one part and ECGD of the other part whereby ECGD guarantees on the terms (mutatis mutandis) set out in Clause 4.1 of the Support Agreement to pay to that Eligible Bank that proportion of the unpaid amounts referred to in that Clause to which that Eligible Bank shall have become entitled by virtue of such assignment as aforesaid

2.9 "Immaterial Default" means any default by the Supplier in the observance or performance of its obligations under the Supply Contract which in the opinion of ECGD is neither material nor substantial or which in the opinion of ECGD has been caused by

2.9.1 an act or omission by the Buyer not induced or provoked by the Supplier or

2.9.2 the prevention of or delay in the transfer of funds in respect of the Supply Contract resulting from the occurrence outside the UK of political events economic difficulties legislative or administrative measures or a general moratorium or

2.9.3 any measure or decision (including the non-renewal or cancellation of an export licence) of any government other than that of the UK which in whole or in part prevents performance of the Supply Contract or

2.9.4 the occurrence outside the UK of hostilities civil disturbance or natural disaster which in whole or in part prevents performance of the Supply Contract or

2.9.5 the cancellation or non-renewal of a UK export licence
or

2.9.6 any restrictions introduced in the UK after the date of
the Supply Contract which prevent performance of the Supply
Contract other than the refusal to grant a UK export licence or
other authorisation necessary for performance of the Supply
Contract if such authorisation was required on the date of the
Supply Contract

2.10 "OECD" means the Organisation for Economic Co-
operation and Development

2.11 "Relevant Acts" means the Prevention of Corruption Acts 1889
to 1916 (as from time to time amended or re-enacted)

~~2.12 "Subsequent Acquiescence" means, in relation to any activity
which would constitute an offence under any of the Relevant Acts,
being aware of, or having reason to suspect, the occurrence of that
activity but failing to take Appropriate Action in relation to it~~

¹[2.8 "Sterling Equivalent" means in relation to any amount of
administrative charge and/or premium expressed in dollars under the
terms of this Agreement such amount converted into sterling at a rate
being the closing mid-point of the spot buying and selling rates of
exchange of dollars for sterling as quoted in the "Financial Times"
which prevailed on a date four Banking Days prior to the due date for
payment by the [Supplier] [Companies] to ECGD of any such amount.
If it is not possible to arrive at such a rate in this manner ECGD will
advise the [Supplier] [Companies] on the rate to be used]

¹ This Clause should be inserted if the Supplier/Companies have opted to pay premium in sterling
rather than dollars

2.13 Any expression defined in the Loan Agreement or the Support Agreement shall have the same meaning when used in this Agreement

2.14 Where the context of this Agreement so allows words importing the singular include the plural and vice versa

2.15 Unless otherwise indicated reference to a specified Clause or Appendix shall be construed as reference to that specified Clause of or Appendix to this Agreement

2.16 Clause headings are for ease of reference only

CLAUSE 5.11 THE OBLIGATIONS OF THE SUPPLIER

5.11 that

~~5.11.1~~ if the Supplier or, any Controlled Company or anyone (including any employees) acting on the Supplier's, or that Controlled Company's, behalf with due authority, or with the Supplier's, or that Controlled Company's prior consent or subsequent acquiescence, has engaged, or engages, in any Corrupt Activity in connection with the Supply Contract

the Supplier will on demand pay to ECGD:

~~5.11.13~~ any amounts that ECGD certifies it has paid to the Banker in respect of any loss or expense the Banker has incurred in respect of amounts advanced under the Loan Agreement, [and]

²[~~5.11.24~~ any amounts that ECGD certifies as being the net cost to ECGD of making payments to the Banker in respect of advances under the Loan Agreement by way of interest equalisation or make up, and]

5.11 ~~2[5]~~ any amounts that ECGD certifies it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the Loan Agreement, the Support Agreement or this Agreement

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Supply

² Delete if this is a pure cover loan

C:\Documents and Settings\scavies\Local Settings\Temporary Internet Files\OLK7D\PRA Clauses 2
5.11(v2.0).doc C:\Documents and Settings\scavies\Local Settings\Temporary Internet Files\OLK125\PRA Clauses 2
5.11(v2.0).doc C:\GCGON\Business Division 4\2-Drafts & Comments\PRAs\Clauses 2 & 5.11(v2.0).doc C:\Documents and
Settings\scavies\Local Settings\Temporary Internet Files\OLK125\EC\Clauses 25.11.doc

Contract, or any related agreement, undertaking, consent, authorisation or arrangement of any kind became illegal, void or unenforceable under its governing law as a result of that activity

5.12 that if the Supplier becomes aware that any Associate or anyone (including any of its employees) acting on its behalf (with due authority) or with its Subsequent Acquiescence has engaged in Corrupt Activity in connection with the Supply Contract or any related agreement undertaking consent, authorisation or arrangement of any kind the Supplier shall promptly notify ECGD accordingly and supply ECGD will full details of the Corrupt Activity in question save where such notification would, or might reasonably argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002

5.13 that (1) the Supplier shall have required or shall require anyone (including any of its employees) acting on its behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 2.7.1, 2.7.3 and 2.7.4 would amount to Corrupt Activity) in connection with the Supply Contract (2) will monitor compliance with that requirement and (3) will take Appropriate Action against anyone found to have engaged in Corrupt Activity

5.14 the Supplier will not unreasonably delay or withhold consent to disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Forms.

Her Britannic Majesty's Secretary of State
Acting by the
Export Credits Guarantee Department
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
England ("ECGD")

PROVISION OF BUYER CREDIT SUPPORT

- ~~C:\Documents and Settings\davids\Local Settings\Temporary Internet Files\OLK7D\NIR\Airbus Undertaking Letter v2.0.doc~~~~C:\Documents and Settings\stokess\Local Settings\Temporary Internet Files\OLK7D\NIR\Airbus Undertaking Letter v2.0.doc~~~~C:\CCO\Business Division \Eriksen & Corruption\NIR\Airbus Undertaking Letter v2.0.doc~~~~C:\CCO\Business Division \Eriksen and Corruption\NIR B2C Docs\NIR\Airbus Undertaking Letter.doc~~

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- 1.3 to the best of our knowledge and belief, -
- 1.3.1 neither we nor our managing director nor any of our executive vice presidents, nor any Controlled Company nor any director of any Controlled Company
- 1.3.1.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency; or
- 1.3.1.2 has at any time during the last five years, other than under duress, admitted having engaged or been found by a court in any competent jurisdiction to have engaged in any Corrupt Activity that has not previously been notified to ECGD;
- 1.3.2 ~~each~~ the Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002);
- 1.4 if at any time the undertakings given at paragraphs 1.3.1 and 1.3.2 above become or are found to be untrue or incorrect to the best of our knowledge and belief we will immediately give written notice to ECGD and such notice shall include details of the events that resulted in any such listing and/or any court finding;
- 1.5 if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its ~~s~~Subsequent ~~a~~Acquiescence, has engaged in any Corrupt Activity in connection with the Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;
- 1.6 (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs ~~43.63.1~~, ~~43.63.3~~ or ~~43.63.4~~, would amount to Corrupt Activity) in connection with the Contract (2) we will monitor compliance with that requirement, and (3) we will take ~~a~~Appropriate ~~a~~Action against anyone found to have engaged in any Corrupt Activity; and
- 1.7 we will not unreasonably delay or withhold consent to the disclosure by ECGD of any matters which are otherwise

confidential by virtue of the provisions of the ECGD Application Forms

2. In relation to each instance where ECGD gives Buyer Credit Support to a Contract, we agree that, in consideration of ECGD giving that Buyer Credit Support:

2.1 we shall,

2.1.1 permit any person authorised by ECGD to visit any of our premises where records relating to the performance of the Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting, auditing and taking copies of any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate specifically to the performance of the Contract and the making of Disbursement Claims under the Loan Agreement (the "Administration Records").

2.1.2 If ECGD confirms in writing to us that it has reasonable grounds for suspecting that an employee, agent or intermediary of the Supplier has been engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in Clauses 4.6.1, 4.6.3 and 4.6.4, would amount to Corrupt Activity) in connection with the Contract, permit ECGD personnel to visit any of our premises where records relating to the obtaining and performance of the Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting and auditing any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate (a) specifically to our obtaining of the Contract or the employment of, and payments to or for the benefit of, any agents or other intermediaries involved directly or indirectly at any time with the

Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and, together with the Administration Records, the "Records"). provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made, and information given, to ECGD by us in the application form which we have submitted to ECGD requesting it to give Buyer Credit Support to the Contract; and

2.1.3 furnish such oral or written explanations thereof within its knowledge, as ECGD's authorised representative or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will

2.1.3.1 give not less than five Business Days notice of such visit;

2.1.3.2 on request pay to us the cost of supplying any copies of the Records;

2.1.3.3 hold in confidence, and not disclose to any third party without our prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities, provided, in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in

2.1.3.4 destroy the Confidential Information or, if so requested, return it to us when ECGD considers that it has served the purpose for which it was obtained,

2.2.1 oblige us or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality; or

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34 We understand for the purposes of this undertaking -

3.24.1 "Associate" means any company (other than us or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

3.34.2 "Buyer Credit Support" means the provision by ECGD of support to banks under its Buyer Credit facilities in respect of loans to be provided to finance the purchase of Airbus aircraft to be supplied under contracts entered into by ourselves with buyers;

3.44.3 "Contract" means a contract for the sale of an Airbus aircraft (that receives Buyer Credit Support) or the substitute contract for which finance is provided by means of a loan that receives Buyer Credit Support;

3.54.4 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

3.64.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

3.74.6 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which

3.7.14.6.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Contract illegal, void, voidable or unenforceable under its governing law, or

3.7.24.6.2 we have, or any Controlled Company or anyone (including any employees) acting (with due authority) on our, or any Controlled Company's, behalf or with our, or its sSubsequent aAcquiescence has, other than under duress, admitted engaging in, or

3.7.34.6.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

3.7.44.6.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 43.67.1, 43.67.2 and 43.67.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect).

3.84.7 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

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~~3.9 "Subsequent Acquiescence" means, in relation to any activity which would constitute an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it~~

45 This undertaking shall be construed in accordance with English law and we agree to submit to the exclusive jurisdiction of the English courts in respect of any dispute arising in connection with this undertaking.

Yours faithfully,

Noel FORGEARD

Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 25 August 2004 09:49
To: John Weiss; Claire Stokes
Cc: Nicholas Ridley; John Ormerod; Charles Redfern; Roy Donovan; Angela Cooper; CBI
ECGD Solutions Group
Subject: Response to the ECGD letter of 12 August 2004



Mac Word 3.0



ATT109350.bt

John

As you know the members of the CBI ECGD Solutions Group have been carefully considering your letter of 12 August.

The CBI ECGD Solutions Group now responds, as indicated, to the two points -

Re the application form and related points:

application form - for the definition of 'we/us' we opt for (iii) in your letter (the wider definition)

best of our knowledge and belief - fine, thank you.

the banks' audit clause - you have received comments from Clive Jones.

suppliers' audit clause - in the first line of 5.9.1 (clause 8 in the Airbus application form) after

'by ECGD' insert 'and, if other than ECGD personnel, approved by the Supplier (such

approval not to be unreasonably withheld or delayed by the Supplier)'.
- we would wish to record that nothing here would have the effect of overriding

or extending
the scope of eventual agreement regarding the provision of agency information.

- 5.9.2 - in line 5 delete 'ECGD personnel' and insert 'an independent third party acceptable
to the Supplier and ECGD'.

- 5.9.3.1 - should the notice point be a condition relating to 5.9.1 and 5.9.2
- it seems odd here.

5.9.3.2 - insert 'Administration' before 'Records'.

- 5.9.3.3 - last word of penultimate line should be 'Confidential'.

- 5.10 - numbering?

clause 2 - second line of 2.1 - 'requesting'

clauses 5.11-5.14 - penultimate line of 5.12 - insert 'be' between 'might' and 'reasonably'.

Airbus letter - the audit clause belongs in the Airbus application form and should not appear in the letter.

Subject to the points above, the remaining comments outstanding from Clive Jones and the question of the agency information (addressed below), the documents with your letter of 12 August are now acceptable to the CBI ECGD Solutions Group.

2. Re the common position on agency information

Following the above re the forms, the CBI team has been trying very hard to get language agreed on the Agency issues. We address the specifics of Question 9 below. However, I think it is fair to say that we are a long way away from what you, John, suggested in your letter (although much closer to the lines upon which the DTI - as you know - had spoken to James Caldwell).

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You will not be surprised that it is the Agency issue which has taken us most time to agree a common position here, not least because exporters all have different appointment processes and agreements with different levels of sensitivity attached. The redraft of Question 9 taking into account these differences is attached. The concerns relating to confidentiality that were put forward by members of the Solutions Group at the meeting on 9 August remain. Although we are unable to agree to divulge details of agents to ECGD we hope that the compromise of offering you either details of the due diligence process by which agents/advisers are appointed or the pro-forma agency/advisory agreement forming the basis of that appointment will enable you to take a positive view of the compromise that we are offering.

There follows as an attachment a proposed redraft of the Agents Commission question from the Application Schedule. We accept that where commission HAS been included in the gross price quoted to ECGD, both the level of commission and the name of 'agent' concerned would require disclosure, except, in the case of the name of agent, where there is justification for not disclosing it (eg competitive reasons).

The general statement at 9.1 has been expanded to cater (hopefully) for any concerns that the ECGD may have, and we would hope that this represents a fair compromise.

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Roy Donovan

From: Nicholas Ridley
Sent: 02 September 2004 12:34
To: 'Peter Malcolm'
Cc: Patrick Crawford; John Weiss; Claire Stokes; John Ormerod; Charles Redfearn; Roy Donovan; Angela Cooper; CBI ECGD Solutions Group
Subject: RE: Response to the ECGD letter of 12 August 2004



(NR) Airbus Suppliers' Audit PRA Clauses 2
Undertaking Letter... Clause(Alt 2) 5.11(v2.0)3.doc

Dear Peter,

I am replying to your e-mail of 25th August to John Weiss in the latter's absence.

I am pleased to be able to say that, as far as point number 1 in your e-mail is concerned, we appear, with one exception to which I refer below, to have no issues between us. We attach new forms of the Suppliers' Audit Clause, Airbus letter and Premium and Recourse Agreement to reflect the minor drafting changes requested by you. We note the definition of "we/us" for which you opt in the Application Form and will attend that accordingly. We would like to thank you for your help during the past two months in getting to this stage on the matters referred to above.

The only point that we make in relation to your paragraph number 1 of your e-mail of 25th August is that it would in fact be more appropriate that the Audit Clause, as a promise as to the future, should go in with the other contractual promises as to the future in the Airbus letter, just as in non-Airbus matters it goes in the Premium and Recourse Agreement. If it does not, it will not be possible to harmonise the Airbus and non-Airbus Application Forms as we wish to do. If there is some significant difficulty for Airbus in putting it in their letter, we will need the following words in the Application Form in order to create a collateral contract in relation to that clause: "In consideration of ECGD entering into a contract of support in relation to the transaction described in the Schedule, we shall". But it would be much more elegant to put it in the already existing collateral contract, i.e. the Airbus letter, and trust that this will be agreed.

As you say, nothing referred to above of course has the effect of overriding anything eventually agreed regarding the provisions of agency information. We do not respond in this e-mail on the question of information about agents. We are currently consulting with Ministers

— need to make reference to the next relevant Airbus delivery which I understand is scheduled for 17th September and, before which, we must try to have concluded not only the minor issue about the Audit Clause referred to above (which is easily soluble and will allow a new Airbus letter to be signed in time) but also the more thorny issue of information about agents.

Yours ever,

Nicholas Ridley
Nicholas.ridley@ecgd.gsi.gov.uk

P.S. We will study the BBA letter which arrived this morning.

-----Original Message-----

From: Peter Malcolm [mailto:Peter.Malcolm@cbi.org.uk]
Sent: 25 August 2004 09:49
To: John Weiss; Claire Stokes
Cc: Nicholas Ridley; John Ormerod; Charles Redfearn; Roy Donovan; Angela Cooper; CBI ECGD Solutions Group
Subject: Response to the ECGD letter of 12 August 2004

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John

As you know the members of the CBI ECGD Solutions Group have been carefully considering your letter of 12 August

The CBI ECGD Solutions Group now responds, as indicated, to the two points -

1. Re the application form and related points:

application form - for the definition of 'we/us' we opt for (iii) in your letter (the wider definition).

best of our knowledge and belief - fine, thank you

the banks' audit clause - you have received comments from Clive Jones.

suppliers' audit clause - in the first line of 5.9.1 (clause 8 in the Airbus application form) after

'by ECGD' insert 'and, if other than ECGD personnel, approved by the Supplier (such

approval not to be unreasonably withheld or delayed by the Supplier)'.
- we would wish to record that nothing here would have the effect of overriding

or extending
the scope of eventual agreement regarding the provision of agency information

5.9.2 - in line 5 delete 'ECGD personnel' and insert 'an independent third party acceptable to the Supplier and ECGD'.

- 5.9.3.1 - should the notice point be a condition relating to 5.9.1 and 5.9.2 - it seems odd here.

- 5.9.3.2 - insert 'Administration' before 'Records'.

- 5.9.3.3 - last word of penultimate line should be 'Confidential'.

- 5.10 - numbering?

clause 2 - second line of 2.1 - 'requesting'.

clauses 5.11-5.14 - penultimate line of 5.12 - insert 'be' between 'might' and 'reasonably'.

Airbus letter - the audit clause belongs in the Airbus application form and should not appear in the letter.

Subject to the points above, the remaining comments outstanding from Clive Jones and the question of the agency information (addressed below), the documents with your letter of 12 August are now acceptable to the CBI ECGD Solutions Group

Re the common position on agency information

Following the above re the forms, the CBI team has been trying very hard to get language agreed on the Agency issues. We address the specifics of Question 9 below. However, I think it is fair to say that we are a long way away from what you, John, suggested in your letter (although much closer to the lines upon which the DTI - as you know - had spoken to James Caldwell).

You will not be surprised that it is the Agency issue which has taken us most time to agree a common position here, not least because exporters all have different appointment processes and agreements with different levels of sensitivity attached. The redraft of Question 9 taking into account these differences is attached. The concerns relating to confidentiality that were put forward by members of the Solutions Group at the meeting on 9 August remain. Although we are unable to agree to divulge details of agents to ECGD we hope that the compromise of offering you either details of the due diligence process by which agents/advisers are appointed or the pro-forma agency/advisory agreement forming the basis of that appointment will enable you to take a positive view of the compromise that we are offering.

There follows as an attachment a proposed redraft of the Agents Commission question from the Application Schedule. We accept that where commission HAS been included in the gross price quoted to ECGD, both the level of commission and the name of 'agent' concerned would require disclosure, except, in the case

of the name of agent, where there is justification for not disclosing it (eg competitive reasons).

The general statement at 9.1 has been expanded to cater (hopefully) for any concerns that the ECED may have, and we would hope that this represents a fair compromise.

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[] ~~August~~ September, 2004

Her Britannic Majesty's Secretary of State
acting by the
Export Credits Guarantee Department
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
England ("ECGD")

Dear Sirs,

PROVISION OF BUYER CREDIT SUPPORT

- 1 In consideration of ECGD agreeing to consider providing Buyer Credit Support (which we acknowledge to be a good and valuable consideration) we undertake that:

1.1 in connection with any Contract neither we nor to the best of our knowledge or belief any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or subsequent acquiescence has engaged or will engage in any Corrupt Activity;

1.2 if we or, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or subsequent acquiescence engages in any Corrupt Activity in connection with a Contract we will on demand pay to ECGD any amount that ECGD certifies -

1.2.1 that it has paid to the lending bank in respect of any loss or expense the lending bank has incurred in respect of amounts advanced under the relevant loan;

1.2.2 as being the net cost to ECGD of making payments to the lending bank in respect of advances under the relevant loan by way of interest equalisation or make up; and

1.2.3 it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the relevant loan, or its guarantee

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Contract became illegal, void, or unenforceable under its governing law as a result of that activity; and

1.3 to the best of our knowledge and belief, -

1.3.1 neither we nor our managing director nor any of our executive vice presidents, nor any Controlled Company nor any director of any Controlled Company

1.3.1.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, or

1.3.1.2 has at any time during the last five years, other than under duress, admitted having engaged or been found by a court in any competent jurisdiction to have engaged in any Corrupt Activity that has not previously been notified to ECGD;

1.3.2 each Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002);

1.4 if at any time the undertakings given at paragraphs 1.3.1.1 and 1.3.1.2 above become or are found to be untrue or incorrect to the best of our knowledge and belief we will immediately give written notice to ECGD and such notice shall include details of the events that resulted in any such listing and/or any court finding;

1.5 if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity in connection with the Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;

1.6 (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Contract (2) we will monitor compliance with that requirement, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and

1.7 we will not unreasonably delay or withhold consent to the disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Forms.

2. In relation to each instance where ECGD gives Buyer Credit Support to a

Contract, we agree that, in consideration of ECGD giving that Buyer Credit Support:

2.1 we shall:

2.1.1 permit any person authorised by ECGD and, if other than ECGD personnel, approved by us (such approval not to be unreasonably withheld or delayed by us) to visit any of our premises where records relating to the performance of the Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting, auditing and taking copies of any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate specifically to the performance of the Contract and the making of Disbursement Claims under the Loan Agreement (the "Administration Records");

2.1.2 if ECGD confirms in writing to us that it has reasonable grounds for suspecting that an employee, agent or intermediary of the Supplier has been engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in Clauses 4.6.1, 4.6.3 and 4.6.4, would amount to Corrupt Activity) in connection with the Contract, permit ECGD personnel ~~an independent third party acceptable to us~~ and ECGD to visit any of our premises where records relating to the obtaining and performance of the Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting and auditing any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate (a) specifically to our obtaining of the Contract or the employment of, and payments to or for the benefit of, any agents or other intermediaries involved directly or indirectly at any time with the Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and, together with the Administration Records, the "Records"), provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made, and information given, to ECGD by us in the application form which we have submitted to ECGD requesting it to give Buyer Credit Support to the Contract, and

2.1.3 in relation to Clauses 2.1.1 and 2.1.2 furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will

2.1.3.1 give not less than five Business Days notice of such visits referred to in Clauses 2.1.1 and 2.1.2;

2.1.3.2 on request pay to us the cost of supplying any copies of the Administration Records;

2.1.3.3 hold in confidence, and not disclose to any third party without our prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities, provided, in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this clause shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information; and (b) to the extent permitted by law, give us reasonable notice of its intention to disclose any Confidential Information under the Code and consult with us in deciding whether to disclose any Confidential Information under the Code; and

2.1.3.4 destroy the Confidential Information or, if so requested, return it to us when ECGD considers that it has served the purpose for which it was obtained,

2.2 nothing in paragraph 2.1 above shall:

2.2.1 oblige us or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality; or

2.2.2 be construed as consent by us to ECGD to disclose any Confidential Information in accordance with the Code.

3 We agree that the above undertakings shall apply in respect of any Contract where any drawings are made from the relevant loan after the date of this letter and prior to 4th February 2005.

4 We understand for the purposes of this undertaking -

4.1 "Associate" means any company (other than us or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.2 "Buyer Credit Support" means the provision by ECGD of support to banks under its Buyer Credit facilities in respect of loans to be provided to finance the purchase of Airbus aircraft to be supplied under contracts entered into by ourselves with buyers;

4.3 "Contract" means a contract for the sale of an Airbus aircraft (that receives Buyer Credit Support) or the substitute contract for which finance is provided by means of a loan that receives Buyer Credit Support;

4.4 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

4.6 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which

4.6.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to

have rendered the Contract illegal, void, voidable or unenforceable under its governing law, or

4.6.2 we have, or any Controlled Company or anyone (including any employees) acting (with due authority) on our, or any Controlled Company's, behalf or with our, or its subsequent acquiescence has, other than under duress, admitted engaging in, or

4.6.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.6.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 4.6.1, 4.6.2 and 4.6.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect).

4.7 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

5 This undertaking shall be construed in accordance with English law and we agree to submit to the exclusive jurisdiction of the English courts in respect of any dispute arising in connection with this undertaking.

Yours faithfully,

Noel FORGEARD

AUDIT CLAUSE FOR SUPPLIERS

5.9 that the Supplier shall:

5.9.1 permit any person authorised by ECGD and, if other than ECGD personnel, approved by the Supplier (such approval not to be unreasonably withheld or delayed by the Supplier) to visit any of its UK premises where records relating to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting, auditing and taking copies of any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate specifically to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement (the "Administration Records");

5.9.2 If ECGD confirms in writing to the Supplier that it has reasonable grounds for suspecting that an employee, [partner]¹, agent or intermediary of the Supplier has been engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in Clauses 2.7.4.1, 2.7.4.3 and 2.7.4.4, would amount to Corrupt Activity) in connection with the Supply Contract, permit ~~ECGD personnel~~ an independent third party acceptable to the Supplier and ECGD to visit any of its UK premises where records relating to the obtaining and performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting and auditing any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate (a) specifically to the Supplier's obtaining of the Supply Contract or the employment of, and payments to or for the benefit of, any agents or other intermediaries involved directly or indirectly at any time with the Supply Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and, together with the Administration Records, the "Records"), provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made,

¹ Include if supplier is a partnership

and information given, to ECGD by the Supplier in the Application Form; and

5.9.3 in relation to Clauses 5.9.1 and 5.9.2 furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will:

5.9.3.1 give not less than five Business Days notice of such visits referred to in Clauses 5.9.1 and 5.9.2;

5.9.3.2 on request pay to the Supplier the cost of supplying any copies of the Administration Records;

5.9.3.3 hold in confidence, and not disclose to any third party without the Supplier's prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities, provided, in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this clause shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information; and (b) to the extent permitted by law, give the Supplier reasonable notice of its intention to disclose any Confidential Information under the Code and consult with the Supplier in deciding whether to disclose any Confidential Information under the Code; and

5.9.3.4 destroy the Confidential Information or, if so requested, return it to the Supplier when ECGD considers that it has served the purpose for which it was

obtained,

5.10 that nothing in Clause 5.9 shall.

~~44.2.45.10.1~~ oblige the Supplier or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality; or

~~44.2.25.10.2~~ be construed as consent by the Supplier to ECGD to disclose any Confidential Information in accordance with the Code.

PREMIUM AND RECOURSE AGREEMENT EXTRACTS

CLAUSE 2 INTERPRETATION

In this Agreement ...

2.1 "Application Form" means the application form submitted by the Supplier to ECGD requesting ECGD to support the financing of the Supply Contract, a copy of which application form is annexed to this Agreement;

2.2 "Associate" means any company (other than the Supplier or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which the Supplier is also a party;

2.3 "CIRR Rate" means the 2-5 year Sterling contract Commercial Interest Reference Rate specified under the OECD Consensus and displayed from time to time on the ECGD website @ www.ecgd.gov.uk

2.4 "Consensus" means the OECD arrangements on guidelines for officially supported export credits

2.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

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2.6 "Controlled Company" means any company (in any jurisdiction) which is controlled by the Supplier;

2.7 "Corrupt Activity" means any activity (including without limitation, the offering of any payment reward or other advantage to any public official or other person) which:

2.7.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Supply Contract illegal, void, voidable or unenforceable under its governing law, or

2.7.2 the Supplier, or any Controlled Company or anyone (including any employee) acting (with due authority) on the Supplier's, or any Controlled Company's behalf of or with the Supplier's, or its, subsequent acquiescence has, other than under duress, admitted engaging in, or

2.7.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

2.7.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 2.7.1, 2.7.2 and 2.7.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect);

2.8 "Eligible Bank Support Agreement" means an agreement between an Eligible Bank which has taken an assignment of all or any part of the rights and benefits under the Loan Agreement² [either of a Lender in accordance with Clause 11.3 thereof or] of ECGD² [thereunder] in accordance with Clause 11.4 thereof of the one part and ECGD of the other part whereby ECGD guarantees on the terms (mutatis mutandis) set out in Clause 4.1 of the Support Agreement to pay to that Eligible Bank that proportion of the unpaid amounts referred to in that Clause to which that Eligible Bank shall have become entitled by virtue of such assignment as aforesaid

2.9 "Immaterial Default" means any default by the Supplier in the observance or performance of its obligations under the Supply Contract which in the opinion of ECGD is neither material nor substantial or which in the opinion of ECGD has been caused by

2.9.1 an act or omission by the Buyer not induced or provoked by the Supplier or

2.9.2 the prevention of or delay in the transfer of funds in respect of the Supply Contract resulting from the occurrence outside the UK of political events economic difficulties legislative or administrative measures or a general moratorium or

2.9.3 any measure or decision (including the non-renewal or cancellation of an export licence) of any government other than that of the UK which in whole or in part prevents performance of the Supply Contract or

2.9.4 the occurrence outside the UK of hostilities civil disturbance or natural disaster which in whole or in part prevents performance of the Supply Contract or

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2.9.5 the cancellation or non-renewal of a UK export licence
or

2.9.6 any restrictions introduced in the UK after the date of the Supply Contract which prevent performance of the Supply Contract other than the refusal to grant a UK export licence or other authorisation necessary for performance of the Supply Contract if such authorisation was required on the date of the Supply Contract

2.10 "OECD" means the Organisation for Economic Co-operation and Development

2.11 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted)

¹[2.8 "Sterling Equivalent" means in relation to any amount of administrative charge and/or premium expressed in dollars under the terms of this Agreement such amount converted into sterling at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed on a date four Banking Days prior to the due date for payment by the [Supplier] [Companies] to ECGD of any such amount. If it is not possible to arrive at such a rate in this manner ECGD will advise the [Supplier] [Companies] on the rate to be used]

2.13 Any expression defined in the Loan Agreement or the Support Agreement shall have the same meaning when used in this Agreement

¹ This Clause should be inserted if the Supplier/Companies have opted to pay premium in sterling rather than dollars

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2.14 Where the context of this Agreement so allows words importing the singular include the plural and vice versa

2.15 Unless otherwise indicated reference to a specified Clause or Appendix shall be construed as reference to that specified Clause of or Appendix to this Agreement

2.16 Clause headings are for ease of reference only

CLAUSE 5.11 THE OBLIGATIONS OF THE SUPPLIER

5.11 that if the Supplier or, any Controlled Company or anyone (including any employees) acting on the Supplier's, or that Controlled Company's, behalf with due authority, or with the Supplier's, or that Controlled Company's prior consent or subsequent acquiescence, has engaged, or engages, in any Corrupt Activity in connection with the Supply Contract the Supplier will on demand pay to ECGD:

5.11.1 any amounts that ECGD certifies it has paid to the Banker in respect of any loss or expense the Banker has incurred in respect of amounts advanced under the Loan Agreement, [and]

²[5.11.2 any amounts that ECGD certifies as being the net cost to ECGD of making payments to the Banker in respect of advances under the Loan Agreement by way of interest equalisation or make up, and]

5.11.2 any amounts that ECGD certifies it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the Loan Agreement, the Support Agreement or this Agreement

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Supply Contract, or any related agreement, undertaking, consent, authorisation or arrangement of any kind became illegal, void or unenforceable under its governing law as a result of that activity

5.12 that if the Supplier becomes aware that any Associate or anyone (including any of its employees) acting on its behalf (with due authority)

² Delete if this is a pure cover loan

or with its subsequent acquiescence has engaged in Corrupt Activity in connection with the Supply Contract or any related agreement undertaking consent, authorisation or arrangement of any kind the Supplier shall promptly notify ECGD accordingly and supply ECGD will full details of the Corrupt Activity in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002

5.13 that (1) the Supplier shall have required or shall require anyone (including any of its employees) acting on its behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 2.7.1, 2.7.3 and 2.7.4 would amount to Corrupt Activity) in connection with the Supply Contract (2) will monitor compliance with that requirement and (3) will take appropriate action against anyone found to have engaged in Corrupt Activity

5.14 the Supplier will not unreasonably delay or withhold consent to disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Forms.


AIRBUS
FROM

Nigel TAYLOR

DATE

31 August 2004

PHONE

(33) 5 93 45 82

FAX

(33) 5 93 45 02

E-MAIL

nigel.taylor@airbus.com

OUR REFERENCE

NT/MJL - FFC 532.0172/04

Fax

+ 44 207 512 7148

31/8

Patrick CRAWFORD

Chief Executive

ECGD

P.O. Box 2200

2, Exchange Tower

Harbour Exchange Square

London E14 9 GS

1. cc J. Weiss, N. Ridley, J. Ormerod

G. Welsh

Dear Patrick

2. Jesc

After due consideration both with our colleagues in industry and internally within Airbus and bearing in mind your coming meeting with your minister we would like to outline to you our position regarding the agency matters we have been discussing in recent weeks.

Airbus understands and fully shares ECGD's concerns regarding the appointment and remuneration of consultants. When they are employed they should respect local and international regulations pertaining to international trade and more specifically the OECD convention on bribery and corruption. To this effect when Airbus considers the appointment of a consultant, it is done according to our own strict code of conduct and after a thorough capacity due diligence (CDD). The pro-forma documentation used for these processes can be provided to you. Consultants, once they have gone through CDD and have undertaken to comply with local and international regulations, are employed for a range of services determined on a case by case basis, and are remunerated accordingly on the basis of the work performed. If fees are paid to said consultants, Airbus never asks for the fees to be financed by the Export Credit Agencies. These contracts are concluded on a commercial basis and Airbus considers that such contracts are part of its commercial know-how and must therefore be kept confidential. The level of fees paid varies from contract to contract and we are unwilling to make any statements regarding the size of payments made. The same confidentiality requirement applies to the disclosure of whether or not Airbus employs a consultant on a given campaign. Airbus is willing to supply for information purposes a non-exhaustive list of the services its consultants may provide.

Furthermore Airbus, based on the mandatory undertakings from its consultants, can state that there is no improper or inappropriate relationship between a consultant and the relevant Buyer for any given campaign on which a consultant may be employed.

We are hopeful that these statements will satisfy ECGD and its authorities and will allow all of us to focus on the development of our industry and on strengthening export sales and employment in a very competitive environment.

We remain at your disposal for any clarifications you may require

Best regards

Nigel Taylor

Vice President Customer Finance

 AN EADS JOINT COMPANY
WITH SAB SYSTEMS

 AIRBUS
SOCIÉTÉ PAR ACTIONS ENFERMÉE
AU CAPITAL DE 2.706.376 EUROES
003 47 814 40 00, TOULOUSE

 SIÈGE SOCIAL
1, AVENUE PONT-MAURICE BELLONTE
31700 BLAGNAC CEDEX FRANCE
PHONE +33 (0)6 81 03 53 55

 713
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Roy Donovan

From: Gordon Welsh
Sent: 01 November 2004 11:51
To: Roy Donovan
Subject: FW: delivery of debis/asiana aircraft

-----Original Message-----

From: LITTLE, Mary-Jane [mailto:Mary-Jane.LITTLE@airbus.com]
Sent: 09 September 2004 15:25
To: Gordon Welsh
Cc: CARVER, Joanna; TAYLOR, Nigel; ELIAS, Christian; Sue M Walton (FR Capital) (E-mail); James Caldwell (E-mail); ULLMO, Edouard; ROBACE, Christian; SHARPLES, Derek
Subject: delivery of debis/asiana aircraft

Gordon

I refer to our telecons of today regarding ECGD support for the next debis/asiana delivery.

We are all well aware of the deadline (funding on 14th) and wish to agree to a swift resolution of the issues.

I understand from you that there are three major points:

audit clause

We will agree to your suggested wording changes to the audit clause as proposed in Nicholas Ridley's e-mail dated the 2nd of September and include the clause in the application form rather than insert it into the 'Airbus annual letter'.

This is because the audit clause will then apply specifically to each application.

application form

As we stand today we are still awaiting feedback on our proposal on agency issues. We set out our position in a fax to Patrick Crawford on the 31st August. Until we have an agreement on those points we cannot sign a new application form. That would imply that we agree with your proposed wording on agents and there are still some uncertainties on your side as to what your position is.

Airbus annual Letter of Undertaking

You have in your possession a Letter of Undertaking from our CEO, Noel Forgeard. This was signed and delivered to you in February 2004 and is valid for 12 months. I am not prepared to submit to him a revised letter for approval until we have a full agreement with ECGD on all outstanding issues.

When a new Airbus application form, including its schedules, is agreed then we will be prepared to seek a new Letter of Undertaking which will have to cancel and replace the existing one.

To summarise we are not in a position to sign a new application form for this upcoming delivery whilst there are outstanding points to be resolved on the schedule relating to agents. We are not willing to issue a new Letter of Undertaking until we can submit a complete package to Noel Forgeard for his approval.

It is therefore a firm request from Airbus that you allow ECGD support to be provided for this delivery on the same basis and with the same form of application that that used for the previous debis delivery.

We recognise that this is far from being a perfect solution, however we have all worked hard in recent months on these points and we are making progress.

We will continue to work diligently to resolve the final points but we cannot afford to let the ongoing ministerial debates stand in the way of our day to day business.

Best regards

Mary-Jane Little

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Roy Donovan

From: Karen Burbidge on behalf of Patrick Crawford
Sent: 13 September 2004 18:39
To: 'Peter Malcolm@cbi.org.uk';
Cc: 'john.tyler@chq.alscom.com'; 'sue.walton@rolls-royce.com';
'james.caldwell@baesystems.com'; 'julia.aldridge@baesystems.com';
'andy.ingram@baesystems.com'; 'dominic.cronin@baesystems.com';
'nigel.taylor@airbus.com'; 'mary-jane.little@airbus.com'; 'david.moden@airbus.com';
'clive.jones@lloydstsb.co.uk'; 'chris.pocock@hbcib.com'; 'deborah.bass@uk.ca-
indosuez.com'; 'rupert.cazalet@baesystems.com'; 'joanna.carver@airbus.com';
'yvette.crock@sbac.co.uk'; 'hendrond@shorts.co.uk';
'helen.kennett@uk.thalesgroup.com'; 'Marc_Meloche@bcgroup.com';
'tim.myers@bombardier.com'; 'jan.walker@baesystems.com';
'keith.hayward@sbac.co.uk'; 'BexaMail@aol.com'; 'stephen.fisk@rolls-royce.com';
'swalton@dircon.co.uk'; Nicholas Ridley; John Weiss; Claire Stokes; John Ormerod;
Charles Redfearn; Roy Donovan; Angela Cooper; Gordon Welsh
Subject: ECGD Documentation
Importance: High

Please see attached letter

Best regards

Patrick Crawford



Letter to P Malcolm
- CBI - 13 ...

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Patrick Crawford
Chief Executive

13 September 2004

ECGD

Mr P Malcolm
CBI
CBI Centre Point
103 New Oxford Street
London
WC1A 1DU

PO Box 2200
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
Telex 290350 ECGD HQ G
Switchboard 020 7512 7000
email: patrick.crawford@ecgd.gsi.gov.uk

Fax Direct 020 7512 7146
Telephone Direct 020 7512 7004

Dear Peter,

ECGD Documentation

I refer to the correspondence between you on behalf of members of your "ECGD Solutions Group" and ECGD, in particular to John Weiss's letter of 12th August, your reply of 25th, Nicholas Ridley's email of 2nd September and Mary-Jane Little's email of 9th September to Gordon Welsh which has been passed on to Nicholas Ridley and myself

Whilst we do not agree that the Airbus Audit Clause is best positioned in the Application Form for the reasons set out in Nicholas's email of 2nd September, (the "Airbus Annual Letter" applies specifically to each contract of support written during the period to which that letter applies), we will put wording into the Application Form, which will have the effect of creating a second collateral contract in relation to the Audit Clause. This Mary-Jane has accepted. That decided, all the points have been settled other than the question of what details of Agents are required by ECGD in order to consider applications for support.

The discussions on the latter issue have, as you know, been lengthy. We have tried to find an arrangement which would provide us with what we need whilst safeguarding your legitimate interests: please see in particular the last section in John's letter of 12th August. We have read carefully all that you have written to us on this subject and we have consulted extensively with Ministers, who have duly considered the points made by the ECGD Solutions Group.

I am now writing to you to advise you the outcome of our consultations with Ministers on the details of Agents for which ECGD should ask in its Application Forms. The Secretary of State has now advised that she considers the following arrangements to be those which should be adopted. These arrangements would apply in all deals where the ECGD contracts of support are signed on or after 1st October 2004 save where an Application Form has been submitted prior to 1st May 2004; and they would apply to all types of business

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POSITIVE ABOUT
DISABLED PEOPLE



INVESTOR IN PEOPLE

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ECGD would require:

- (i) A declaration from all Applicants, whether or not Agents Commission is included in the contract price and/or covered by ECGD support, as to whether an Agent is involved,
- (ii) The name and address of the Agent or an explanation of why the Applicant is unable to provide this information,
- (iii) A declaration that no improper relationship exists or existed between Agent and Buyer,
- (iv) If the commission is included in the contract price and/or is covered by ECGD support, a declaration of the amount of commission and details of the services in respect of which it was paid,
- (v) If the commission is not included in the contract price or covered by ECGD support, a declaration of whether or not the commission exceeded £2,000,000 or, if less, 5% of the contract price,
- (vi) If the commission at (v) does exceed £2,000,000 or 5% of the contract price, a declaration of the details of the amount and services in respect of which it was paid.

You will see that we have used some of the wording which you helpfully suggested to us on 25th August, we are asking for details of the amount of commission and services provided only where that commission exceeds certain levels or where we cover it; We are giving Applicants the option of providing the name and address of the Agent or a reason for their inability to do so. As John recorded in his letter of 12th August, we may always revert for further information on any particular Application

We are very grateful to you for your assistance over the past two months in both agreeing the vast majority of the issues between us and in clarifying outstanding issues. We will be sending out very shortly Application Forms which reflect the agreed terms and those set out above in relation to details of Agents. There will have to be two Buyer Credit Application Forms, one for Airbus and one for others, because of the matters referred to in my second paragraph. Your members, of course, already have the reworked Premium and Recourse Agreements and Airbus letter

Nicholas Ridley is meeting the BBA tomorrow in order to finalise the Banks' Letters of Undertaking.

With many thanks again for your very valuable assistance throughout, I remain,
yours ever,

Patrick Crawford

Patrick Crawford

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 14 September 2004 10:17
To: Patrick Crawford
Cc: Andy Scott; Gary Campkin; Lucy Findlay; John Cridland; james.larkin@atc.aon.co.uk;
john.tyler@chg.elstom.com; sue.walton@rolls-royce.com;
james.caldwell@baesystems.com; julia.aldridge@baesystems.com;
andy.ingram@baesystems.com; dominic.cronin@baesystems.com;
nigel.taylor@airbus.com; mary-jane.little@airbus.com; david.moden@airbus.com;
clive.jones@lloydstsb.co.uk; chris.pocock@hsbcib.com; deborah.bass@uk.ca-
indosuez.com; Andy Scott; Gary Campkin; rupert.cazalet@baesystems.com;
joanna.carver@airbus.com; yvette.brock@sbac.co.uk; hendrond@shorts.co.uk;
helen.kennett@uk.thalesgroup.com; Marc.Meloche@bcgroup.com;
tim.myers@bombardier.com; jan.walker@baesystems.com; keith.hayward@sbac.co.uk;
Lucy Findlay; Peter Malcolm; BexaMail@aol.com; stephen.fisk@rolls-royce.com;
swalton@dircon.co.uk; Nicholas Ridley; John Weiss; Claire Stokes; John Ormerod;
Charles Redfearn; Roy Donovan; Angela Cooper; Gordon Welsh
Subject: ECGD Documentation

Dear Patrick

Thank you so much for your letter forwarded yesterday to the CBI Group which I have seen this morning. The Group members will, of course, now be considering carefully the arrangements you set out which the Secretary of State considers should be adopted. I will be interested to hear inter alia how the new proposal of the lower of 5% or £2m to change the percentage test could impact. And thank you for arranging to meet the EBA this afternoon.

Thank you so much for your kind remarks. May I just say how much I personally have appreciated throughout our talks the full engagement (and continuing friendliness) on these very important issues to key CBI members shown by your colleagues - John, Nick and indeed all your team - and, of course, now the S of S, the Minister, you yourself, your chairman and our friends at the DTI.

The CBI will of course be in touch regarding your letter, though, I have only a few days left here before retirement.

Kind regards

- Pat

----- Forwarded by Peter Malcolm/CBI on 14/09/2004 09:39 -----

"Patrick Crawford" <Patrick.Crawford@ecgd.gsi.gov.uk> on 13/09/2004 18:39:05

To: Peter Malcolm/CBI@CBI
cc: john.tyler@chg.elstom.com, sue.walton@rolls-royce.com,
james.caldwell@baesystems.com, julia.aldridge@baesystems.com,
andy.ingram@baesystems.com, dominic.cronin@baesystems.com,
nigel.taylor@airbus.com, mary-jane.little@airbus.com,
david.moden@airbus.com, clive.jones@lloydstsb.co.uk,
chris.pocock@hsbcib.com, deborah.bass@uk.ca-indosuez.com,
rupert.cazalet@baesystems.com, joanna.carver@airbus.com,
yvette.brock@sbac.co.uk, hendrond@shorts.co.uk,
helen.kennett@uk.thalesgroup.com, Marc.Meloche@bcgroup.com,
tim.myers@bombardier.com, jan.walker@baesystems.com,
keith.hayward@sbac.co.uk, BexaMail@aol.com, stephen.fisk@rolls-royce.com,
swalton@dircon.co.uk, "Nicholas Ridley" <Nicholas.Ridley@ecgd.gsi.gov.uk>,
"John Weiss" <John.Weiss@ecgd.gsi.gov.uk>, "Claire Stokes"
<Claire.Stokes@ecgd.gsi.gov.uk>, "John Ormerod"

Roy Donovan

From: Patrick Crawford
Sent: 14 September 2004 18:45
To: 'Peter Malcolm'
Cc: Andy Scott; Gary Campkin; Lucy Findlay; John Cridland; james.larkin@ato.aon.co.uk; john.tyler@chg.alstom.com; sue.walton@rolls-royce.com; james.caldwell@baesystems.com; julia.aldridge@baesystems.com; andy.ingram@baesystems.com; dominic.cronin@baesystems.com; nigel.taylor@airbus.com; mary-jane.little@airbus.com; david.moden@airbus.com; clive.jones@lloydstsb.co.uk; chris.pocock@hsbcib.com; deborah.bass@uk.ca-indosuez.com; Andy Scott; Gary Campkin; rupert.cazalet@baesystems.com; joanna.carver@airbus.com; yvette.brock@sbac.co.uk; hendrond@shorts.co.uk; helen.kennett@uk.thalesgroup.com; Marc_Meloché@bcgroup.com; tim.myers@bombardier.com; jan.walker@baesystems.com; keith.hayward@sbac.co.uk; Lucy Findlay; BexaMail@aol.com; stephen.fisk@rolls-royce.com; swalton@dircon.co.uk; Nicholas Ridley; John Weiss; Claire Stokes; John Ormerod; Charles Redfearn; Roy Donovan; Angela Cooper; Gordon Welsh
Subject: RE: ECGD Documentation

Dear Peter,

Thank you for your response

Let me respond to your two interim conclusions:

1. We fully understand your request for a full set of documents and intend to forward to the Solutions Group tomorrow a text for the Premium and Recourse Agreement, the Airbus Buyer Credit Application Form, the non-Airbus Buyer Credit Application Form, and the Airbus Letter. Matching amendments will need to be reflected in due course to EXIP and Overseas Investment Insurance forms.

2. We are happy to accommodate any desire of leading exporters to respond to us individually and separately on the notified criteria

I understand that good progress was made at the meeting with BBA this afternoon and that it should be possible to settle the Banks' Letters of Undertaking very shortly.

Best regards,

Patrick

---Original Message---

From: Peter Malcolm [mailto:Peter.Malcolm@cbi.org.uk]
Sent: 14 September 2004 13:50
To: Patrick Crawford
Cc: Andy Scott; Gary Campkin; Lucy Findlay; John Cridland; james.larkin@ato.aon.co.uk; john.tyler@chg.alstom.com; sue.walton@rolls-royce.com; james.caldwell@baesystems.com; julia.aldridge@baesystems.com; andy.ingram@baesystems.com; dominic.cronin@baesystems.com; nigel.taylor@airbus.com; mary-jane.little@airbus.com; david.moden@airbus.com; clive.jones@lloydstsb.co.uk; chris.pocock@hsbcib.com; deborah.bass@uk.ca-indosuez.com; Andy Scott; Gary Campkin; rupert.cazalet@baesystems.com; joanna.carver@airbus.com; yvette.brock@sbac.co.uk; hendrond@shorts.co.uk; helen.kennett@uk.thalesgroup.com; Marc_Meloché@bcgroup.com; tim.myers@bombardier.com; jan.walker@baesystems.com; keith.hayward@sbac.co.uk; Lucy Findlay; Peter Malcolm; BexaMail@aol.com; stephen.fisk@rolls-royce.com; swalton@dircon.co.uk; Nicholas Ridley; John Weiss; Claire Stokes; John Ormerod; Charles Redfearn; Roy Donovan; Angela Cooper; Gordon Welsh
Subject: ECGD Documentation

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Dear Patrick

Further to my note this morning acknowledging safe receipt of yours, our Solutions Group has, of course, already been considering carefully the arrangements you set out which should be adopted. Two interim conclusions have emerged immediately:

1. In view of the considerable changes, progress, comings and goings, our various exporters each request a full and fair set of all the documents setting out everything agreed so far - since understandably they would find it helpful to be able to assess the situation properly. I know you have already proposed to send out Application Forms with the agreed terms in relation to agents and Two Buyer Credit Applications Forms - one for Airbus and one for others. But the full present position in documentation would now be helpful and important.

2. Clearly, our leading exporters are going to need to respond individually and separately to the criteria now contained within your latest notified requirements.

Finally, I hope the discussion with the BEA goes well this afternoon.

Thank you for your assistance.

nd regards

er
the rot ,my note

PLEASE NOTE: THE ABOVE MESSAGE WAS RECEIVED FROM THE INTERNET.

On entering the GSI, this email was scanned for viruses by the Government Secure Intranet (GSI) virus scanning service supplied exclusively by Energis in partnership with MessageLabs

Please see <http://www.gsi.gov.uk/main/notices/information/gsi-003-2002.pdf> for further details.

In case of problems, please call your organisational IT helpdesk

15 September 2004

Mr P Malcolm
CBI
CBI Centre Point
103 New Oxford Street
London
WC1A 1DU

Dear Peter,

ECGD Documentation

Further to your request for fair copies of the documents we have been discussing over recent weeks, I attach to this email:

- (i) The Airbus Letter
- (ii) The Standard Terms of the Premium and Recourse Agreement
- (iii) An Airbus Application Form
- (iv) A Standard Buyer Credit Application Form.

Please copy these to your colleagues.

These documents have been drafted in order to reflect the various agreements between us culminating in the exchange between you and I of 25th August and 2nd September 2004; and in accordance with the Secretary of State's views conveyed to you on Monday by Patrick Crawford. Matching provisions will be put in the standard forms of other products.

I do not feel (I am sure you will be glad to hear!) that much is needed by way of explanation after all this time. But there are perhaps three minor points which it would be helpful to make as you and your colleagues read these documents

First, in relation to the definition put in at Airbus' request of "we" and "us", we have realised that in the Schedule, rather than the body of the Application Form, "you" is used also to describe the Applicant. We have therefore made a minor change to the definition to avoid confusion.

Second, for the purposes of harmonisation of these forms and, indeed, elegance, we have put the declaration of our Code of Conduct in the Standard Buyer Credit Application Form into the Schedule where it has always appeared in the Airbus

Application Form. We think that is more logical. The terms of it have not of course changed.

Third, as we have previously mentioned, we had hoped to harmonise completely the Airbus and Standard Buyer Credit Application Forms. This has not proved fully possible but a degree of harmonisation has come out of this process. One result of that is a minor degree of duplication between what is in the Airbus Application Form and the Airbus Letter. As this duplication is harmless, we would not propose at this late stage to make further amendments purely for the sake of elegance. These may be addressed at the next annual renewal of the Airbus Letter.

I will be sending out what I believe will be the final draft of the Bank LoUs to your BBA colleagues before the end of the week.

Yours ever,

Nicholas Ridley

[] September, 2004

Her Britannic Majesty's Secretary of State
acting by the
Export Credits Guarantee Department
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
England ("ECGD")

Dear Sirs,

PROVISION OF BUYER CREDIT SUPPORT

1 In consideration of ECGD agreeing to consider providing Buyer Credit Support (which we acknowledge to be a good and valuable consideration) we undertake that:

1.1 in connection with any Contract neither we nor to the best of our knowledge or belief any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or subsequent acquiescence has engaged or will engage in any Corrupt Activity;

1.2 if we or, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or subsequent acquiescence engages in any Corrupt Activity in connection with a Contract we will on demand pay to ECGD any amount that ECGD certifies -

1.2.1 that it has paid to the lending bank in respect of any loss or expense the lending bank has incurred in respect of amounts advanced under the relevant loan;

1.2.2 as being the net cost to ECGD of making payments to the lending bank in respect of advances under the relevant loan by way of interest equalisation or make up; and

1.2.3 it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the relevant loan, or its guarantee

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Contract became illegal, void, or unenforceable under its governing law as a result of that activity; and

- 1.3 to the best of our knowledge and belief, -
- 1.3.1 neither we nor our managing director nor any of our executive vice presidents, nor any Controlled Company nor any director of any Controlled Company
- 1.3.1.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency; or
- 1.3.1.2 has at any time during the last five years, other than under duress, admitted having engaged or been found by a court in any competent jurisdiction to have engaged in any Corrupt Activity that has not previously been notified to ECGD;
- 1.3.2 each Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002);
- 1.4 if at any time the undertakings given at paragraphs 1.3.1.1 and 1.3.1.2 above become or are found to be untrue or incorrect to the best of our knowledge and belief we will immediately give written notice to ECGD and such notice shall include details of the events that resulted in any such listing and/or any court finding;
- 1.5 if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity in connection with the Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;
- 1.6 (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 3.6.1, 3.6.3 or 3.6.4, would amount to Corrupt Activity) in connection with the Contract (2) we will monitor compliance with that requirement, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and
- 1.7 we will not unreasonably delay or withhold consent to the disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Forms.

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2 We agree that the above undertakings shall apply in respect of any Contract where any drawings are made from the relevant loan after the date of this letter and prior to 4th February 2005

3 We understand for the purposes of this undertaking -

3.1 "Associate" means any company (other than us or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

3.2 "Buyer Credit Support" means the provision by ECGD of support to banks under its Buyer Credit facilities in respect of loans to be provided to finance the purchase of Airbus aircraft to be supplied under contracts entered into by ourselves with buyers;

3.3 "Contract" means a contract for the sale of an Airbus aircraft (that receives Buyer Credit Support) or the substitute contract for which finance is provided by means of a loan that receives Buyer Credit Support;

3.4 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

3.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

3.6 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which

3.6.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Contract illegal, void, voidable or unenforceable under its governing law, or

3.6.2 we have, or any Controlled Company or anyone (including any employees) acting (with due authority) on our, or any Controlled Company's, behalf or with our, or its subsequent acquiescence has, other than under duress, admitted engaging in, or

3.6.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

3.6.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 3.6.1, 3.6.2 and 3.6.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect).

3.7 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

- 4 This undertaking shall be construed in accordance with English law and we agree to submit to the exclusive jurisdiction of the English courts in respect of any dispute arising in connection with this undertaking.

Yours faithfully,

Noel FORGEARD

NOVEMBER 1987
(Revised September 2004)

PREMIUM AGREEMENT (DOLLAR FACILITY)
COMPLEX
INDEX OF CLAUSES

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1 ECGD will enter into the Support Agreement with the Banker ³[and the Lenders]

2 INTERPRETATION

In this Agreement

2.1 "Application Form" means the application form submitted by the Supplier to ECGD requesting ECGD to support the financing of the Supply Contract a copy of which application form is annexed to this Agreement

2.2 "Associate" means any company (other than the Supplier or a Controlled Company) person or other legal entity which is a party to any joint venture consortium or other similar arrangement (1) which is or will be involved in the performance or financing of all or any part of the Supply Contract and (2) to which the Supplier is also a party

2.3 "CIRR Rate" means the 2-5 year Sterling contract Commercial Interest Reference Rate specified under the OECD Consensus and displayed from time to time on the ECGD website @ www.ecgd.gov.uk

2.4 "Consensus" means the OECD arrangements on guidelines for officially supported export credits

2.5 "control" and "controlled" means, in relation to a company control of that company by virtue of (1) contractual arrangements (including without limitation provisions in that or any other company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company

³ Delete for Sole Lender cases

2.6 "Controlled Company" means any company (in any jurisdiction) which is controlled by the Supplier

2.7 "Corrupt Activity" means any activity (including without limitation the offering of any payment reward or other advantage to any public official or other person) which

2.7.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Supply Contract illegal, void, voidable or unenforceable under its governing law or

2.7.2 the Supplier or any Controlled Company or anyone (including any employee) acting (with due authority) on the Supplier's or any Controlled Company's behalf or with the Supplier's or its subsequent acquiescence has other than under duress admitted engaging in or

2.7.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law or

2.7.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity in respect of paragraphs 2.7.1, 2.7.2 and 2.7.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

2.8 "Eligible Bank Support Agreement" means an agreement between an Eligible Bank which has taken an assignment of all or any part of the rights and benefits under the Loan Agreement ³[either of a Lender in accordance with Clause 11.3 thereof or] of ECGD ³[thereunder] in accordance with

Clause 11.4 thereof of the one part and ECGD of the other part whereby ECGD guarantees on the terms (mutatis mutandis) set out in Clause 4.1 of the Support Agreement to pay to that Eligible Bank that proportion of the unpaid amounts referred to in that Clause to which that Eligible Bank shall have become entitled by virtue of such assignment as aforesaid

2.9 "Immaterial Default" means any default by the Supplier in the observance or performance of its obligations under the Supply Contract which in the opinion of ECGD is neither material nor substantial or which in the opinion of ECGD has been caused by

2.9.1 an act or omission by the Buyer not induced or provoked by the Supplier or

2.9.2 the prevention of or delay in the transfer of funds in respect of the Supply Contract resulting from the occurrence outside the UK of political events economic difficulties legislative or administrative measures or a general moratorium or

2.9.3 any measure or decision (including the non-renewal or cancellation of an export licence) of any government other than that of the UK which in whole or in part prevents performance of the Supply Contract or

2.9.4 the occurrence outside the UK of hostilities civil disturbance or natural disaster which in whole or in part prevents performance of the Supply Contract or

2.9.5 the cancellation or non-renewal of a UK export licence or

2.9.6 any restrictions introduced in the UK after the date of the Supply Contract which prevent performance of the Supply Contract other than the refusal to grant a UK export licence or other

authorisation necessary for performance of the Supply Contract if such authorisation was required on the date of the Supply Contract

2.10 "OECD" means the Organisation for Economic Co-operation and Development

2.11 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted)

⁴[2.12 "Sterling Equivalent" means in relation to any amount of administrative charge and/or premium expressed in dollars under the terms of this Agreement such amount converted into sterling at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed on a date four Banking Days prior to the due date for payment by the [Supplier] [Companies] to ECGD of any such amount. If it is not possible to arrive at such a rate in this manner ECGD will advise the [Supplier] [Companies] on the rate to be used]

2.13 Any expression defined in the Loan Agreement or the Support Agreement shall have the same meaning when used in this Agreement

2.14 Where the context of this Agreement so allows words importing the singular include the plural and vice versa

2.15 Unless otherwise indicated reference to a specified Clause or Appendix shall be construed as reference to that specified Clause or Appendix to this Agreement

2.16 Clause headings are for ease of reference only

⁴ This Clause should be inserted if the Supplier/Companies have opted to pay premium in sterling rather than dollars

⁵3 PAYMENT OF ADMINISTRATIVE CHARGE AND PREMIUM

The [Supplier agrees] [Companies agree] to pay to ECGD on signature of this Agreement premium amounting to \$ _____ of which \$8,000 shall constitute an administrative charge and shall not be refundable in any event. Payment of premium shall be made in dollars to :

Citibank NA, New York
CHIPS Number :008
ABA: 021000089
SWIFT Address: CITIUS33

for the account of: Bank of England, London
Account number: 36148269
for credit to ECGD
quoting reference "ECGD - Premium BD ⁶[_____]"

or such other account as ECGD may from time to time notify the [Supplier] [Companies]

⁷[The [Supplier agrees] [Companies agree] to pay to ECGD on signature of this Agreement the Sterling Equivalent of premium amounting to \$ _____ of which the Sterling Equivalent of \$ _____ shall constitute an administrative charge and shall not be refundable in any event]

4 INFORMATION REQUIRED FROM THE SUPPLIER

4.1 The Supplier shall promptly upon becoming aware of the same notify ECGD in writing of

⁵ The Supplier/Companies have the option to elect to pay premium either in dollars or the Sterling Equivalent thereof. If it has been agreed that premium will not be paid in full on signature of this Agreement this Clause 3 should be deleted and the appropriate Clause from either Amendment Sheet A or Amendment Sheets B1 or B2 substituted

⁶ ECGD Guarantee Reference

⁷ This wording should be used in this Clause in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

4.1.1 any amounts which have fallen due for payment and any amounts paid by the Supplier to the Banker in pursuance of the letter written to the Supplier by the Buyer in the terms set out in Appendix C ⁶[B] to the Loan Agreement

4.1.2 particulars of circumstances which have arisen and which give have given or may give rise to claims by the Buyer against

[name of any party providing a guarantee or bond pursuant to the Supply Contract] under [the performance bond] [the guarantee] given by [that party] and referred to in the letter in the form of Appendix D ⁶[C] to the Loan Agreement and the amount if known to the Supplier of any such claim

4.1.3 any payment not made on the due date therefor under the Supply Contract

4.1.4 the occurrence of any act or event which in the opinion of the Supplier will or may render the Supplier unable to fulfil or which will or may prevent or delay the fulfilment of its obligations under the Supply Contract or which will or may lead to the termination of the Supply Contract or to arbitration thereunder or in connection therewith

4.1.5 the commencement of any arbitration or termination proceedings under the Supply Contract

4.2 The Supplier agrees to provide at its own expense such further information as ECGD may from time to time require

5 THE OBLIGATIONS OF THE SUPPLIER

The Supplier agrees with ECGD

5.1 to exercise or to refrain from exercising its rights to suspend performance of or to terminate the Supply Contract under any of the provisions thereof only in accordance with the written requirements of ECGD

5.2 not to amend or acquiesce in any departure from the terms of the Supply Contract except in accordance with the prior written approval of ECGD PROVIDED THAT any variation to the technical specifications or in the scope of goods to be supplied or in the scope of the services to be rendered under the Supply Contract may be made without such prior written approval unless such variation would increase the total amount payable under the Supply Contract or would involve a material change in the scope or objects of the Supply Contract

⁸[5.3 to pay to the Banker all sums which the Buyer authorises the Supplier to pay the Banker]

5.4 to carry out such acts specified in Clauses 5.3.1, 5.3.2, 5.3.3, 5.3.4, 6.2.1, 6.2.2, 6.2.3, 8.2.1 and 8.2.2 of the Loan Agreement as are expected to be performed by the Supplier

5.5 not to assign or otherwise transfer either the benefit or the burden of the Supply Contract to any person whatsoever without the prior approval in writing of ECGD

⁹[5.6 to pay all legal and other expenses incurred by ECGD arising from amendments to the Supply Contract and from consequential amendments to the Loan Agreement and to any related documents]

⁸ Appropriate reference in Sole Lender cases

⁹ Where recourse obligations are on a joint and several basis Clauses 5.3 and 5.6 should be transferred to a new Clause 6 and renumbered "6.1" and "6.2" respectively. The new Clause 6 should commence as follows:

"6 THE OBLIGATIONS OF THE COMPANIES
The Companies agree with ECGD ..."

Clauses 5.4, 5.5, 5.7, 5.8, 5.9, 5.10 and 5.11 and Clauses 6-11 should be re-numbered accordingly

5.7 that if the Borrower makes late payment of all or any part of any amount payable under the Loan Agreement the amount so paid shall be applied in accordance with the provisions of Clause 9.6 of the Loan Agreement and any claim the Supplier may have in relation thereto is hereby waived until ECGD has ceased to have any liability under the Support Agreement

¹⁰[5.8 not to submit to the Banker any Disbursement Claim pursuant to Clause 6 of the Loan Agreement before the related premium and any applicable interest thereon has been paid to ECGD in accordance with Clause 3]

5.9 that any person authorised by ECGD and if other than ECGD personnel approved by the Supplier (such approval not to be unreasonably withheld or delayed by the Supplier) may visit any of its UK premises where records relating to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting auditing and taking copies of any records other than those covered by legal privilege preserved in any medium or form including records stored electronically which relate specifically to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement (the "Administration Records")

5.10 that if ECGD confirms in writing to the Supplier that it has reasonable grounds for suspecting that an employee agent or intermediary of the Supplier has been engaged in any Corrupt Activity (or any activity which subject to the occurrence of the subsequent events referred to in Clauses 2.7.4.1, 2.7.4.3 or 2.7.4.4 would amount to Corrupt Activity) in connection with the Supply Contract permit an independent third party acceptable to the Supplier and ECGD to visit any of its UK premises where records relating to the obtaining and performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are

¹⁰ Delete Clause 5.8 if all premium is paid in full on signature of this Agreement

		Contract, or in"
20-21	Change	"or in its subsequent" changed to "or in the Supply Contract's subsequent"
22	Change	"Loan Agreement not to engage" changed to "Loan Agreement, not to engage"
23	Change	"Corrupt Activity, we will...requirement and we will" changed to "Corrupt Activity and we will"
24-25	Change	"we will take Appropriate...anyone found to have" changed to "we will take appropriate...in, or is found to have"
26	Change	"have engaged in any Relevant" changed to "have engaged in, any Relevant"
27-28	Insertion	2 We declare that we are...reason to suspect, that:
29-30	Insertion	2.1 we; or
31	Insertion	2.2
32	Moved to	any Controlled Company...or indirect subsidiaries
33	Insertion	who, in each case, engage...regulated by the FSA; or
34-35	insertion	2.3 any person who is, or...the past five years, a
36	Moved to	director or employee of...or subsidiary company
37	insertion	and whose principal place...was, the United Kingdom
38	Deletion	2 We declare that to the...belief, neither we nor
39	Moved from	any Controlled Company...or indirect subsidiaries
40	Deletion	nor any
41	Moved from	director or employee of...or subsidiary company
42-43	Change	", has at any time freely admitted engaging" changed to "has at any time, other...admitted engaging"
44	Deletion	"Appropriate Action"...appropriate authorities;
45	Change	"any company (in any jurisdiction)" changed to "any company (incorporated in any jurisdiction)"
46	Change	"and Wales) or and/or (2) ownership" changed

		to "and Wales) and/or (2) ownership"
47	Change	"(2) ownership (whether directly" changed to "(2) ownership of shares...(whether directly"
48	Change	"or trustees) of the...of that company," changed to "or trustees);"
49	Change	"other person and the...criminal conduct) which:" changed to "other person) which:"
50	Change	"jurisdiction to have rendered" changed to "jurisdiction (after all...to have rendered"
51	Change	"(2) any Controlled" changed to "(2) we have, or any Controlled"
52-53	Change	"(including any of its employees)" changed to "(including any of our, or... Company's, employees)"
54	Change	"employees) acting on its" changed to "employees) acting on our, or its"
55	Change	"its behalf" changed to "its, behalf"
56-57	Change	"behalf, or with its the...freely admitted engaging" changed to "behalf (with due...admitted engaging"
58-59	Change	"offence under the...amended or re-enacted)" changed to "offence under the Relevant Acts"
60	Insertion	and (3) above:
61	Change	"corresponds" changed to "(a) corresponds"
62	Change	"offence under any of the Relevant" changed to "offence under the Relevant"
63	Insertion	Relevant Acts; or
64	Insertion	(b) would, if it had...to such an offence
65	Change	"1889 to 1916 (as from...Act 2002 (as from time" changed to "1889 to 1916 (as from time"
66	Deletion	"Subsequent Acquiescence"...in relation to it.

Statistics:	
	Count
Insertions	38
Deletions	24
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	66

Redline options

599
107

	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes ...	OFF
Ignore Case Changes	OFF

To: the Export Credits Guarantee Department ("ECGD")

Undertaking in respect of any Corrupt Activity associated with a Buyer Credit

Borrower:

Supplier:

Buyer:

ECGD Reference:

Supply Contract: Contract dated..... between the Buyer and the Supplier
for.....

Loan Agreement: Agreement for a loan of up to £..... to be made to the Borrower by [us(acting through our London branch)] [a syndicate of banks, including ourselves (acting through our London branch), lead by, as agent,] for the purpose of assisting the financing the Supply Contract

- 1 In order to induce ECGD to guarantee the Borrower's obligations under [,and to provide interest rate support in relation to,] the Loan Agreement, and in consideration of ECGD's agreeing to do so (which we acknowledge to be a good and valuable consideration), we represent, warrant and undertake that:

1.1 the Financial Services Authority (the "FSA") regulates our London branch's compliance with the provisions of (1) the Financial Services and Markets Act 2000, and any Regulations made under it, (2) Part 7 of the Proceeds of Crime Act 2002 (3) the Money Laundering Regulations 2003 and (4) any rules or guidance published from time to time by the FSA, including, without limitation, the FSA's Money Laundering Sourcebook;

1.2 our London branch is not aware, and has no reason to suspect, that the Supply Contract, or any arrangement connected with its financing or procurement, has been, or will be, used for the purposes of money laundering (as defined in the Proceeds of Crime Act 2002);

1.3 4.1 neither we nor our London branch, nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employee) acting on our, or that Controlled Company's, London branch's behalf with due authority or with our, or that Controlled Company's, prior consent or subsequent acquiescence, London branch's subsequent acquiescence, has engaged, or will engage, in any Relevant Corrupt Activity; and

1.4 4.2 we have our London branch has required and/or will require anyone (including any of our employees) acting on our behalf and

directly or indirectly involved in obtaining the mandate to finance the Supply Contract, or in ~~its~~ the Supply Contract's subsequent financing under the Loan Agreement, not to engage in any Relevant Corrupt Activity, ~~we will monitor compliance with that requirement and we will take Appropriate Action against anyone~~ appropriate action against any employee who freely admits having engaged in, or is found to have engaged in, any Relevant Corrupt Activity.

2 We declare that we are not aware, and have no reason to suspect, that:

2.1 our London branch; or

2.2 any person who is, or who was during the past five years, an employee working in our London branch

~~2 We declare that to the best of our knowledge and belief, neither we nor any Controlled Company nor any of our direct or indirect parent companies or their respective direct or indirect subsidiaries nor any director or employee of ours or of any Controlled Company or of any such parent or subsidiary company, has at any time freely~~ has at any time, other than under duress, admitted engaging in, or been found by a court in any competent jurisdiction to have engaged in, any Corrupt Activity.

3 In this Undertaking:

~~"Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining, investigating, and, if possible, remedying its effects and reporting it to the appropriate authorities;~~

"Controlled Company" means any company (incorporated in any jurisdiction) which is controlled by us;

"control" and "controlled" means, in relation to a company, control of that company by virtue of (1) any contractual arrangements, including, without limitation, provisions in that, or any other, company's memorandum and articles of association (or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) ~~or and/or~~ (2) ownership of shares in that company (whether directly or by nominees or trustees) ~~of the majority of the issued share capital of that company and/or~~ (3) ~~having appointed, or having the power to appoint, the directors of that company;~~

"Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person ~~and the concealment, use or the facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct~~) which:

(1) is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Loan Agreement [or the related Overseas Guarantee] illegal, void, voidable or unenforceable under its governing law, or

(2) ~~we have, or any Controlled Company or anyone (including any of its, our, or any Controlled Company's, employees) acting on our, or its, behalf, or with its the prior consent or Subsequent Acquiescence, has freely (with due authority) or with our, or its, subsequent acquiescence has, other than under duress, admitted engaging in, or~~

(3) is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the United Kingdom to constitute an offence under any applicable law, or

(4) is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the ~~Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)~~ Relevant Acts

and which activity, in respect of paragraphs (1), (2), and (3) above:

(a) corresponds to an offence under any of the Relevant Acts; or

(b) would, if it had taken place in the United Kingdom, amount to such an offence

"Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 ~~(as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted);~~

"Relevant Corrupt Activity" means Corrupt Activity in connection with (1) obtaining the mandate to finance the Supply Contract or (2) the Supply Contract's subsequent financing under the Loan Agreement or (3) any agreement, undertaking, consent, authorisation or arrangement of any kind related to the Loan Agreement or the Supply Contract's financing under it; and

~~"Subsequent Acquiescence" means, in relation to any activity which constitutes an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it.~~

For and on behalf of

[Name of Bank]

Signature:

Name:

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Position:

Date:

(This undertaking must be signed by an authorised officer with appropriate responsibility)

(Form LoU-BC)

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Document comparison done by DeltaView on Thursday, July 22, 2004 12:09:45

Input:	
Document 1	file://G:/GCO/Business Division 4/Bribery & Corruption/LoU-BC v2.0.doc
Document 2	file://G:/GCO/Business Division 4/Bribery & Corruption/Non-UK entities LoU-BC v3.0.doc
Rendering set	ECGD

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary		
No.	Change	Text
1-2	Change	"Settings\Temp\dvtemp740\dvo" changed to "Settings\Temp\dvtemp740\dvm"
3-4	Change	"38.tmp\" changed to "39.tmp\"
5	Change	".tmp\LoU-BC v" changed to ".tmp\Non-UK entities LoU-BC v"
6-7	Change	"LoU-BC v2.0.doc" changed to "LoU-BC v3.0.doc"
8	Change	"for a loan of up to £..... to be made to" changed to "for a loan to be made to"
9	Change	"Borrower by [us] [a syndicate" changed to "Borrower by [us(acting...branch)] [a syndicate"
10	Change	"including ourselves, lead by," changed to "including ourselves . branch), lead by,"
11-12	Insertion	1.1 the Financial...Laundering Sourcebook;
13-14	Insertion	1.2 our London branch is...of Crime Act 2002);
15	Change	"neither" changed to "1.1 neither"
16-17	Change	"neither we, nor, to the" changed to "neither

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		our London branch, nor, to the"
18-19	Change	"the best of our knowledge and" changed to "the best of its knowledge and"
20	Change	"and belief, any... or anyone (including" changed to "and belief, anyone (including"
21-22	Change	"acting on our, or that... Company's, behalf with" changed to "acting on our London branch's behalf with"
23-24	Change	"or with our, or that... has engaged," changed to "or with our London... has engaged,"
25-26	Change	"required and/or" changed to "1.2 we have our London branch has required and/or"
27-28	Change	"(including any of our employees)" changed to "(including any of its employees)"
29-30	Change	"employees) acting on our behalf and" changed to "employees) acting on its behalf and"
31	Change	"Supply Contract or in" changed to "Supply Contract, or in"
32-33	Change	"or in its subsequent" changed to "or in the Supply Contract's subsequent"
34	Change	"Loan Agreement not to engage" changed to "Loan Agreement, not to engage"
35	Change	"Corrupt Activity, we will... requirement and we will" changed to "Corrupt Activity and we will"
36-37	Change	"we will take Appropriate... anyone found to have" changed to "we will take appropriate... in, or is found to have"
38	Change	"have engaged in any Relevant" changed to "have engaged in, any Relevant"
39-40	Insertion	2 We declare that we are...reason to suspect, that:
41-42	Insertion	2.1 our London branch; or
43-44	Insertion	2.2 any person who is, or...in our London branch
45	Deletion	2 We declare that to the...has at any time freely
46	Change	"admitted engaging" changed to "has at any time, other...admitted engaging"
47	Deletion	"Appropriate Action"...appropriate authorities;
48	Change	"any company (in any jurisdiction)" changed to "any company (incorporated in any

		jurisdiction)"
49	Change	"and Wales) or and/or (2) ownership" changed to "and Wales) and/or (2) ownership"
50	Change	"(2) ownership (whether directly" changed to "(2) ownership of shares.. (whether directly"
51	Change	"or trustees) of the...of that company;" changed to "or trustees);"
52	Change	"other person and the...criminal conduct) which:" changed to "other person) which:"
53	Change	"jurisdiction to have rendered" changed to "jurisdiction (after all.. to have rendered"
54	Change	"(2) any Controlled" changed to "(2) we have, or any Controlled"
55-56	Change	"(including any of its employees)" changed to "(including any of our, or.. Company's, employees)"
57	Change	"employees) acting on its" changed to "employees) acting on our, or its"
58	Change	"its behalf" changed to "its, behalf"
59-60	Change	"behalf, or with its the...freely admitted engaging" changed to "behalf (with due...admitted engaging"
61-62	Change	"offence under the...amended or re-enacted)" changed to "offence under the Relevant Acts"
63	Insertion	and (3) above:
64	Change	"corresponds" changed to "(a) corresponds"
65	Change	"offence under any of the Relevant" changed to "offence under the Relevant"
66	Insertion	Relevant Acts; or
67	Insertion	(b) would, if it had...to such an offence
68	Change	"1889 to 1916 (as from.. Act 2002 (as from time" changed to "1889 to 1916 (as from time"
69	Deletion	"Subsequent Acquiescence"...in relation to it.

Statistics:	
	Count
Insertions	42
Deletions	27
Moved from	0
Moved to	0
Style change	0
Format changed	0

607

115

Total changes	69
---------------	----

Redline options	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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To: the Export Credits Guarantee Department ("ECGD")

Undertaking in respect of any Corrupt Activity associated with a Buyer Credit

Borrower:

Supplier:

Buyer:

ECGD Reference:

Supply Contract: Contract dated... between the Buyer and the Supplier
for.....

Loan Agreement: Agreement for a loan to be made to the Borrower by [us(acting through our London branch)] [a syndicate of banks, including ourselves (acting through our London branch), lead by, as agent,] for the purpose of assisting the financing the Supply Contract

1 In order to induce ECGD to guarantee the Borrower's obligations under [,and to provide interest rate support in relation to,] the Loan Agreement, and in consideration of ECGD's agreeing to do so (which we acknowledge to be a good and valuable consideration), we represent, warrant and undertake that:

1.1 the Financial Services Authority (the "FSA") regulates our London branch's compliance with the provisions of (1) the Financial Services and Markets Act 2000, and any Regulations made under it, (2) Part 7 of the Proceeds of Crime Act 2002 (3) the Money Laundering Regulations 2003 and (4) any rules or guidance published from time to time by the FSA, including, without limitation, the FSA's Money Laundering Sourcebook;

1.2 our London branch is not aware, and has no reason to suspect, that the Supply Contract, or any arrangement connected with its financing or procurement, has been, or will be, used for the purposes of money laundering (as defined in the Proceeds of Crime Act 2002);

1.3 neither our London branch, nor, to the best of its knowledge and belief, anyone (including any employee) acting on our London branch's behalf with due authority or with our London branch's subsequent acquiescence, has engaged, or will engage, in any Relevant Corrupt Activity; and

1.4 our London branch has required and/or will require anyone (including any of its employees) acting on its behalf and directly or indirectly involved in obtaining the mandate to finance the Supply Contract, or in the Supply Contract's subsequent financing under the Loan Agreement, not to engage in any Relevant Corrupt Activity and we will take

appropriate action against any employee who freely admits having engaged in, or is found to have engaged in, any Relevant Corrupt Activity.

2 We declare that we are not aware, and have no reason to suspect, that:

2.1 our London branch; or

2.2 any person who is, or who was during the past five years, an employee working in our London branch

has at any time, other than under duress, admitted engaging in, or been found by a court in any competent jurisdiction to have engaged in, any Corrupt Activity.

3 In this Undertaking:

"Controlled Company" means any company (incorporated in any jurisdiction) which is controlled by us;

"control" and "controlled" means, in relation to a company, control of that company by virtue of (1) any contractual arrangements, including, without limitation, provisions in that, or any other, company's memorandum and articles of association (or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership of shares in that company (whether directly or by nominees or trustees);

"Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which:

(1) is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Loan Agreement [or the related Overseas Guarantee] illegal, void, voidable or unenforceable under its governing law, or

(2) we have, or any Controlled Company or anyone (including any of our, or any Controlled Company's, employees) acting on our, or its, behalf (with due authority) or with our, or its, subsequent acquiescence has, other than under duress, admitted engaging in, or

(3) is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the United Kingdom to constitute an offence under any applicable law, or

(4) is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts

and which activity, in respect of paragraphs (1), (2), and (3) above:

(a) corresponds to an offence under the Relevant Acts; or

(b) would, if it had taken place in the United Kingdom, amount to such an offence

"Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

"Relevant Corrupt Activity" means Corrupt Activity in connection with (1) obtaining the mandate to finance the Supply Contract or (2) the Supply Contract's subsequent financing under the Loan Agreement or (3) any agreement, undertaking, consent, authorisation or arrangement of any kind related to the Loan Agreement or the Supply Contract's financing under it; and

For and on behalf of

[Name of Bank]

Signature:

Name:

Position:

Date:

(This undertaking must be signed by an authorised officer with appropriate responsibility)

(Form LoU-BC)

To: the Export Credits Guarantee Department ("ECGD")

Undertaking in respect of any Corrupt Activity associated with a Buyer Credit

Borrower:

Supplier:

Buyer:

ECGD Reference:

Supply Contract: Contract dated..... between the Buyer and the Supplier
for.....

Loan Agreement: Agreement for a loan to be made to the Borrower by [us][a syndicate of banks, including ourselves, lead by, as agent,] for the purpose of assisting the financing the Supply Contract

1 In order to induce ECGD to guarantee the Borrower's obligations under[,and to provide interest rate support in relation to,] the Loan Agreement, and in consideration of ECGD's agreeing to do so (which we acknowledge to be a good and valuable consideration), we represent, warrant and undertake that:

- 1.1 the Financial Services Authority (the "FSA") regulates our compliance with the provisions of (1) the Financial Services and Markets Act 2000, and any Regulations made under it, (2) Part 7 of the Proceeds of Crime Act 2002 (3) the Money Laundering Regulations 2003 and (4) any rules or guidance published from time to time by the FSA, including, without limitation, the FSA's Money Laundering Sourcebook;
- 1.2 we are not aware, and have no reason to suspect, that the Supply Contract, or any arrangement connected with its financing or procurement, has been, or will be, used for the purposes of money laundering (as defined in the Proceeds of Crime Act 2002);
- 1.3 neither we, nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employee) acting on our, or that Controlled Company's, behalf with due authority or with our, or that Controlled Company's, prior consent or subsequent acquiescence, has engaged, or will engage, in any Relevant Corrupt Activity; and
- 1.4 we have required and/or will require anyone (including any of our employees) acting on our behalf and directly or indirectly involved in obtaining the mandate to finance the Supply Contract, or in the Supply Contract's subsequent financing under the Loan Agreement, not to engage in any Relevant Corrupt Activity and we will take appropriate

action against any employee who freely admits having engaged in, or is found to have engaged in, any Relevant Corrupt Activity

2 We declare that we are not aware, and have no reason to suspect, that:

2.1 we; or

2.2 any Controlled Company nor any of our direct or indirect parent companies or their respective direct or indirect subsidiaries who, in each case, engage in activities which are regulated by the FSA; or

2.3 any person who is, or who was during the past five years, a director or employee of ours or of any Controlled Company or of any such parent or subsidiary company and whose principal place of employment is, or was, the United Kingdom

has at any time, other than under duress, admitted engaging in, or been found by a court in any competent jurisdiction to have engaged in, any Corrupt Activity.

3 In this Undertaking:

"Controlled Company" means any company (incorporated in any jurisdiction) which is controlled by us;

"control" and "controlled" means, in relation to a company, control of that company by virtue of (1) any contractual arrangements, including, without limitation, provisions in that, or any other, company's memorandum and articles of association (or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership of shares in that company (whether directly or by nominees or trustees);

"Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which:

(1) is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Loan Agreement [or the related Overseas Guarantee] illegal, void, voidable or unenforceable under its governing law, or

(2) we have, or any Controlled Company or anyone (including any of our, or any Controlled Company's, employees) acting on our, or its, behalf (with due authority) or with our, or its, subsequent acquiescence has, other than under duress, admitted engaging in, or

(3) is subsequently found by a court in any competent jurisdiction (after all available rights of appeal have been exhausted) outside the United Kingdom to constitute an offence under any applicable law, or

(4) is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts

and which activity, in respect of paragraphs (1), (2), and (3) above:

(a) corresponds to an offence under the Relevant Acts; or

(b) would, if it had taken place in the United Kingdom, amount to such an offence

"Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted),

"Relevant Corrupt Activity" means Corrupt Activity in connection with (1) obtaining the mandate to finance the Supply Contract or (2) the Supply Contract's subsequent financing under the Loan Agreement or (3) any agreement, undertaking, consent, authorisation or arrangement of any kind related to the Loan Agreement or the Supply Contract's financing under it; and

For and on behalf of

[Name of Bank]

Signature:

Name:

Position:

Date:

(This undertaking must be signed by an authorised officer with appropriate responsibility)

(Form LoU-BC)

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Roy Donovan

From: John Ormerod
Sent: 28 July 2004 18:30
To: Patrick Crawford
Subject: FW: Bribery and Corruption wording

-----Original Message-----

From: John Ormerod
Sent: 28 July 2004 18:26
To: 'Peter Malcolm'
Cc: Nicholas Ridley; John Weiss; 'peter.alder@fco.gov.uk'; Joanna Hasted
Subject: RE: Bribery and Corruption wording

Peter,

To confirm our conversation earlier this evening, we will meet at 10.00am on Monday 2nd August at the CBI to review our final positions on the outstanding issues. I also look forward to receiving from you before then your members response to our 22/7 letter and the counter-proposal from Airbus on agent's commission. We will be reporting back to Mike O'Brien very shortly thereafter.

Kind regards

John

-----Original Message-----

From: John Ormerod
Sent: 28 July 2004 09:57
To: 'Peter Malcolm'
Cc: Nicholas Ridley; John Weiss
Subject: RE: Bribery and Corruption wording

Peter,

Thanks for this update. I would appreciate a call to discuss the next steps in the process in order to brief Mike O'Brien before the weekend. I hope that we may be able to deal with any remaining issues addressed on 19th and followed up in our response by mail but I suspect we will need a meeting on the agent's commission point, where we still await the promised alternative proposal. I would like to get this meeting in the diary as soon as possible.

Kind regards

John

John Ormerod
Director, Strategy & Communications
Export Credits Guarantee Department
P.O. Box 2200
2 Exchange Tower
Harbour Exchange Square
London
E14 9GS

Tel. +44 207 512 7405
Fax +44 207 512 7021

www.ecgd.gov.uk

-----Original Message-----

Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 30 July 2004 15:52
To: John Weiss; John Ormerod; Nicholas Ridley; peter.elder@fco.gov.uk; Joanna Hasted;
Charles Redfearn; Roy Donovan; Claire Stokes



Mac Word 3.0



Adobe Portable
Document



Mac Word 3.0



Mac Word 3.0



ATTX21QB



ATTOR2XG

30 July 2004

Mr John Weiss
Deputy Chief Executive
ECGD
PO Box 2200
2 Exchange Tower
Harbour Exchange Square
London E14 9GS

Dear John,

The CBI has, of course, been anxious to ensure that we play a full role in ensuring that the various business sectors of the CBI Export Finance Committee sub group on solutions to bribery and corruption and the ECGD fully understand each other's respective positions. We will continue to do all possible to identify and facilitate solutions which will resolve outstanding issues.

I now attach documents prepared by the Aerospace sector setting out their positions and remaining concerns.

We look forward to the ECGD team coming along to Centre Point to meet the CBI ECGD Solutions Sub Group at 11.30am on Monday 2 August where we hope we can continue to make progress. I am so sorry but we will have to conclude our meeting at 1.00pm on this particular occasion owing to other commitments.

Kindest regards

Yours sincerely

(bedded image moved to file: pic24272.pcx)

Peter Malcolm

Secretary of the CBI ECGD Solutions Group

Copied to John Ormerod, Nicholas Ridley, Charles Redfearn, Roy Donovan, Joanna Hasted, Claire Stokes, Peter Elder of the FCO

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Bribery and Corruption Wording Aerospace Industry Note

We thank you for the latest drafts of BC Guarantee Application and related documents. We have considered your latest proposals, and now enclose the following documents:

- A revised version of the Supplier's application form;
- A revised draft of the audit clause; and
- A proposed declaration in respect of agents or other intermediaries.

In addition to the enclosed mark-up of the above documents, we also make the following specific comments and observations:

- 1 We naturally remain committed to reaching a workable position with ECGD regarding the Supplier BC Guarantee Application. We have appreciated our meetings through which business and the ECGD have moved closer to an agreement in respect of some parts of the application form.
- 2 We are well aware that the ECGD is attempting to ensure that there are no occurrences of bribery, corruption and money laundering in supply contracts (the "Relevant Offences") for which it provides buyer credit guarantees. We appreciate that the ECGD cannot provide BC cover for any supply contracts where the contract has been obtained, or performed, by activities which include any of the Relevant Offences. However, we believe, as you know from our earlier discussions, that the ECGD is now going beyond what would reasonably be required to satisfy itself that the contract has not been obtained or performed unlawfully, and is attempting to police bribery, corruption and money laundering in the export credit market. We are aware that the ECGD does not have any legislative mandate to perform this role.
- 3 We are, therefore, disappointed that the latest drafts of documents from the ECGD do not only contain changes to points which are the subject of ongoing discussion, but have in some instances introduced new provisions, or amended parts of drafts which we had considered previously agreed. Whilst the suppliers will consider all such proposals, continuing to introduce further changes will significantly delay reaching agreement on these matters.

Suppliers BC Application

- 4 In paragraph 4.4, the second part of the test for a controlled company should be dependent on the ownership of the majority of voting shares, and not merely any shares.
- 5 We were surprised and disappointed to see the removal of the definition of "Subsequent Acquiescence" in the latest draft since we understood that neither we nor you had any issue with this phrase. We consider that its removal is a backward step.
- 6 The proposed new wording of the first line of paragraph 5 causes us additional concerns, since it remains unclear what level of suspicion would be required to cause the supplier to notify the ECGD of particulars of an event. With clarification of "to the best of our knowledge and belief", the previous version of the start of paragraph 5

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was acceptable to us. We therefore we propose to revert to your previous version of the first line of this paragraph. You were aware that the interpretation proposed in our footnote was based on a letter from your David Allwood to Rolls Royce dated 31 October 2001 (copy enclosed), and feel strongly that you should not be seeking to redefine this term after the ECGD has given clear guidance on interpretation of this phrase in the past.

7 Our specific points related to paragraph 5.1 are:

7.1 Whilst we are able to agree to your request to make the declarations on behalf of the applicant company, controlled companies, and their respective directors, we consider that it is unreasonable to make this declaration in respect of employees of the companies, particularly since this declaration is made about the companies generally, and not in relation to the supply contract. Patricia Hewitt has advised SBAC and BExA in her letter dated 9 July 2004 that "the Department should not place an undue burden on industry" – inclusion of employees within the scope of this declaration would place such an undue burden on us. As we pointed out in our meeting on 19 July, we have accepted the need to make statements in relation to the conduct of employees in relation to the supply contract, and make such a statement in paragraph 8.2.1.

7.2 We note that you have agreed with the banks that their equivalent declaration should be limited to activities within the past five years. We consider that it is appropriate, indeed desirable, that a similar provision be included in the Supplier's BC Application to (i) limit the volume of disclosures made to those which are most likely to be relevant to the supply contract, (ii) keep the burden on suppliers to a more manageable level, and (iii) reduce the information supplied to ECGD to that which is most pertinent to the current application.

7.3 At our last meeting, we discussed, and you apparently agreed, that we would not need to notify any corrupt activity to you more than once. Reporting any corrupt activity once only will reduce the administrative burden on both you and suppliers, and consequently we have proposed the inclusion of appropriate wording to this effect.

8. We believe that paragraph 5.2 is a new requirement not previously proposed by the ECGD, or discussed with suppliers. However, the suppliers are aware of the reasons for which this requirement has been added, and consequently, subject to limiting the scope to Part 7 of the Proceeds of Crime Act 2002, will accept its inclusion.

9. We remain extremely concerned at your continuing insistence on retaining paragraph 8.2.2. We have the following concerns on this matter:

9.1 Although we appreciate the need for suppliers to operate within the law, we do not believe that suppliers should be required to "police" the activities of Associates (who may, of course, be competitors on other supply contracts).

9.2 Apart from a few exceptions, there is no general requirement in law to inform anyone if we become aware of criminal activity. This paragraph goes beyond general law by placing such a burden on the suppliers.

- 9.3 Compliance with this paragraph could result in a supplier committing an offence of tipping off under the Proceeds of Crime Act 2002. We do not believe that you intend to put suppliers in a position of committing an offence through provision of such information.
- 9.4 We note that the provision of this information goes beyond the commitment John Weiss made to the Select Committee on Environmental Audit on 21 May 2003 in his response to Question 189
- 9.5 Consequently, we ask again that this paragraph, and the related definition of Associate, should be deleted.
- 9.6 In the event that the ECGD does not accept the deletion of this paragraph, we ask that they inform us of their reasons for wanting to retain it. We further note that we have not, at this stage, made any comment on the detailed drafting of this provision, and reserve the right to make further comment in the future.
10. We note that you had not included the "with due authority" qualification in paragraph 8.2.3. We assume that this is an error in drafting, and that you do not object to this qualification. For consistency, we have also brought the scope of contracts covered by the declarations made in line with other parts of the application form.
11. We are continuing to review the scope of paragraph 8.2.4.2.1.
12. We note that you have included an additional permitted disclosure, not previously discussed, in paragraph 8.2.4.2.3, namely disclosure to your external legal advisers, and that you would not require our consent for such a disclosure. Despite the late addition, the suppliers can accept that such disclosures may be necessary, and will not object. However, the suppliers do not believe that disclosure of information to other Government Departments should be treated any differently to information disclosed to other ECAs, and consequently ask that this provision be included in paragraph 8.2.4.2.2 instead of 8.2.4.2.3.
13. The suppliers had asked that the confidentiality/disclosure provisions included in this application should be the subject of mutual undertakings between the parties. We note that the ECGD has not addressed this point. We ask for your response to our proposal that a person with appropriate authority should sign a non-disclosure agreement on behalf of the ECGD.
14. The suppliers have now provided proposals regarding details of agents and other intermediaries, and consequently request the removal of paragraph 8.2.5.

Audit Clause

15. We note that the audit clause proposed by the ECGD is substantially different from that proposed by us at our meeting on 19 July. We were disappointed to be presented with a redrafted audit clause at such a late stage. The redraft does not address many of our comments. Further, if we are to have a standard audit clause we consider that

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this will need to be a self-contained paragraph, and not merely two sub-paragraphs of a broader provision. For this reason we suggest reverting to our previous proposal

16. The ECGD is aware that any audit carried out pursuant to this audit clause is likely to result in the auditors becoming aware of information that the supplier considers commercially sensitive. Consequently, we are disappointed that the ECGD has not taken into account our proposal that all persons conducting an audit should be bound by a non-disclosure agreement entered into prior to each such audit.
17. We remain concerned about the taking of copies of any information, particularly in the light of past experience on the apparent inadvertent disclosure of information held by the ECGD. Whilst we are prepared to agree to audits of information, we do not believe that it is desirable for the ECGD or its auditors to take and retain copies of information, unless the ECGD can demonstrate a clear requirement for doing so.

Disclosure re Overseas Agents

18. We understand that the ECGD wishes to receive assurances as to the application of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related documents (OECD Convention) from industry.
19. Accordingly we are prepared to disclose to the ECGD copies of companies' codes of practice which will give evidence of corporate governance in this area and compliance with the OECD Convention.
20. We are willing to confirm to you on each application form whether or not the gross price of the product or service for which export credit cover is sought includes payments to consultants/advisers.
21. Accordingly, our view is that disclosure of the information requested under the new provisions is unacceptable for the following reasons:
 - 21.1 Whether a company employs a consultant or not is irrelevant where the ECGD's guarantee is not being extended to cover payments to consultants and where the company has a strict due diligence process, as disclosed to the ECGD.
 - 21.2 Companies are already subject to the relevant implementing laws of the OECD convention
 - 21.3 Companies carry out stringent due diligence checks of their own. The ECGD so far declined to explain what it would propose doing with the information, or what it could add to the process as they have stated that they are not an investigating body
 - 21.4 Companies are prepared to confirm that agreements with third parties contain warranties in relation to bribery and corruption
 - 21.5 The identities of third party 'agents or intermediaries' appointed by applicants to assist with their marketing is commercially sensitive information and is part

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of the company's commercial assets

- 21.6 Companies are concerned about inadvertent disclosure in the public domain particularly in an area of intense competition, such as the aerospace industry. Disclosure may be of less concern where the exported products are of lower value or where sold through a distribution network.
- 21.7 Contracts with third parties may contain confidentiality provisions which prevent disclosure to third parties
- 21.8 Any allegations of wrongdoing would be investigated by the appropriate authorities in the event that they deem it necessary.

-----Original Message-----

From: CARVER, Joanna [mailto:Joanna.CARVER@airbus.com]
Sent: 03 August 2004 14:55
To: John Weiss; Nicholas Ridley
Cc: TAYLOR, Nigel
Subject: ECGD Bribery & Corruption
Importance: High
Sensitivity: Confidential

Dear John and Nicholas,

Further to our meeting yesterday, please find attached the standard form documents which are used in the selection and retention of consultants by us. These documents are being provided to you on the basis that you will treat them as confidential, restrict circulation of them within ECGD and do not disclose them to anyone outside ECGD without our prior written consent.

I trust that this will go a long way to providing you with reassurances as to the seriousness with which we take the OECD Convention and the due diligence process undertaken by Airbus <<Warranty.doc>> <<Representation.doc>> <<Questionnaire.xls>> <<Letter of Recommendation.doc>> <<Declaration.doc>> .

Kind regards,

Joanna

This e-mail is intended only for the above addressee. It may contain privileged information. If you are not the addressee you must not copy, distribute, disclose or use any of the information in it. If you have received it in error please delete it and immediately notify the sender. Security Notice: all e-mail, sent to or from this address, may be accessed by someone other than the recipient, for system management and security reasons. This access is controlled under Regulation of Investigatory Powers Act 2000, Lawful Business Practises.

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbl.org.uk]
Sent: 05 August 2004 16:38
To: Nicholas Ridley
Cc: John Weiss; John Ormerod; Roy Donovan; CBI ECGD Solutions Group
Subject: ECGD Forms



Internet HTML



Mac Word 3.0



Mac Word 3.0



Mac Word 3.0



Mac Word 3.0



Mac Word 3.0



Mac Word 3.0

Dear Nicholas

Many thanks for your note and attachments which I am circulating to the CBI Group immediately.

See you all on Monday

Yards

Peter

----- Forwarded by Peter Malcolm/CBI on 05/08/2004 16:35 -----

"Nicholas Ridley" <Nicholas.Ridley@ecgd.gsi.gov.uk> on 05/08/2004 16:20:10

To: Peter.Malcolm/CBI@CBI
cc: "John Weiss" <John.Weiss@ecgd.gsi.gov.uk>, "John Ormerod" <JOHN.ORMEROD@ecgd.gsi.gov.uk>, "Roy Donovan" <Roy.Donovan@ecgd.gsi.gov.uk>
Subject: ECGD Forms

Dear Peter,

John Weiss apologises that another urgent meeting of his has prevented his sending to you his letter. He has given it to me and asked me to send it on and attach hereto together with its enclosures.

Regards,

Nicholas Ridley

<<CBI Letter.doc>>

<<NR Version BC Application v1.doc>>

<<The best of our knowledge and belief.doc>>

<<ECGD BC Audit Clause for Banks 22.07.2004.doc>>

<<Clauses 2&5.11.doc>>

<<(NR) Airbus Undertaking Letter.doc>>

5 August 2004

Mr P Malcolm
CBI
CBI Centre Point
103 New Oxford Street
London
WC1A 1DU

Dear Peter,

The attached is a redraft of the Application for ECGD Buyer Credit support. This is redrafted pursuant to our meeting on Monday 2nd August 2004. Please circulate it as appropriate.

Before I add such (happily) short words of explanation as may be necessary, I wish to stress two points:

- (a) As I set out in my letter of 7th July the terms which we have been considering in the context of the Application Form will need, as appropriate, to be carried over into other documents. Although it is very largely self evident as to how this consequential amendment will occur, I attach copies of the reworked "February Airbus letter" and a Standard Buyer Credit Premium and Recourse Agreement. Supplier Credit documentation and Insurance will be dealt with identically save where its form requires consequential changes. The Banks LOUs we deal with separately.
- (b) The purpose of the furnishing of these drafts is to complete discussion in accordance with the agreements reached on 2nd August on all matters except for the issue of disclosure by Applicants of Agents' names.

In view of the fact that we regard all matters save for the two referred to above as solved we will touch only very lightly on the aerospace industry note which was the vehicle in which the previous set of observations on the then current form was raised:

- (i) We were surprised that you were surprised to see that the definition of Subsequent Acquiescence had been removed since it was removed at the behest of the Banks at the meeting previous to 2nd August, with the CBI wanting all forms to be the same. We have at aerospace request, and as agreed with you all, put back into the document our previous definition. It also requires restatement of the definition of "Appropriate Action" to which it refers.

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- (ii) We append to the form a statement regarding the meaning of "to the best of our knowledge and belief" which is taken, with only grammatical changes, from the letter of David Allwood to Sue Walton of 31st October 2001. Please be aware that that letter and this statement does not allow the representation to be accurately made where doubts are entertained.
- (iii) We have taken all the points made in point 7 of the aerospace note about paragraph 5.1.
- (iv) We have taken the point made in point 8 about 5.2.
- (v) Unless you felt that we were asking you to notify us of activity which might become Corrupt Activity rather than Corrupt Activity itself, we remain extremely surprised and concerned at the vehemence with which you have resisted our (old) paragraph 8.2.2. It is only Corrupt Activity which has occurred which is in issue in this sub-clause and we have made further amendments to the clause to make that clear. We have also defined "we" and "us" in 4.12. We have also, (despite our extreme dubiety about whether informing a Department of Her Majesty's Government could ever constitute "tipping off" a committer of Corrupt Activity under the Proceeds of Crime Act 2002) inserted a saving provision in 9.2.2 relieving Applicants from making such a notification where it does or it might reasonably be argued to constitute such an offence.
- (vi) The phrase "due authority" serves no purpose in 9.2.3. That sub-clause deals with those whom you know to be acting on your behalf and they cannot be acting without due authority. But for the same reasons its inclusion does not damage our interests and we have included it.
- (vii) Your comments about (old) 8.2.4.2.3 and the alterations in your draft indicate to us that you have misunderstood what we were trying to do in drawing a distinction between the nature of the matters dealt within (old) 8.2.4 and those dealt with in (old) 8.2.5. But it is also fair to say that the drafting of this section of the Application Form has become somewhat encrusted with redrafted additions to the extent that, as we agreed in our meeting on 2nd August the meaning was on the verge of becoming confused. Nicholas Ridley said at that meeting that he would try and tidy up that section of the Form and he has done so. In looking at this section please keep in mind the following points:
 - (a) The issue of what may happen to details regarding the use of Agents or intermediaries is not yet resolved: in consequence no special provision is made in the current version of this clause for details regarding those matters. This does not represent our final position: we are prepared to have a further discussion about Agents' names.
 - (b) The whole of 9.2 is effectively a notification that certain matters are going to become conditions in other contractual documentation. It therefore follows that not everything that was in the old 8.2.4 or 8.2.5 is properly the subject of a condition in other contractual documentation. Therefore the confidentiality provisions have been removed from 9.2 and given a paragraph (9.3) to themselves.

- (c) It is also the case that a good point was made to us at the meeting of 2nd August that there is or should be a difference in the sanctions in contractual documentation between the notification provisions in 9.2.2 and the provisions, for example in 9.2.1 and 9.2.3. You will find that in those contracts.
- (d) The whole of what is now 9.3 is conditioned by the fact that the parties may of course agree to the contrary. It is not therefore elegant drafting, when creating exceptions to that fundamental position which permit disclosure, to use in the exception a condition of prior written consent. The clause has therefore been recast so that it deals only with those matters which may be disclosed without agreement of the parties (although it does include in 9.3.2.2 and 9.3.2.3 matters to which objection can be taken and the paragraph deleted). Given that the disclosures contemplated in (the old) 8.2.4.2.2 require prior written consent, no purpose is served by including them in the new 9.3 save to provide that such consent is not to be unreasonably withheld or delayed. That is now therefore dealt with in a separate sub-clause in 9.4. Since the division which we originally attempted to make in order to assist you between details about Agents and other matters in the Application Form has been rejected by the deletion in the aerospace note of the whole of (old) 8.2.5, we have abandoned that attempted division and deleted the whole of the old 8.2.5 although some of its provisions will be found in the new 9.3.2.1.
- (e) We have removed the right to furnish without your consent details to the Department's auditors. But please be aware that we do not regard that removal as making any difference to our rights. By statute we are obliged to make and lay an annual report before Parliament; and that report has to be audited. We cannot refuse to comply with the request by the National Audit Office or any sub-contractors which provide any documentation for which they ask. It falls within our duties at law and as a Government Department.
- (viii) We saw representatives of the Banks involved in these discussions yesterday and they very helpfully put forward a constructive version of the Audit Clause. We append the version they put forward yesterday slightly amended by us which we accept and believe can be applied to Suppliers.
- (ix) In order to harmonise Airbus and non-Airbus Application Forms we have included the export licence warranty (clause 7). This should be entirely non-controversial. In future only the Schedules to Application Forms may differ for Airbus.

Yours faithfully,

John Weiss

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5 August 2004

Mr P Malcolm
CBI
CBI Centre Point
103 New Oxford Street
London
WC1A 1DU

Dear Peter,

The attached is a redraft of the Application for ECGD Buyer Credit support. This is redrafted pursuant to our meeting on Monday 2nd August 2004. Please circulate it as appropriate.

Before I add such (happily) short words of explanation as may be necessary, I wish to stress two points:

- (a) As I set out in my letter of 7th July the terms which we have been considering in the context of the Application Form will need, as appropriate, to be carried over into other documents. Although it is very largely self evident as to how this consequential amendment will occur, I attach copies of the reworked "February Airbus letter" and a Standard Buyer Credit Premium and Recourse Agreement. Supplier Credit documentation and insurance will be dealt with identically save where its form requires consequential changes. The Banks LOUs we deal with separately.
- (b) The purpose of the furnishing of these drafts is to complete discussion in accordance with the agreements reached on 2nd August on all matters except for the issue of disclosure by Applicants of Agents' names.

In view of the fact that we regard all matters save for the two referred to above as solved we will touch only very lightly on the aerospace industry note which was the vehicle in which the previous set of observations on the then current form was raised:

- (i) We were surprised that you were surprised to see that the definition of Subsequent Acquiescence had been removed since it was removed at the behest of the Banks at the meeting previous to 2nd August, with the CBI wanting all forms to be the same. We have at aerospace request, and as agreed with you all, put back into the document our previous definition. It also requires restatement of the definition of "Appropriate Action" to which it refers.

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- (ii) We append to the form a statement regarding the meaning of "to the best of our knowledge and belief" which is taken, with only grammatical changes, from the letter of David Allwood to Sue Walton of 31st October 2001. Please be aware that that letter and this statement does not allow the representation to be accurately made where doubts are entertained.
- (iii) We have taken all the points made in point 7 of the aerospace note about paragraph 5.1.
- (iv) We have taken the point made in point 8 about 5.2.
- (v) Unless you felt that we were asking you to notify us of activity which might become Corrupt Activity rather than Corrupt Activity itself, we remain extremely surprised and concerned at the vehemence with which you have resisted our (old) paragraph 8.2.2. It is only Corrupt Activity which has occurred which is in issue in this sub-clause and we have made further amendments to the clause to make that clear. We have also defined "we" and "us" in 4.12. We have also, (despite our extreme dubiety about whether informing a Department of Her Majesty's Government could ever constitute "tipping off" a committer of Corrupt Activity under the Proceeds of Crime Act 2002) inserted a saving provision in 9.2.2 relieving Applicants from making such a notification where it does or it might reasonably be argued to constitute such an offence
- (vi) The phrase "due authority" serves no purpose in 9.2.3. That sub-clause deals with those whom you know to be acting on your behalf and they cannot be acting without due authority. But for the same reasons its inclusion does not damage our interests and we have included it.
- (vii) Your comments about (old) 8.2.4.2.3 and the alterations in your draft indicate to us that you have misunderstood what we were trying to do in drawing a distinction between the nature of the matters dealt within (old) 8.2.4 and those dealt with in (old) 8.2.5. But it is also fair to say that the drafting of this section of the Application Form has become somewhat encrusted with redrafted additions to the extent that, as we agreed in our meeting on 2nd August the meaning was on the verge of becoming confused. Nicholas Ridley said at that meeting that he would try and tidy up that section of the Form and he has done so. In looking at this section please keep in mind the following points:
 - (a) The issue of what may happen to details regarding the use of Agents or intermediaries is not yet resolved: in consequence no special provision is made in the current version of this clause for details regarding those matters. This does not represent our final position: we are prepared to have a further discussion about Agents' names.
 - (b) The whole of 9.2 is effectively a notification that certain matters are going to become conditions in other contractual documentation. It therefore follows that not everything that was in the old 8.2.4 or 8.2.5 is properly the subject of a condition in other contractual documentation. Therefore the confidentiality provisions have been removed from 9.2 and given a paragraph (9.3) to themselves.

- (c) It is also the case that a good point was made to us at the meeting of 2nd August that there is or should be a difference in the sanctions in contractual documentation between the notification provisions in 9.2.2 and the provisions, for example in 9.2.1 and 9.2.3. You will find that in those contracts.
- (d) The whole of what is now 9.3 is conditioned by the fact that the parties may of course agree to the contrary. It is not therefore elegant drafting, when creating exceptions to that fundamental position which permit disclosure, to use in the exception a condition of prior written consent. The clause has therefore been recast so that it deals only with those matters which may be disclosed without agreement of the parties (although it does include in 9.3.2.2 and 9.3.2.3 matters to which objection can be taken and the paragraph deleted). Given that the disclosures contemplated in (the old) 8.2.4.2.2 require prior written consent, no purpose is served by including them in the new 9.3 save to provide that such consent is not to be unreasonably withheld or delayed. That is now therefore dealt with in a separate sub-clause in 9.4. Since the division which we originally attempted to make in order to assist you between details about Agents and other matters in the Application Form has been rejected by the deletion in the aerospace note of the whole of (old) 8.2.5, we have abandoned that attempted division and deleted the whole of the old 8.2.5 although some of its provisions will be found in the new 9.3.2.1.
- (e) We have removed the right to furnish without your consent details to the Department's auditors. But please be aware that we do not regard that removal as making any difference to our rights. By statute we are obliged to make and lay an annual report before Parliament; and that report has to be audited. We cannot refuse to comply with the request by the National Audit Office or any sub-contractors which provide any documentation for which they ask. It falls within our duties at law and as a Government Department.
- (viii) We saw representatives of the Banks involved in these discussions yesterday and they very helpfully put forward a constructive version of the Audit Clause. We append the version they put forward yesterday slightly amended by us which we accept and believe can be applied to Suppliers
- (ix) In order to harmonise Airbus and non-Airbus Application Forms we have included the export licence warranty (clause 7). This should be entirely non-controversial. In future only the Schedules to Application Forms may differ for Airbus.

Yours faithfully,

John Weiss

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APPLICATION FOR AN ECGD BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed.)

Nature of business:

Date Company was established:

Total annual turnover:

Number of employees:

Number of years exporting:

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CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.5 below)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied
(If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ No
☐ Yes
☐ Yes, but only from the date on which it came into force, namely _____
(specify date)

1 We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule").

2 Our Bankers, _____
of _____

_____ have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the Borrower has *approved / *has yet to approve our Bankers for this purpose. (*Delete as appropriate)

3 We undertake to notify you of any information we may receive about any proposed additional lending from any source in relation to this transaction.

4 We agree that for the purposes of this Application:

4.1 "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities;

4.2 "Associate" means any company (other than ourselves or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1)

which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

4.3 "Borrower" means the party so described in the Schedule;

4.4 "Buyer" means the party so described in the Schedule;

4.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership of shares in that company (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

4.6 "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which:

4.6.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered a contract illegal, void, voidable or unenforceable under its governing law, or

4.6.2 we have, or any Controlled Company or anyone (including any employee) acting (with due authority) on our, or any Controlled Company's, behalf ~~(with due authority)~~ or with our, or its, ~~Subsequent Acquiescence~~ has, other than under duress, admitted engaging in, or

4.6.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

4.6.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts

and which activity, in respect of paragraphs 4.6.1, 4.6.2, and 4.6.3 above corresponds to an offence under the Relevant Acts;

4.7 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

4.8 "Guarantor" means any party so described in the Schedule;

4.9 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

4.10 "Supply Contract" means the entirety of the contract between ourselves and the Buyer which is referred to in the Schedule;

4.11 "Subsequent Acquiescence" means, in relation to any activity which would constitute an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it;

4.12 "We" and "us" means the Applicant; and, where states of mind belonging to "we" or "us" are hereinafter referred to, such states of mind are, where the Applicant is an incorporated company those of one or more directors of the Applicant or the signatory to this form and, where the Applicant is a partnership, those of one or more of the partners.

5 We declare that ~~we are not aware, and have no reason to suspect, that to the best of our knowledge and belief,~~

5.1 we or any Controlled Company or any director or employee of ours or of any Controlled Company:

5.1.1 neither appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, and nor

5.1.2 has at any time during the last five years, other than under duress, admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity that has not previously been notified to ECGD **

5.2 the Supply Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002)

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form)

6 We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different to the Buyer) and/or any Guarantor or Surety ***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form)

7 We declare that none of the goods and/or services are to be supplied under the terms of the supply contract will require an export licence to be issued by the UK Government or the Government of any other country. ****

(****If you are unable to make this declaration you should delete it and provide details of the required licence, including the name and address of the issuing authority, on your headed notepaper and attach it to this form. If the licence has already been issued a certified true copy of it should also be attached.)

8 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BC Ap.5) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched2) provided to us by ECGD

89 We understand that

8.19.1 in our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

8.29.2 it will be a condition of a Buyer Credit guarantee being made available for the transaction described in the Schedule:

8.2.19.2.1 that neither we nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's prior consent or Subsequent Acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract;

8.2.19.2.2 that, if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its sSubsequent Acquiescence, has engaged in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt

"Best of our knowledge and belief" means a state of actual knowledge and belief held by the signatory at the time of signature which he either has never had any cause to consider inaccurate nor should have had, or has resolved any such cause by sufficient enquiry"

Activity) in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, ~~or suspected or alleged Corrupt Activity, in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;~~

8.2.39.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.6.1, 4.6.3 or 4.6.4, would amount to Corrupt Activity) in connection with the Supply Contract ~~or any related agreement, undertaking, consent, authorisation or arrangement of any kind;~~ (2) we will monitor compliance with that requirement, and (3) we will take Appropriate Action against anyone found to have engaged in any Corrupt Activity; and

9.3 ~~that~~ (unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to it are confidential and shall not be disclosed to any third party except:

9.3.1 by us in confidence to our banker or broker or other professional advisers, in each case for the purpose for which each of them has been employed by us; and

9.3.2 ~~(subject to paragraph 8.2.5 below)~~ by ECGD,

9.3.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department; or to its external legal advisers and other Government Departments;

~~in confidence (and with our prior written consent, such consent not to be unreasonably withheld or delayed) to (1) its re-insurers or to those persons to whom it is necessary to disclose the details of such discussions and correspondence in connection with ECGD's portfolio management activities or (2) other export credit agencies; or~~

~~in confidence to (1) its external legal advisers for the purpose of obtaining advice in relation to this Application or the documenting of ECGD's support for the Supply Contract or its financing or (2) other Government Departments; or~~

9.3.2.2 prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports;**** and

9.3.2.3 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project.****

~~that details of the use of agents or other intermediaries in the obtaining of the Supply Contract, and of any payments made to those agents or intermediaries, which are provided to ECGD in this Application or in any related discussions or correspondence shall be held in confidence by ECGD and not, without our prior consent, disclosed to any third parties except:~~

~~to ECGD's lawyers and auditors; and~~

by ECGD in accordance with its obligations at law or under the Code of Practice on Access to Government Information, or its obligations to Parliament as a Government Department

9.4 It will be a condition of a Buyer Credit Guarantee being made available for the transaction described in the Schedule that we will not unreasonably delay or withhold our consent to the disclosure by ECGD of the confidential matters referred to in 9.3 above, in particular but not limited to, situations where ECGD wishes to disclose matters to its reinsurers or other persons to whom it is necessary to disclose for the purposes of ECGD's portfolio management activities, to other Export Credit Agencies or to persons other than those named in section 9.3.21 above to whom ECGD may wish to disclose information to assist it with the assessment of the Application.

(***** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form.)

9.10 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the Schedule

Signed _____

On behalf of (Name of Applicant) _____

Address _____

Capacity of Signatory _____

Date _____

1 In the case of an incorporated company, this Application must be signed by a director or a person authorised by the company's board of directors or an officer of the company in accordance with the company's articles of association or equivalent constitutional document to sign this Application, or documents of the same nature as this Application, on behalf of the company

2 In the case of a partnership, this Application must be signed by a partner.

(Form BCAP.5)

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"The best of our knowledge and belief"

The following is ECGD's understanding of the expression "to the best of our knowledge and belief" and the way in which ECGD will interpret a company's obligation to it when signing any form containing the expression.

It is our view that the words "to the best of our knowledge and belief" must be read disjunctively, as if it consisted of two phrases, viz "to the best of our knowledge" and "to the best of our belief", each having a separate and independent meaning. "Knowledge" is unqualified, and therefore means the actual knowledge of the person concerned as at the time of making the statement in question. "The best of" requires the maker of the statement to review their then state of knowledge and report all that that review tells them. It does not require the person to make any enquiries or in any other way to seek to improve or augment their state of knowledge before making the statement.

"Belief" requires a factual basis, entitling the person whose belief is being expressed to hold it. Nevertheless, it does not stop with matters of fact. A persons factual knowledge may lead them to infer and hence believe in other facts of which they have no knowledge as such. "The best of" belief means that the person is uttering what they genuinely believe to be true, as opposed to matters as to which they entertain doubts. Again, since "belief" is unqualified, there is no requirement to seek to verify or bolster a belief by enquiry, other than by a diligent search of the persons own conscience.

AUDIT CLAUSE FOR BANKS

11.1 The Banker shall

11.1.5

11.1.5.1 permit any person authorised by ECGD to visit any of its UK/London branch premises where records relating to the administration of this Agreement and the Loan Agreement are kept during business hours for the sole purpose of inspecting, auditing and taking copies of any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate specifically to the administration of this Agreement and the Loan Agreement (the "Administration Records");

11.1.5.2 if ECGD confirms in writing to the Banker that it has reasonable grounds for suspecting that an employee of the Banker has been engaged in any Relevant Corrupt Activity, permit ECGD personnel to visit any of its UK/London branch premises where records relating to the administration of this Agreement and the Loan Agreement are kept during business hours for the sole purpose of inspecting and auditing any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate (a) specifically to it obtaining the mandate to finance the Supply Contract and (b) only to the period up to the date of award of such mandate (the "Mandate Records"), and provided that ECGD may only inspect, and audit or take copies of Mandate Records relating to the Banker obtaining the mandate to finance the Supply Contract for the sole purpose of verifying statements made, and information given, to ECGD by the Banker in "Form LoU-BC" (the "Administration Records" and the "Mandate Records" shall hereinafter be referred to as the "Records"); and

11.1.6 furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative or ECGD personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will

11.1.6.1 give not less than five Business Days notice of such visit

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~~11.1.6.2 observe any legal privilege that may exist in respect of records held by the Banker~~

11.1.6.3 on request pay to the Banker the cost of supplying any copies of the Records supplied and

11.1.6.4 ~~11.1.6.4~~ hold in confidence, and not disclose to any third party without the Banker's prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential ~~such~~ information in confidence to its reinsurers or professional advisers in connection with its portfolio management, provided [in the case of such reinsurers or professional advisers (ECGD amendment)] that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this clause shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information; any information or copy record obtained from the Banker and (b) to the extent permitted by law, give the Banker reasonable notice of its intention to disclose any Confidential Information under the Code and consult with the Banker in deciding whether to disclose any Confidential Information under the Code; and

11.1.6.5 ~~destroy such the records~~ Confidential Information or if requested return them to the Banker when ECGD considers they have served the purpose for which they were obtained,

Nothing in this clause shall oblige the Banker or ECGD to act unlawfully or in breach of any regulation or requirement of its regulatory bodies or any duty of confidentiality.

Nothing herein shall be construed as consent by the Banker to ECGD to disclose any Confidential Information in accordance with the Code.

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PREMIUM AND RECOURSE AGREEMENT EXTRACTS

CLAUSE 2. INTERPRETATION

In this Agreement

~~2.1 "Affiliate" means in relation to the Supplier any company which is a member of the same group of companies or any other party to any joint venture or consortium or other similar arrangement with the Supplier in connection with the Supply Contract~~

2.1 "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities;

2.2 "Associate" means any company (other than the Supplier or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which the Supplier is also a party;

2.32 "CIRR Rate" means the 2-5 year Sterling contract Commercial Interest Reference Rate specified under the OECD Consensus and displayed from time to time on the ECGD website @ www.ecgd.gov.uk

2.43 "Consensus" means the OECD arrangements on guidelines for officially supported export credits

2.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

2.6 "Controlled Company" means any company (in any jurisdiction) which is controlled by the Supplier.

2.74 "Corrupt Activity" means any activity (including without limitation, the offering of any payment reward or other advantage to any public official or other person) which; and the concealment use or facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which

2.74.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Supply Contract illegal, void, voidable or unenforceable under its governing law, or

2.74.2 the Supplier, or any Controlled Company the Supplier any of its Affiliates or anyone (including any of the Suppliers' or any of its Affiliates' employees) acting (with due authority) on the Supplier's, or any Controlled Company's behalf of or with the Supplier's, or its, the prior consent or sSubsequent aAcquiescence has, other than under duress, admitted engaging in, or of the Supplier or any of its Affiliates has freely admitted engaging in, or

2.74.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

2.74.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)

and which activity, in respect of paragraphs 2.74.1, 2.74.2 and 2.74.3 above corresponds to an offence under the Relevant Acts ~~Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)~~

2.85 "Eligible Bank Support Agreement" means an agreement between an Eligible Bank which has taken an assignment of all or any part of the rights and benefits under the Loan Agreement ²[either of a Lender in accordance with Clause 11.3 thereof or] of ECGD ²[thereunder] in accordance with Clause 11.4 thereof of the one part and ECGD of the other part whereby ECGD guarantees on the terms (mutatis mutandis) set out in Clause 4.1 of the Support Agreement to pay to that Eligible Bank that proportion of the unpaid amounts referred to in that Clause to which that Eligible Bank shall have become entitled by virtue of such assignment as aforesaid

2.96 "Immaterial Default" means any default by the Supplier in the observance or performance of its obligations under the Supply Contract which in the opinion of ECGD is neither material nor substantial or which in the opinion of ECGD has been caused by

2.99.1 an act or omission by the Buyer not induced or provoked by the Supplier or

2.99.2 the prevention of or delay in the transfer of funds in respect of the Supply Contract resulting from the occurrence outside the UK of political events economic difficulties legislative or administrative measures or a general moratorium or

2.99.3 any measure or decision (including the non-renewal or cancellation of an export licence) of any government other than

that of the UK which in whole or in part prevents performance of the Supply Contract or

2.96.4 the occurrence outside the UK of hostilities civil disturbance or natural disaster which in whole or in part prevents performance of the Supply Contract or

2.96.5 the cancellation or non-renewal of a UK export licence or

2.96.6 any restrictions introduced in the UK after the date of the Supply Contract which prevent performance of the Supply Contract other than the refusal to grant a UK export licence or other authorisation necessary for performance of the Supply Contract if such authorisation was required on the date of the Supply Contract

2.107 "OECD" means the Organisation for Economic Co-operation and Development

2.11 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted)

2.12 "Subsequent Acquiescence" means, in relation to any activity which would constitute an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it

¹[2.8 "Sterling Equivalent" means in relation to any amount of administrative charge and/or premium expressed in dollars under the terms of this Agreement such amount converted into sterling at a rate being the closing mid-point of the spot buying and selling rates of

¹ This Clause should be inserted if the Supplier/Companies have opted to pay premium in sterling rather than dollars

exchange of dollars for sterling as quoted in the "Financial Times" which prevailed on a date four Banking Days prior to the due date for payment by the [Supplier] [Companies] to ECGD of any such amount. If it is not possible to arrive at such a rate in this manner ECGD will advise the [Supplier] [Companies] on the rate to be used]

2.139 Any expression defined in the Loan Agreement or the Support Agreement shall have the same meaning when used in this Agreement

2.140 Where the context of this Agreement so allows words importing the singular include the plural and vice versa

2.151 Unless otherwise indicated reference to a specified Clause or Appendix shall be construed as reference to that specified Clause of or Appendix to this Agreement

2.162 Clause headings are for ease of reference only

CLAUSE 5.11 THE OBLIGATIONS OF THE SUPPLIER

5.11 that

5.11.1 ~~if the Supplier or, any Controlled Company or anyone (including any employees) acting on the Supplier's, or that Controlled Company's, behalf with due authority, or with the Supplier's, or that Controlled Company's prior consent or Subsequent Acquiescence, has engaged, or engages, in any Corrupt Activity in connection with the Supply Contract if the Supplier or anyone (including any of its employees) acting on its behalf with due authority or with its prior consent or subsequent acquiescence engages in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, or~~

5.11.2 ~~if, with the Supplier's prior consent or subsequent acquiescence, an Affiliate or anyone (including any of the Affiliate's employees) acting on behalf of the Affiliate with due authority or with the Affiliate's prior consent or subsequent acquiescence engages in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind,~~

the Supplier will on demand pay to ECGD

5.11.3 any amounts that ECGD certifies it has paid to the Banker in respect of any loss or expense the Banker has incurred in respect of amounts advanced under the Loan Agreement, [and]

²[5.11.4 any amounts that ECGD certifies as being the net cost to ECGD of making payments to the Banker in respect of advances under the Loan Agreement by way of interest equalisation or make up, and]

5.11.[5] any amounts that ECGD certifies it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the Loan Agreement, the Support Agreement or this Agreement

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Supply Contract, or any related agreement, undertaking, consent, authorisation or arrangement of any kind became illegal, void or unenforceable under its governing law as a result of that activity

5.12 that if the Supplier becomes aware that any Associate or anyone (including any of its employees) acting on its behalf (with due authority) or with its Subsequent Acquiescence has engaged in Corrupt Activity in connection with the Supply Contract or any related agreement undertaking consent, authorisation or arrangement of any kind the Supplier shall promptly notify ECGD accordingly and supply ECGD will full details of the Corrupt Activity in question save where such notification would, or might reasonably argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002

5.13 that (1) the Supplier shall have required or shall require anyone (including any of its employees) acting on its behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 2.7.1, 2.7.3 and 2.7.4 would amount to Corrupt Activity) in connection with the Supply Contract (2) will monitor compliance with that requirement and

² Delete if this is a pure cover loan

(3) will take Appropriate Action against anyone found to have engaged in Corrupt Activity

5.14 the Supplier will not unreasonably delay or withhold consent to disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Forms.

4 February 2004

Her Britannic Majesty's Secretary of State
Acting by the Export Credits Guarantee Department
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
England ("ECGD")

Dear Sirs,

PROVISION OF BUYER CREDIT SUPPORT

- 1 In consideration of ECGD agreeing to consider providing Buyer Credit Support (which we acknowledge to be a good and valuable consideration) we undertake that:

1.1 ~~in connection with any Contract and any related agreement, undertaking, consent, authorisation or arrangement of any kind~~ neither we nor to the best of our knowledge or belief any Controlled Company or anyone (including any of our employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or ~~Subsequent Acquiescence~~ has engaged or will engage in any Corrupt Activity;

1.2 if we or any Controlled Company or anyone (including any of our employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or ~~Subsequent Acquiescence~~ engages in any Corrupt Activity in connection with a Contract we will on demand pay to ECGD any amount that ECGD certifies -

1.2.1 that it has paid to the lending bank in respect of any loss or expense the lending bank has incurred in respect of amounts advanced under the relevant loan;

1.2.1 as being the net cost to ECGD of making payments to the lending bank in respect of advances under the relevant loan by way of interest equalisation or make up; and

1.2.2 it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the relevant loan, or its guarantee

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Contract or ~~any related agreement, undertaking, consent, authorisation or arrangement of any kind~~ became illegal, void, or unenforceable under its governing law as a result of that activity; and

- 1.3 ~~to the best of our knowledge and belief, neither we nor our managing director nor any of our executive vice presidents—~~
- 1.3.1 neither we nor our managing director nor any of our executive vice presidents, nor any Controlled Company nor any director of any Controlled Company
- 1.3.1.1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency; or
- 1.3.2.1.3.1.2 has at any time during the last five years, other than under duress, admitted having engaged or been found by a court in any competent jurisdiction to have engaged in any eCorrupt Activity that has not previously been notified to ECGD;
- 1.3.2 the Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002)
- 1.4 if at any time the undertakings given at paragraphs 1.3.1 and 1.3.2 above become or are found to be untrue or incorrect to the best of our knowledge and belief we will immediately give written notice to ECGD and such notice shall include details of the events that resulted in any such listing and/or any court finding.
- 1.5 if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its Subsequent Acquiescence, has engaged in any Corrupt Activity in connection with the Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, in question save where such notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;
- 1.6 (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 3.3.1, 3.3.3 or 3.3.4, would amount to Corrupt Activity) in connection with the Contract (2) we will monitor compliance with that requirement, and (3) we will take Appropriate Action against anyone found to have engaged in any Corrupt Activity; and
- 1.7 we will not unreasonably delay or withhold consent to disclosure by ECGD of any matters which are otherwise confidential by

virtue of the provisions of the ECGD Application Forms.

2 We agree that the above undertakings shall apply in respect of any Contract where any drawings are made from the relevant loan after 4 February 2004 ~~the date of this letter~~ and prior to 4 February 2005.

3 We understand for the purposes of this undertaking -

3.1 "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities.

3.2 "Associate" means any company (other than us or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;

~~3.13.3~~ "Buyer Credit Support" means the provision by ECGD of support to banks under its Buyer Credit facilities in respect of loans to be provided to finance the purchase of Airbus aircraft to be supplied under contracts entered into by ourselves with buyers;

~~3.23.4~~ "Contract" means a contract for the sale of an Airbus aircraft (that receives Buyer Credit Support) or the substitute contract for which finance is provided by means of a loan that receives Buyer Credit Support;

3.5 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;

3.6 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

~~3.23.7~~ "Corrupt Activity" means any activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which

~~3.3.13.7.1~~ is subsequently ~~has been~~ found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Contract illegal, void, voidable or unenforceable under its governing law, or

~~3.3.23.7.2~~ we have, or any Controlled Company or anyone (including any of our employees) acting (with due authority) on our, or any Controlled Company's, behalf or

~~with our, or with due authority or with our prior consent or its sSubsequent eAcquiescence has, other than under duress, freely-admitted engaging in, or~~

~~3.2.33.7.3~~ ~~is subsequently has been found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or~~

~~3.2.43.7.4~~ ~~is subsequently has been found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Relevant Acts, Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted)~~

~~and which activity, in respect of paragraphs 3.73.1, 3.73.2 and 3.73.3 above corresponds to an offence under the Relevant Acts, Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted).~~

~~3.8 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);~~

~~3.9 "Subsequent Acquiescence" means, in relation to any activity which would constitute an offence under any of the Relevant Acts, being aware of, or having reason to suspect, the occurrence of that activity but failing to take Appropriate Action in relation to it~~

- 4 This undertaking shall be construed in accordance with English law and we agree to submit to the exclusive jurisdiction of the English courts in respect of any dispute arising in connection with this undertaking.

Yours faithfully,

Noel FORGEARD

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MEETING AT CBI ON 9 AUGUST 2004 - ACTION POINT NOTE

Present:

CBI SOLUTION GROUP
(Airbus was unable to attend)

ECGD : JOHN WEISS
NICHOLAS RIDLEY
JOHN ORMEROD
ROY DONOVAN
DTI : ROGER BOURNE

The following was agreed:

Application Form

1. "Appropriate Action" and "Subsequent Acquiescence" would not be defined terms but, where they appeared in the Application, would be in lower case;
2. The Banks still had concerns over "is subsequently" in the "Corrupt Activity" definition because there might be changes in the interpretation of the law by the Courts which the Banks are unable to foresee. ECGD's position is that customers must make their own judgement on whether what they are doing may subsequently be ruled as illegal. ECGD will, however, look at including some wording that deals with the highly unlikely event that future amendments to the corruption Acts apply retrospectively;
3. "we" and "us" would be amended to include a reference to "board" before "directors". ECGD will also consider again whether the references to "state of mind" are necessary;
4. "Surety" will be defined the same as "Guarantor";
5. Para. 9.2.2 – Industry were content subject to the final definitions of "Corrupt Activity" and "we" and "us" being acceptable;
6. Para. 9.3 – ECGD will include a reference to notifying the Applicant when passing confidential information on to another Govt. Department and will also ensure that the other Govt Department is aware that the information it is receiving is commercially confidential; and
7. Para. 9.4 – ECGD will replace "condition" with another more suitable word/expression.

"Best of our knowledge and belief"

Airbus had proposed some minor grammatical changes. ECGD will accept on the understanding that the rest of the GBI Group were also content. They confirmed that they were.

Audit Clause

Industry had seen the Bank version of the audit clause but wanted to see the Supplier version and discuss with Airbus before commenting. ECGD will provide. Also wanted clarification as to

who ECGD would send to carry out the audit and "reasonable grounds" needed to be more specific

Premium/Recourse Agreements

Industry had not yet had the opportunity of looking at the consequential changes to the Premium/Recourse Agreements. They would revert with any comments as soon as possible.

Agents details

ECGD asked for a clear explanation as to why the Aerospace/Defence companies were unable to provide ECGD with the name of their agents/intermediaries

Industry response was that aerospace/defence companies operated in a particular environment. It was very competitive with a small number of large companies. Airbus only competed against Boeing and RR against only two other large aero engine manufacturers. BAE, similarly, only had a relatively small number of competitors. These competitors would gain a major commercial advantage if they knew who Airbus/RR/BAE's intermediaries were. These details were very commercially sensitive. The network of agents/intermediaries was a valuable asset built up over a number of years and offered important commercial advantages such as being able to open doors. The intermediaries themselves may have valid and justifiable reasons for wanting to remain anonymous. Even within the companies the names were restricted to a small number of senior employees. Fear that disclosing the names to ECGD even on a secure and restricted basis would inevitably result in their becoming more widely known and, thus, identified to competitors who would do all they could to "poach" successful agents/intermediaries. Industries alternative is to get ECGD comfortable with the process of appointing agents/intermediaries rather than the actual details of the intermediaries themselves. It was not in the companies' interests to engage in illegal activities because of the criminal, financial and commercial sanctions that would result. This should give ECGD and UK Government the comfort that it required.

ECGD asked for a similar explanation as to why aerospace/defence companies could not provide details on an individual transaction basis of the services provided by the agent/intermediary, whether it was related to the Buyer, how much the agent/intermediary was being paid and where at payment was to be made. Industry reply was that they wanted to discuss with Airbus first before providing a response.

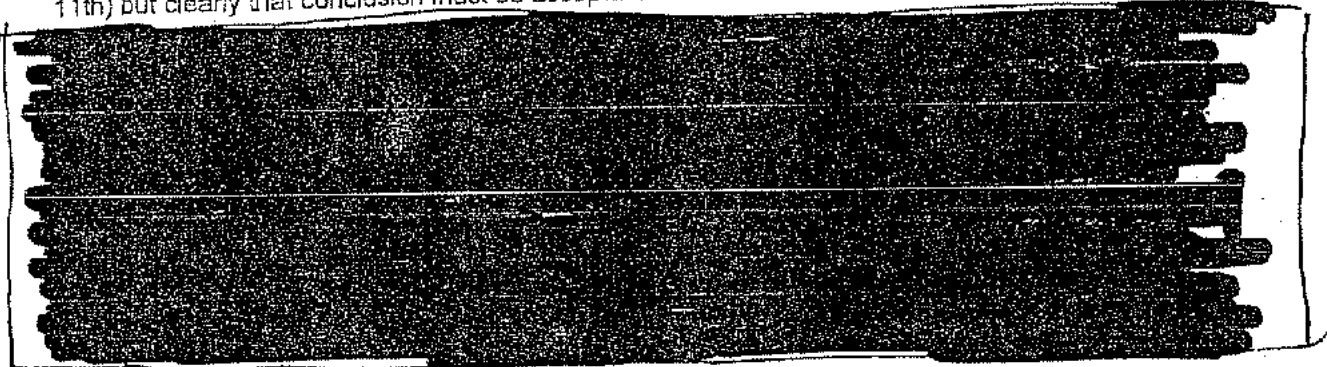
ECGD
August 2004

Roy Donovan

From: Caldwell, James (UK) [james.caldwell@baesystems.com]
Sent: 05 August 2004 13:51
To: Patrick Crawford
Cc: John Weiss; Nicholas Ridley; John Ormerod; Marsh, Gary (UK); Hill, Richard (UK Farnborough); Cronin, Dominic (UK); Wood, Chris (UK Legal); Aldridge, Julia (UK)
Subject: RE: CBI Solutions Group. Bribery and Corruption Issue

Patrick,

- I have forwarded your mail to Airbus, RR and our own lawyers. So far I have only been able to contact RR to confirm receipt. I know the Airbus team is busy with customers today, but we will do our best to respond within your timescale.
- Regarding the 11th August date, I'm not sure what the significance of this date is. As you know the Solutions Group is meeting on Monday. I am trying to set up an Industry pre-meeting on Monday morning so that we can go to the CBI session with a clearly understood commercial position. The hope is that this will accelerate the agreement process within the full meeting. However, we have not as I write received the promised ECGD mark-up, and we need it if we are to keep up the momentum. In summary we are trying to reach a conclusion as soon as we can, (which may or may not be by August 11th) but clearly that conclusion must be acceptable to both sides.



I shall be back in touch as soon as I have received the necessary responses to your earlier email

rgds
James

-----Original Message-----

From: Patrick Crawford [mailto:Patrick.Crawford@ecgd.gsi.gov.uk]
Sent: Thursday, August 05, 2004 11:08 AM
To: Caldwell, James (UK)
Cc: John Weiss; Nicholas Ridley; John Ormerod
Subject: CBI Solutions Group. Bribery and Corruption Issue
Importance: High

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James,

ECGD is required to submit its advice to Ministers on the status of its discussions with the CBI Solutions Group tomorrow morning because of Ministerial vacation plans. We will do so in the spirit that we expect all outstanding drafting issues with both the CBI Solutions Group and with

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CBI Solutions Group. Bribery and Corruption Issue

the banks to be resolved by not later than Wednesday 11 August, so that Ministers can be reassured that there will be no delay beyond that date.

We assume that the only issue outstanding at that point will be the refusal by Airbus, BAES and Rolls Royce to disclose the name of any agent. In order to provide Ministers with a summary of the position of the three firms, we set out in the attached draft note the understanding of my colleagues from the 3 August meeting.

In the same spirit, please could you summarise the position of the three firms in regard to the information requested by ECGD on:

- i) the amount of commission payable, if any;
- ii) the country where such commission is payable;
- iii) the nature of the services provided by any agent; and
- iv) the relationship, if any, between the agent and the buyer

We wish to ensure that there is no misunderstanding on our part on where the three firms stand and that we summarise fairly to Ministers the key differences between us, without seeking to take negotiation advantage. Hence, we would be pleased to receive the comments of the three firms on the attachment and a response on the above by close of business today, given the timetable we are required to meet

Thank you for your assistance.

Best regards

Patrick

<<JAMES CALDWELL.doc>>

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DRAFT 05/08/04

ECGD believes that the leading members of the CBI group, ie Airbus, BAES and Rolls Royce, who have formed a common line on the issue of disclosure of agents, are willing to disclose to ECGD:

- (i) Their corporate code of conduct governing the conduct of employees on overseas dealings, which is intended to comply with UK law;
- (ii) Their standard form of contract with agents, which will enclose anti-bribery and corruption wording in line with UK law and a summary description of the services to be provided by the agent; and
- (iii) Whether commission for an agent is included in their price or not.

The large exporters are further willing to offer the following warranties in any new ECGD application form:

- (i) They are in compliance with UK law; and
- (ii) If there is a signed agency agreement, it contains anti-bribery and corruption provisions consistent with the spirit of their standard form of contract with agents.

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Roy Donovan

From: Peter Malcolm [Peter.Malcolm@cbi.org.uk]
Sent: 12 August 2004 16:55
To: John Weiss; Claire Stokes
Cc: Nicholas Ridley; John Ormerod; Charles Redfearn; Roy Donovan; Angela Cooper; CBI
Subject: ECGD Solutions Group
LETTER TO CBI + SUPPORTING DOCUMENTS

Dear John

Thank you for your e-mailed letter of today's date (12 August) with attachments.

The CBI "Solutions" Group will consider them all carefully and we will be in touch asap.

Kind regards

Peter

----- Forwarded by Peter Malcolm/CBI on 12/08/2004 16:47 -----

"Claire Stokes" <Claire.Stokes@ecgd.gsi.gov.uk> on 12/08/2004 16:17:52

To: Peter Malcolm/CBI@CBI
cc: "John Weiss" <John.Weiss@ecgd.gsi.gov.uk>, "Nicholas Ridley" <Nicholas.Ridley@ecgd.gsi.gov.uk>, "John Ormerod" <JOHN.ORMEROD@ecgd.gsi.gov.uk>, "Charles Redfearn" <Charles.Redfearn@ecgd.gsi.gov.uk>, "Roy Donovan" <Roy.Donovan@ecgd.gsi.gov.uk>, "Angela Cooper" <Angela.Cooper@ecgd.gsi.gov.uk>
Subject: LETTER TO CBI + SUPPORTING DOCUMENTS

Dear Peter

Please see the attached documents.

ards

CLAIRE STOKES
SPS to John Weiss
Deputy Chief Executive
Tel: 0207 512 7012 / 7376

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CBI Solutions Group Bribery and Corruption Issue

Roy Donovan

From: Patrick Crawford
 Sent: 06 August 2004 19:07
 To: 'Caldwell, James (UK)'
 Cc: nigel.taylor@airbus.com; joanna.carver@airbus.com; sue.walton@rolls-royce.com; swalton@dircon.co.uk; Aldridge, Julia (UK); Wood, Chris (UK Legal); Hill, Richard (UK Farnborough); Cronin, Dominic (UK); Scopes, Julian (UK); John Weiss; Nicholas Ridley; John Ormerod
 Subject: RE: CBI Solutions Group Bribery and Corruption Issue

James,

Thank you for your speedy response.

As you know, my email to you was sent in the spirit of seeking to clarify the principles of the position on agents being expressed by Airbus, BAES and Rolls Royce, and not to negotiate. Hence I will not comment further, other than to say that we will seek to enhance our own understanding of the implication of "applicable" law in the context of Airbus; I well appreciate UK law means English law in practice.

But I should point out for the record and in case silence is deemed to be assent that we do not accept the proposition that your position gives HMG the ability to audit "thoroughly" the agency appointment process, as that would require precision on the very details on each transaction which you are not agreeing to provide; in any event it is not yet clear what you are agreeing to accept on ECGD's audit rights on issues relating to the award process on any such transaction and in conformity with your own proposition.

I hope that our team can receive greater clarity on your position on these matters at the meeting with the CBI Solutions Group on Monday, and that the remaining less contentious but still outstanding matters can be settled in a mutually satisfactory manner as soon as possible thereafter.

Best regards,

Patrick

-----Original Message-----

From: Caldwell, James (UK) [mailto:james.caldwell@baesystems.com]

Sent: 06 August 2004 10:29

To: Patrick Crawford

Cc: John Weiss; Nicholas Ridley; John Ormerod; nigel.taylor@airbus.com; joanna.carver@airbus.com; sue.walton@rolls-royce.com; swalton@dircon.co.uk; Aldridge, Julia (UK); Wood, Chris (UK Legal); Hill, Richard (UK Farnborough); Cronin, Dominic (UK); Scopes, Julian (UK)

Subject: RE: CBI Solutions Group Bribery and Corruption Issue

Patrick, I have now been able to speak to Airbus, RR and our own lawyers. I have marked up your draft summary and am attaching it. I have changed references to "UK" law to "applicable" law. UK law as such does not exist, and even if it did it would not necessarily apply to Airbus. Also, none of the group thought they had agreed to provide specific details of agency services, so I have deleted that reference.

What I think that gives you is a fair summary of the group's position. If this is acceptable to you and your Minister, we believe it should give your Minister the ability to state that his officials are thoroughly auditing the agency appointment process.

Given that this is the group's position then it follows that, subject to my following comments, we are not agreeing to provide the information set out in points i-iv in the body of your email. The exception relates to point i. BAE routinely includes commission in its prices for its defence exports, and where it continues to do so it will declare the amount involved. Airbus and RR do not routinely include commission in their export prices, and will not declare amounts of commission payable. This is a difference of commercial practice within the group, and does not imply any change to the united approach on the broader issues.

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Please let me know if you have any comments or questions on the above at this stage.

rgds

James

[Caldwell, James (UK)] -----Original Message-----
From: Patrick Crawford [mailto:Patrick.Crawford@ecgd.gsi.gov.uk]
Sent: Thursday, August 05, 2004 11:08 AM
To: Caldwell, James (UK)
Cc: John Weiss; Nicholas Ridley; John Ormerod
Subject: CBI Solutions Group. Bribery and Corruption Issue
Importance: High

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James,

ECGD is required to submit its advice to Ministers on the status of its discussions with the CBI Solutions Group tomorrow morning because of Ministerial vacation plans. We will do so in the spirit that we expect all outstanding drafting issues with both the CBI Solutions Group and with the banks to be resolved by not later than Wednesday 11 August, so that Ministers can be reassured that there will be no delay beyond that date.

We assume that the only issue outstanding at that point will be the refusal by Airbus, BAES and Rolls Royce to disclose the name of any agent. In order to provide Ministers with a summary of the position of the three firms, we set out in the attached draft note the understanding of my colleagues from the 3 August meeting.

In the same spirit, please could you summarise the position of the three firms in regard to the information requested by ECGD on:

- i) the amount of commission payable, if any;
- ii) the country where such commission is payable;
- iii) the nature of the services provided by any agent; and
- iv) the relationship, if any, between the agent and the buyer.

We wish to ensure that there is no misunderstanding on our part on where the three firms stand and that we summarise fairly to Ministers the key differences between us, without seeking to take negotiation advantage. Hence, we would be pleased to receive the comments of the three firms on the attachment and a response on the above by close of business today, given the timetable we are required to meet.

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CBI Solutions Group, Bribery and Corruption Issues

Thank you for your assistance.

Best regards

Patrick

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DRAFT 05/08/04

ECGD believes that the leading members of the CBI group, ie Airbus, BAES and Rolls Royce, who have formed a common line on the issue of disclosure of agents, are willing to disclose to ECGD:

- (i) Their corporate code of conduct governing the conduct of employees on overseas dealings, which is intended to comply with UK applicable law;
- (ii) Their standard form of contract with agents, which will enclose anti-bribery and corruption wording in line with UK applicable law and a ~~summary description of the services to be provided by the agent~~; and
- (iii) Whether commission for an agent is included in their price or not.

The large exporters are further willing to offer the following warranties in any new ECGD application form:

- (i) They are in compliance with UK applicable law; and
- (ii) If there is a signed agency agreement, it contains anti-bribery and corruption provisions consistent with the spirit of their standard form of contract with agents.

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John Weiss CB
Deputy Chief
Executive

12th August 2004



Mr P Malcolm
CBI
CBI Centre Point
103 New Oxford Street
London
WC1A 1DU

PO Box 2200
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
Telex 290350 ECGD HQ G
Switchboard 020 7512 7000

email: john.weiss@ecgd.gsi.gov.uk

Fax Direct 020 7512 7400
Telephone Direct 020 7512 7376

Dear Peter

Following the series of meetings which have been held under the auspices of the CBI, culminating in the meeting held on Monday 9th August, I am happy to be able to say that I believe that the drafts attached to this letter conclude all matters as regards suppliers/industry save for the issue of disclosure of certain details of Agents. This is because we have taken all the points which were made to us at those meetings and incorporated them in the documentation save for one exception. That is the suggested redefinition of "we" and "us". I will explain beneath why we cannot accept that but offer three options for you to choose between, none of which could damage the interests of any Applicant. We are therefore firmly of the view that any future meeting between us need have as its agenda only the issue of disclosure of Agents details. This is thanks to the constructive approach which the CBI-led Solutions Group has adopted during these discussions. If, contrary to my expectation, there should be any minor points of clarification on this wording which any of your group feel the need to comment on, could they please do so in writing or telephone beforehand so that the next meeting can approach the major topic alone.

Please find attached revised versions of the following documents (all of which show the changes which have been made to them):

- i Buyer Credit Application Form;
- ii Wording regarding Knowledge and Belief;
- iii Audit Clause (for Banks);



INVESTOR IN PEOPLE

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- iv Audit clause (for Recourse Agreements)
- v Premium and Recourse Agreement (clauses 2 & 5.11), and
- vi Airbus Letter.

With regard to the Buyer Credit Application Form, the principal changes are as follows:

- as agreed, the defined terms "Appropriate Action" and "Subsequent Acquiescence" have been deleted with consequential removal of capitals elsewhere in the documents,
- the definition of "Corrupt Activity" has been amended to exclude convictions which secured by virtue of any amendment to the Prevention of Corruption Acts being given retrospective effect;
- "Surety" has been introduced as a defined term;
- ECGD's entitlement in paragraph 9.3.2.1 to disclose information to its external legal advisors and other government departments has been qualified by a new paragraph 9.5 which obliges ECGD to notify the recipient of the terms on which that information has been provided to ECGD;
- Following Nick Ridley's response to a question from James Caldwell, we have amended the opening of paragraph 9.2 so as to tidy up the wording which states that the provisions of that paragraph will appear in contractual arrangements to be entered into between ECGD and the Applicant. A similar change has been made to the opening of clause 9.4 (the wording of which we have also endeavoured to simplify as Nick said we would). The present tense is inserted to cover the Airbus situation and the future to cover other Applicants.

The Airbus letter has been amended so as to take account of changes to the Buyer Credit Application Form and so as to incorporate the new Suppliers' audit wording.

As far as the Supplier's audit clause is concerned, we have drafted a version of the audit wording which corresponds to the amended Banks' audit clause.

Clauses 2 and 5.11 of the Premium and Recourse Agreement have been amended so as to take account of changes to the Buyer Credit Application Form.

The knowledge and belief wording has been amended so as to incorporate the changes proposed by Airbus.

As far as the definition of "we" and "us" is concerned, Airbus propose changes which would have the definition clause read as follows: "'we" and "us" means where the Applicant is an incorporated company, one or more board directors of the Applicant or signatory to this form and, where the Applicant is a partnership, one or more of the

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partners". The Airbus definition means an alteration in the meaning of the Applicant. The Applicant is the company or firm which is applying for our support. We would not in principle change that; but to define the Applicant as certain individuals also makes nonsense of other declarations in the form. There are three options for resolving this issue. These are:

- (i) That we revert to the original position i.e. there is no definition (my preference);
- (ii) That we have a definition, as requested by Airbus, but it defines only the Applicant and would read: "we" and "us" means the Applicant";
- (iii) That we have the wider definition inserted into the documentation you have seen which went on to deal with states of mind, in an attempt to be of assistance to Applicants, since, in the case of a legal as opposed to a natural person, it is open to more debate whose mind represents that of the corporate body.

Please let us know which is the collective choice, but it must be one of these three.

One further point, which I have made at our meetings but which I feel should be placed on the record, is that although we have been happy to consult you on the scope of the Application Form we must reserve our right, on certain individual cases, to seek additional information where we believe this to be necessary.

CONFIDENTIALITY OF INFORMATION ABOUT AGENTS

We are most grateful for the explanation given at our meeting of why industry places such importance on maintaining the confidentiality of the names of agents. We conclude from this explanation that, while there can be no commercial disadvantage to you in ECGD's being aware of an agent's identity, your objection to this is the heightened risk of inadvertent leakage of that information: in support of this you cited the arrangements in your own companies for limiting the number of people who have access to this information

Given that the security of this information appears to be the paramount issue, we should formally place on the record the arrangements which I have proposed at two of our meetings for handling information about agents, if this were to be supplied to ECGD, in a way that minimises the risk of inadvertent disclosure to third parties. What I have proposed is that, for those of our customers who have particular sensitivity surrounding the disclosure of this information, a system would operate on the following lines:-

- 1 The name of the agent would be sent under separate cover on a "to be opened only by" basis to the relevant ECGD Business Director. The name would not be shown on the application form. (This notification could, of course, be supplied from within the company by an officer other than the one who completed the application.)

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- 2 No additional copies of the separate notification would be taken by ECGD, it would be held once only in the Business Director's safekeeping.
- 3 The only other individuals in ECGD to whom this information might be shown would be the Chief Executive, Deputy Chief Executive and/or their nominated substitute as Head of ECGD's Credit Committee
- 4 The Business Director would personally conduct any internal checks on the name and then confirm to the underwriting team within the Business Division that he has received information about the name of the agent and that this gives rise to no problems.
- 5 In the event that the Business Director required further information which necessitated his disclosing the name of the agent more widely, either internally within ECGD or externally (say to the British Embassy in Territory), this would only be done with the explicit approval of the applicant. If the applicant were reluctant to give such approval, we would discuss with the applicant whether there were other means by which the Business Director's concerns could be met. In the final analysis, the solution might have to be that ECGD is unable to process the application further (although we would wish to avoid that if at all possible).

Given that the requirement for providing this information to ECGD has been in place for over a year, there would be difficulty for Ministers in changing this part of our system. We have therefore offered these safeguard arrangements in a genuine effort to seek an acceptable compromise between our two positions, although I recognise that this does not address the rather different objection raised by Airbus that information of this nature is not required of them by our French and German counterparts.

Yours sincerely

John

JOHN WEISS



APPLICATION FOR AN EC&D BUYER CREDIT GUARANTEE

IMPORTANT INFORMATION

Corruption and Money Laundering

Please note that the OECD countries, including the United Kingdom, are committed to combating corruption and money laundering. The law in the UK has been strengthened in order to do so. Whilst you are responsible for ensuring that your activities comply with all laws that are relevant to the transaction in respect of which you are applying for our support, we draw your attention in particular to the amendments to the applicable law on corruption contained in the Anti-terrorism, Crime and Security Act 2001 and to the applicable law on money laundering contained in the Proceeds of Crime Act 2002. Certain acts committed abroad now constitute criminal offences in the UK. You should also be aware that ECGD routinely refers allegations of bribery and corruption and money laundering to the appropriate authorities.

TO ECGD

APPLICANT'S NAME:

ADDRESS:

Company Registration Number:

Name of contact:

Telephone No:

Fax No:

E-mail address:

(The following items need only be completed if this is the first Buyer Credit Application you have submitted to ECGD, or if the information supplied in previous Applications has changed)

Nature of business: _____

Date Company was established: 11/15/1988

[illegible]

Number of employees:

Number of years exporting:

CODE OF CONDUCT

(Please complete)

Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.5 below)?

☐ Yes ☐ No

If Yes:

Is a copy of your latest code attached?

☐ Yes ☐ Previously Supplied
(If not Previously Supplied, you must attach a copy

and

Has it been and will it be applied to obtaining and performing the contract?

☐ No
☐ Yes
☐ Yes, but only from the date on which it came into force, namely _____
(specify date)

1 We request you to inform us whether, and if so on what terms, you would be prepared to make a Buyer Credit guarantee available to our Bankers for the transaction described in the attached schedule ("the Schedule").

2 Our Bankers, _____
of _____

have agreed in principle, and subject to the provision of your guarantee, to provide, or to arrange for, a loan to be made to finance this transaction, and the Borrower has *approved / *has yet to approve our Bankers for this purpose (*Delete as appropriate)

3 We undertake to notify you of any information we may receive about any proposed additional lending from any source in relation to this transaction.

4 We agree that for the purposes of this Application:

4.1 "Appropriate Action" means, in relation to any activity (or alleged activity) which constitutes an offence under any of the Relevant Acts, restraining and investigating that activity (and, if possible, remedying its effects) and reporting it to the appropriate authorities;

4.2.1 "Associate" means any company (other than ourselves or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar

5.1 we or any Controlled Company or any Board director of ours or of any Controlled Company:

5.1.1 neither appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, nor

5.1.2 has at any time during the last five years, other than under duress, admitted having engaged, or been found by a court in any competent jurisdiction to have engaged, in any Corrupt Activity that has not previously been notified to ECGD; ~~and:~~**

5.2 the Supply Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002)

(** If you are unable to make a particular declaration you should delete it and provide full details of the event that occasioned the listing or the admission or the court finding on your headed notepaper and attach it to this form.)

6 We declare that we do not have any common parent company, or common directors or management agreements or financial interests, direct or indirect, that connect us with the Buyer and/or the Borrower (if different ~~from~~ the Buyer) and/or any Guarantor or Surety ***

(*** If you are unable to make this declaration you should delete it and provide full details as to why you cannot on your headed note paper and attach it to this form.)

7 We declare that none of the goods and/or services ~~are~~ to be supplied under the terms of the Supply Contract will require an export licence to be issued by the UK Government or the Government of any other country. ****

(**** If you are unable to make this declaration you should delete it and provide details of the required licence, including the name and address of the issuing authority, on your headed notepaper and attach it to this form. If the licence has already been issued a certified true copy of it should also be attached.)

8 We declare that where this Application and the Schedule has been transmitted by electronic means, we have not amended any of the declarations contained in the Application for an ECGD Buyer Credit Guarantee (Form BCApp.5) or questions posed in the ECGD Buyer Credit Guarantee Application Schedule (Form BC Sched2) provided to us by ECGD

9 We understand that

9.1 In our own interest, our Supply Contract should provide for our right to receive direct payment from the Buyer of all amounts, at the relevant times, which we would otherwise draw from the proposed loan if, for any reason, the loan should cease to be available to the Borrower;

9.2 it is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD ~~condition of a Buyer Credit guarantee being made available for the transaction described in the Schedule:~~

9.2.1 that neither we nor, to the best of our knowledge and belief, any Controlled Company or anyone (including any employees) acting on our, or that Controlled Company's, behalf with due authority, or with our, or that Controlled Company's prior consent or subsequent acquiescence, shall have engaged, or shall engage, in any Corrupt Activity in connection with the Supply Contract;

9.2.2 that, if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, in question save where such

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notification would, or might reasonably be argued to, constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002;

9.2.3 that (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 4.56.1, 4.56.3 or 4.56.4, would amount to Corrupt Activity) in connection with the Supply Contract (2) we will monitor compliance with that requirement, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and

9.3 (unless the parties agree otherwise) this Application, its attachments and all discussions and correspondence relating to it are confidential and shall not be disclosed to any third party except:

9.3.1 by us in confidence to our banker or broker or other professional advisers, in each case for the purpose for which each of them has been employed by us; and

9.3.2 by ECGD,

9.3.2.1 in accordance with its obligations at law or under the Code of Practice on Access to Government Information or its obligations to Parliament as a Government Department; or, subject to paragraph 9.5 below, to its external legal advisers and other Government Departments;

9.3.2.2 prior to signature of the loan and related support documentation if this is a project identified by ECGD as having a high potential environmental and/or social impact, in publishing on its website details limited to the project name, a short description, the project's location and the source of any environmental or social impact assessment reports; ***** and

9.3.2.3 after signature of the loan and related support documentation, in publishing in its Annual Report, on its website or elsewhere details of our name, the name of the Buyer and the country, a short description of the items supplied or the project, the amount of ECGD support provided, and the potential environmental and/or social impact category that ECGD has applied to the project *****

9.4 9.4 it is, or will be, a contractual term between us and ECGD in relation to any support given by ECGD it will be a condition of a Buyer Credit Guarantee being made available for the transaction described in the Schedule that, where our consent or agreement is required for the disclosure by ECGD of the information referred to at the opening of paragraph 9.3, we will not unreasonably delay or withhold our agreement or consent to any such the disclosure by ECGD (for example, to reinsurers and outsource service providers in connection with ECGD's portfolio management activities, to other export credit agencies or other persons in connection with the assessment of this Application) of the confidential matters referred to in 9.3 above, in particular but not limited to, situations where ECGD wishes to disclose matters to its reinsurers or other persons to whom it is necessary to disclose for the purposes of ECGD's portfolio management activities, to other Export Credit Agencies or to persons other than those named in section 9.3.2.1 above to whom ECGD may wish to disclose information to assist it with the assessment of the Application.

9.5 Where ECGD discloses, pursuant to paragraph 9.3.2.1 above, to its external legal advisers or any other Government Department any information contained in this Application or its attachments, or provided in any discussions and correspondence relating to this Application, which has not entered the public domain (other than by a breach by ECGD of its obligations under paragraph 9.3 above) ECGD shall:

9.5.2 in the case of any disclosure to another Government Department, notify us of that disclosure (except where to do so would be unlawful or might prejudice an investigation by the Serious Fraud Office, the police or any other investigative authority).

(***** If you object to ECGD publishing such information you should delete this paragraph and provide details of your objection (e.g. that publication may harm your competitive position) on your headed notepaper and attach it to this form)

- 10 We certify that the representations made and facts stated by us are true and that we have neither misrepresented nor omitted any material fact which might have a bearing on the Buyer Credit guarantee which we ask that you make available to our Bankers. We undertake to advise you promptly of any changes that may occur in the details shown in this Application or in the Schedule.

Signed _____

On behalf of [Name of Applicant] _____

Address _____

Capacity of Signatory

Date _____

- 1 In the case of an incorporated company, this Application must be signed by a director or a person authorised by the company's board of directors or an officer of the company in accordance with the company's articles of association or equivalent constitutional document to sign this Application, or documents of the same nature as this Application, on behalf of the company
- 2 In the case of a partnership, this Application must be signed by a partner.

(Form BCAP.5)

"The best of our knowledge and belief"

The following is ECGD's understanding of the expression "to the best of our knowledge and belief" and the way in which ECGD will interpret a company's obligation to it when signing any form containing the expression.

It is our view that the words "to the best of our knowledge and belief" must be read disjunctively, as if it consisted of two phrases, viz "to the best of our knowledge" and "to the best of our belief", each having a separate and independent meaning. "Knowledge" is unqualified, and therefore means the actual knowledge of the person concerned as at the time of making the statement in question. "The best of" requires the maker of the statement to review his or her~~their~~ then state of knowledge and report all that that review tells him or her~~them~~. It does not require the person to make any enquiries or in any other way to seek to improve or augment his or her~~their~~ state of knowledge before making the statement.

"Belief" requires a factual basis, entitling the person whose belief is being expressed to hold it. Nevertheless, it does not stop with matters of fact. A person's factual knowledge may lead him or her~~them~~ to infer and hence believe in other facts of which he or she~~they~~ hasve no knowledge as such. "The best of" belief means that the person is uttering what he or she~~they~~ genuinely believes to be true, as opposed to matters as to which he or she~~they~~ entertains doubts. Again, since "belief" is unqualified, there is no requirement to seek to verify or bolster a belief by enquiry, other than by a diligent search of the person's own conscience.

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AUDIT CLAUSE FOR BANKS

11.1 The Banker shall

~~11.1.5~~

~~11.1.5.1~~ permit any person authorised by ECGD to visit any of its UK/London branch premises where records relating to the administration of this Agreement and the Loan Agreement are kept during business hours for the sole purpose of inspecting, auditing and taking copies of any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate specifically to the administration of this Agreement and the Loan Agreement (the "Administration Records");

~~11.1.5.2~~ If ECGD confirms in writing to the Banker that it has reasonable grounds for suspecting that an employee of the Banker has been engaged in any Relevant Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in Clauses 2.7.4.1, 2.7.4.3 and 2.7.4.4, would amount to Relevant Corrupt Activity), permit ECGD personnel to visit any of its UK/London branch premises where records relating to the administration of this Agreement and the Loan Agreement are kept during business hours for the sole purpose of inspecting and auditing any records, other than those covered by legal privilege, preserved in any medium or form including records stored electronically which relate (a) specifically to it obtaining the mandate to finance the Supply Contract and (b) only to the period up to the date of award of such mandate (the "Mandate Records" and, together with the Administration Records, the "Records"), provided that ECGD may only inspect and audit Mandate Records for the sole

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purpose of verifying statements made, and information given, to ECGD by the Banker in "Form LoU-BC" (the "~~Administration Records~~" and the "~~Mandate Records~~" shall hereinafter be referred to as the "~~Records~~"); and

11.1.36. furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative or ECGD personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will:

11.1.36.1 give not less than five Business Days notice of such visit;

~~11.1.3.2 44.1.6.3~~ on request pay to the Banker the cost of supplying any copies of the Records supplied;

~~and~~

~~44.1.6.4~~ 11.1.3.3 hold in confidence, and not disclose to any third party without the Banker's prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information"), subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a Government Department and ECGD's right to disclose any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management activities, provided, in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this clause shall hold

44	Change	"We understand" changed to "7 We understand"
45	Change	"in our own interest," changed to "7.1 in our own interest,"
46-47	Change	"interest, our supply" changed to "interest, our Supply"
48-49	Change	"upply contract" changed to "upply Contract"
50-51	Change	"available to the borrower," changed to "available to the Borrower;"
52-53	Insertion	9.2 it is, or will be, a...in the Schedule;
54	Insertion	9.2.1 that neither we...the Supply Contract;
55	insertion	9.2.2 that, if we become...of Crime Act 2002;
56	Change	"and" changed to "9.2.3 that (1) we shall...Corrupt Activity; and"
57	Change	"(unless the" changed to "7.2 (unless the"
58	Change	"otherwise) all discussions" changed to "otherwise) this...and all discussions"
59-60	Change	"relating to this Application are confidential" changed to "relating to it are confidential"
61-62	Change	"party except by" changed to "party except except"
63-64	Change	"us in confidence" changed to "7.2.1 by us in confidence"
65-66	Change	"professional adviser, or by" changed to "professional advisers, in...been employed by us; and"
67-68	Change	"ECGD" changed to "7.2.2 by ECGD"
69	Insertion	ECGD,
70	Change	"in accordance" changed to "7.2.2.1 in accordance"
71	Change	"accordance with its obligations" changed to "accordance with its...or its obligations"
72	Change	"Government Department, or" changed to "Government Department or"
73	Insertion	or, subject to paragraph...Departments; and
74	Deletion	7.2.2.2 in confidence to...portfolio management, or
75	Deletion	7.2.2.3 in confidence
76	Moved from	to other export credit agencies
77	Deletion	, or Government...in connection with its
78	Moved from	assessment of this Application
79	Deletion	, and
80	Change	"after signature" changed to "7.2.2.4 after signature"
81-82	Change	"its Annual report" changed to "its Annual

		Report"
83-84	Change	"name of the customer" changed to "name of the Customer"
85	Change	"support provided and the potential" changed to "support provided, and the potential"
86-87	Change	"the project. ****" changed to "the project, *****"
88	Change	"(**** If you" changed to "(***** If you"
89	Deletion	this form.)"
90	Insertion	9.4 It is, or will be, a...management activities,
91	Moved to	to other export credit agencies
92	Insertion	or other persons in connection with the
93	Moved to	assessment of this Application
94	Insertion);
95	Insertion	9.5 where ECGD discloses, 9.3 above) ECGD shall:
96	Insertion	9.5.1 notify those legal provided to ECGD; and
97	Insertion	9.5.2 in the case of any...authority).
98	Insertion	10 In consideration of...the Schedule, we shall:
99	Deletion	7.3
100	Deletion	8 We shall allow
101	Change	"any person" changed to "10.1 permit any person"
102-103	Change	"authorised by ECGD access premises during business" changed to "authorised by ECGD and...are kept during business"
104	Change	"hours for the purpose of inspecting" changed to "hours for the sole purpose of inspecting"
105	Change	"of inspecting and taking" changed to "of inspecting, auditing and taking"
106-107	Change	"taking copies of such and the employment of" changed to "taking copies of any...Records");"
108	Change	"and payments" changed to "10.2 if ECGD confirms in...of, and payments"
109	Change	"the benefit of any agents" changed to "the benefit of, any agents"
110	Deletion	time with the supply...at law or under the
111	Moved from	Code of Practice on Access to Government
112	Deletion	Information
113	Moved from	or its obligations to...ECGD's right to disclose
114	Deletion	such information in confidence
115	Moved from	to its reinsurers or professional advisers
116-117	Change	"in connection with its portfolio management" changed to "Supply Contract and (b)...the Supply Contract; and"
118	Insertion	10.3 in relation to...that ECGD will:
119	Insertion	10.3.1 give not less than...10.1 and 10.2;
120	Insertion	10.3.2 on request pay to...Administration

		Records;
121	Insertion	10.3.3 hold in...at law or under the
122	Moved to	Code of Practice on Access to Government
123	Insertion	Information (the "Code")
124	Moved to	or its obligations to...ECGD's right to disclose
125	Insertion	any of the Confidential Information in
126	Moved to	confidence
127	Moved to	to its reinsurers or professional advisers
128	Insertion	in connection with its...under the Code, and
129	Insertion	10.3.4 destroy the...which it was obtained.
130	Insertion	11 Nothing in paragraph 10 above shall.
131	Insertion	11.1 oblige us or ECGD to . of confidentiality;
132	Insertion	or
133	Insertion	11.2 be construed as...with the Code.
134	Change	"The procedure" changed to "9 The
135	Change	procedure"
136	Change	"We certify that" changed to "10 We certify
137	Change	that"
138-139	Change	"(ABBCAp. 1502021)" changed to "(ABBCAp.
140-141	Change	1502022)"

Statistics	
	Count
Insertions	82
Deletions	43
Moved from	5
Moved to	5
Style change	0
Format changed	0
Total changes	135

Redline options	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF

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Ignore Case Changes	OFF
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ECGD BUYER CREDIT APPLICATION – AIRBUS SCHEDULE

1. SUPPLIER

Airbus S.N.C
1 Rond-Point Maurice Bellonte
- 31707 Blagnac
France

2. CUSTOMER

(Airline/Operating Lessor)

Name:

Address:

Suggested Contact:

Email: Fax: Tel:

3. SURETY

(If different from Customer)

Name:

Address:

Suggested Contact:

Email: Fax: Tel:

4. STAGE OF NEGOTIATIONS REACHED

(Include, if applicable, date supply contract signed)

5. DESCRIPTION OF PROPOSED FINANCE STRUCTURE

(Customer has identified significant problems with finance lease and assignment of sale contract to special purpose company.)

6. PROPOSED TERMS OF PAYMENT

Credit Period

12 Years ☐
10 Years ☐
Other ☐ (specify)

Loan % of net aircraft price

85% ☐
Other ☐ (specify)

7. PROPOSED COMMERCIAL LOAN

(Provide details if known, including percentage of net aircraft price)

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8. MISMATCH LOAN

(Provide details if known, including date and amount of maximum percentage of net aircraft price)

9. OVERSEAS AGENT'S COMMISSION

9. AGENTS

9.1 Has any agent or other intermediary been, or will any agent or other intermediary be, involved by you or any of your ~~Affiliates/Controlled Company~~ directly or indirectly in the process leading to the ~~sSupply eContract~~ being awarded to you or in connection with any subsequent matters relating to the ~~sSupply eContract~~ or any related agreement, undertaking consent, authorisation or arrangement of any kind?

☐

Yes

☐

No

~~If yes, you must please complete the following sections 9.2 to 9.6 below. If more than one agent or intermediary is involved you must please provide separate answers in respect of each party)~~

9.2 Total Amount \$..... Amount per Aircraft \$..... (Show on separate sheet if necessary)

9.3 Name and address of agent or intermediary:

9.4 Is the agent or intermediary acting for the Customer?

~~Yes~~

~~If Yes, please provide any information you may have regarding the relationship between the Customer and the agent or intermediary: (If you are unable to provide this information, please give your reason(s) for not being able to do so):~~

9.3 Does any improper relationship exist between the agent or intermediary and the Customer named in section 2 of this Schedule?

9.5 Please give details of the services that the agent or intermediary is performing:

☐ Yes ☐ No

9.6 Will you or any Affiliate or anyone acting on your or any of your Affiliates' behalf make any payments 9.4 Is all part of the commission payable to the agent or intermediary included in respect of the supply contract or

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any related agreement, undertaking, consent, authorisation or arrangement of any kind the contract price or intended to be covered by ECGD support?

☐ Yes

☐ No

If Yes, are all such payments included in the Gross Price shown at section 4.2 below?

9.5 If your answer to the question in section 9.4 above is "no" does the commission paid, or to be paid, to the agent or intermediary exceed the lesser of (1) £2,000,000 (or the equivalent in foreign currency or payments in kind) and (2) 5% of the contract price?

☐ Yes

☐ No

(If No, please give details below of the value of any payments that are not included in the Gross Price together with an explanation)

9.6 If your answer either to the question in section 9.4 above or to the question in section 9.5 above is 'yes', please:

9.6.1 give details of the services which the agent or intermediary has provided or is providing:

9.6.2 specify the amount (or, if in the form of payments is kind, the value) of the commission payable to the agent or intermediary:

9.7 Country 9.6.3 specify the country or countries where the commission is payable:

(If payment is to be made outside the Customer's country, please give an explanation)

10. OTHER RELEVANT DETAILS

Details of any other security offered or available

Other

1. Currency of Finance (if not US \$)

2. Date ECGD's standard questions sent to airline/operating lessor

11. CODE OF CONDUCT

(Please complete)

4. Has your company got a code of conduct and procedures in place to discourage and prevent Corrupt Activity (as defined in paragraph 4.5 of this Application)?

☐ Yes

☐ No

If Yes:

4.1 Is a copy of your latest code attached?

☐ Yes

☐ Previously Supplied

(If not Previously Supplied, you must attach a copy)

and

873
343

4.2 Has it been and will it be applied to obtaining and performing the supply contract?

☐

Yes

No

4.1. OTHER RELEVANT DETAILS

Details of any other security offered or available

Other

Currency of Finance (if not US \$)

Date ECDD's standard questions sent to airline/operating lessor

☐ Yes

☐ Yes, but only from the date on which it came into force, namely (specify date)

See next page

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PRICE (US\$M)*													
1 A/C No. or MSN	2 Airframe Type	3 Engine Type	4 Month of Delivery	5 UK Share	AIRFRAME				ENGINES				
					6.1 Airframe	6.2 Spare Parts	6.3 Buyer F.E.	6.4 Total Gross Price	6.5 Credits/Price Reductions	6.6 Net Price	7.1 Gross Price	7.2 Credits/Price Reductions	7.3 Net Price

* If any price is not yet known, insert date (month) when it will be ascertained and in Column 8 insert Airbus Industrie's current best estimate of Total Net Price which will guide the maximum figure for which underwriting approval may be sought, and the calculation of whether a margin of 50 basis points will be sufficient premium.

345 835

Input:	
Document 1	file://E:/Ud1/MASTERS/Application Forms/Airbus Schedule 2004022414.doc
Document 2	file://G:/BD4/Supp/Brib&Corr-2004/Brib& Corr-Oct04 Final/Applications/Airbus Schedule 200409152.doc
Rendering set	ECGD

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary		
No.	Change	Text
1	Deletion	9. OVERSEAS AGENT'S COMMISSION
2	Insertion	9. AGENTS
3-4	Change	"you or any of your Affiliates directly or" changed to "you or any Controlled Company directly or"
5-6	Change	"leading to the supply" changed to "leading to the Supply"
7-8	Change	"supply contract" changed to "supply Contract"
9-10	Change	"relating to the supply" changed to "relating to the Supply"
11-12	Change	"supply contract" changed to "supply Contract"
13-14	Change	"(If Yes, you must complete the" changed to "(If Yes, please complete the"
15	Change	"complete the following sections" changed to "complete the sections"
16	Change	"sections. If more than" changed to "sections 9.2 to 9.6 below. If more than"
17-18	Change	"is involved you must provide separate" changed to "is involved please provide separate"

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19	Deletion	9.2 Total Amount: sheet if necessary)
20	Change	"9.3" changed to ""
21	Deletion	intermediary:
22	Deletion	9.4 Is the agent or acting for the Customer?
23-26	Deletion	Yes No
27-28	Change	"If Yes, please provide agent or intermediary." changed to "(if you are unable to being able to do so)."
29	Insertion	9.3 Does any improper. 2 of this Schedule?
30	Deletion	9.5 Please give details...is performing:
31-34	Insertion	Yes No
35-36	Change	"9.6 Will you or any payments to the agent" changed to "9.4 Is all or any part payable to the agent"
	Change	"intermediary in" changed to "intermediary included in"
38-39	Change	"in respect of the supply arrangement of any kind?" changed to "in the contract price or covered by ECGD support?"
40	Deletion	If Yes, are all such at section 12 below?
41	Insertion	9.5 If your answer to...of the contract price?
42	Deletion	(If No, please give with an explanation)
43	Insertion	9.6 If your answer...above is 'yes', please:
44	Insertion	9.6.1 give details of...or is providing:
45	Insertion	9.6.2 specify the amount...agent or intermediary;
7	Change	"9.7 Country or countries" changed to "9.6.3 specify the country or countries"
48	Moved to	10. OTHER RELEVANT DETAILS
49	Moved to	Details of any other
50	Moved to	Other
51	Moved to	Currency of Finance (if.....)
52	Moved to	Date ECGD's standard...lessor:
53	Change	"CODE OF CONDUCT" changed to "11. CODE OF CONDUCT"
54	Insertion	(Please complete)
55	Change	"1 Has your company" changed to "Has

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		your company"
56	Change	"Corrupt Activity?" changed to "Corrupt Activity (as... of this Application)?"
57	Change	"1.1 Is a copy of" changed to "Is a copy of"
58	Deletion	attach a copy)
59	Change	"1.2 Has it been" changed to "Has it been"
60	Change	"performing the supply contract?" changed to "performing the contract?"
61-62	Change	"Yes" changed to ""
63	Deletion	11
64	Moved from	OTHER RELEVANT DETAILS
65	Moved from	Details of any other
66	Moved from	Other
67	Moved from	Currency of Finance (if.....)
68	Moved from	Date ECGD's standard...lessor:
69-70	Insertion	Yes
71-72	Insertion	Yes, but only from the...(specify date)

Statistics		
	Count	
Insertions	30	
Deletions	32	
Moved from	5	
Moved to	5	
Style change	0	
Format changed	0	
changes	72	

Redline options	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON

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Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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NOVEMBER 1987
(Revised March

~~1999~~ September 2004)

PREMIUM AGREEMENT (DOLLAR FACILITY)
COMPLEX
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[9	JOINT AND SEVERAL OBLIGATIONS	16]
10	NO WAIVER OF RIGHTS	16
[11	LAW	16]
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BD4\MASTERS\15112NEW doc

351 841

NOVEMBER 1987
(Revised March

~~1990~~ September 2004)

PREMIUM AGREEMENT (DOLLAR FACILITY)
COMPLEX
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...

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2 Delete for Sole Lender cases

1 ECGD will enter into the Support Agreement with the Banker ³[and the Lenders]

2 INTERPRETATION

In this Agreement

2.1 "Affiliate Application Form" means in relation to the Supplier any company which is a member of the same group of companies or any other the application form submitted by the Supplier to ECGD requesting ECGD to support the financing of the Supply Contract a copy of which application form is annexed to this Agreement

2.2 "Associate" means any company (other than the Supplier or a Controlled Company) person or other legal entity which is a party to any joint venture or consortium or other similar arrangement with the Supplier in connection with (1) which is or will be involved in the performance or financing of all or any part of the Supply Contract and (2) to which the Supplier is also a party

2.23 "CIRR Rate" means the 2-5 year Sterling contract Commercial Interest Reference Rate specified under the OECD Consensus and displayed from time to time on the ECGD website @ www.ecgd.gov.uk

2.34 "Consensus" means the OECD arrangements on guidelines for officially supported export credits

2.45 "control" and "controlled" means, in relation to a company control of that company by virtue of (1) contractual arrangements (including without limitation provisions in that or any other company's memorandum and articles of association or the equivalent documents in the case of a company incorporated in a jurisdiction other than that of

³ Delete for Sole Lender cases

England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company

2.6 "Controlled Company" means any company (in any jurisdiction) which is controlled by the Supplier

2.7 "Corrupt Activity" means any activity (including without limitation the offering of any payment reward or other advantage to any public official or other person and the concealment use or facilitation of the concealment or use by another person of assets of any sort resulting from criminal conduct) which

2.47.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Supply Contract illegal, void, voidable or unenforceable under its governing law; or

2.47.2 the Supplier or any ~~of its Affiliates~~ Controlled Company or anyone (including any ~~of the Suppliers' or any of its Affiliates' employees) acting on~~ employee) acting (with due authority) on the Supplier's or any Controlled Company's behalf ~~or with the prior consent~~ Supplier's or its subsequent acquiescence ~~of the Supplier or any of its Affiliates~~ has freely has other than under duress admitted engaging in; or

2.47.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law; or

2.47.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the ~~Prevention of Corruption Acts 1889 to 1916 (as~~

~~from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)~~Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 2.47.1, 2.47.2 and 2.47.3 above corresponds to an offence under the ~~Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) or the Proceeds of Crime Act 2002 (as from time to time amended or re-enacted)~~Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

2.58 "Eligible Bank Support Agreement" means an agreement between an Eligible Bank which has taken an assignment of all or any part of the rights and benefits under the Loan Agreement ³[either of a Lender in accordance with Clause 11.3 thereof or] of ECGD ³[thereunder] in accordance with Clause 11.4 thereof of the one part and ECGD of the other part whereby ECGD guarantees on the terms (mutatis mutandis) set out in Clause 4.1 of the Support Agreement to pay to that Eligible Bank that proportion of the unpaid amounts referred to in that Clause to which that Eligible Bank shall have become entitled by virtue of such assignment as aforesaid

2.59 "Immaterial Default" means any default by the Supplier in the observance or performance of its obligations under the Supply Contract which in the opinion of ECGD is neither material nor substantial or which in the opinion of ECGD has been caused by

2.59.1 an act or omission by the Buyer not induced or provoked by the Supplier or

2.59.2 the prevention of or delay in the transfer of funds in respect of the Supply Contract resulting from the occurrence outside the UK of political events economic difficulties legislative or administrative measures or a general moratorium or

2.69.3 any measure or decision (including the non-renewal or cancellation of an export licence) of any government other than that of the UK which in whole or in part prevents performance of the Supply Contract or

2.69.4 the occurrence outside the UK of hostilities civil disturbance or natural disaster which in whole or in part prevents performance of the Supply Contract or

2.69.5 the cancellation or non-renewal of a UK export licence or

2.69.6 any restrictions introduced in the UK after the date of the Supply Contract which prevent performance of the Supply Contract other than the refusal to grant a UK export licence or other authorisation necessary for performance of the Supply Contract if such authorisation was required on the date of the Supply Contract

2.710 "OECD" means the Organisation for Economic Co-operation and Development

2.11. "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted)

⁴[2.812 "Sterling Equivalent" means in relation to any amount of administrative charge and/or premium expressed in dollars under the terms of this Agreement such amount converted into sterling at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed on a date four Banking Days prior to the due date for payment by the [Supplier] [Companies] to ECGD of any such amount. If it is not possible to arrive at

⁴ This Clause should be inserted if the Supplier/Companies have opted to pay premium in sterling rather than dollars

such a rate in this manner ECGD will advise the [Supplier] [Companies] on the rate to be used]

2.913 Any expression defined in the Loan Agreement or the Support Agreement shall have the same meaning when used in this Agreement

2.104 Where the context of this Agreement so allows words importing the singular include the plural and vice versa

2.115 Unless otherwise indicated reference to a specified Clause or Appendix shall be construed as reference to that specified Clause of or Appendix to this Agreement

2.126 Clause headings are for ease of reference only

⁵3 PAYMENT OF ADMINISTRATIVE CHARGE AND PREMIUM

The [Supplier agrees] [Companies agree] to pay to ECGD on signature of this Agreement premium amounting to \$ _____ of which \$8,000 shall constitute an administrative charge and shall not be refundable in any event. Payment of premium shall be made in dollars to :

Citibank NA, New York
CHIPS Number :008
ABA: 021000089
SWIFT Address: CITIUS33

for the account of: Bank of England, London
Account number: 36148269
for credit to ECGD

⁵ The Supplier/Companies have the option to elect to pay premium either in dollars or the Sterling Equivalent thereof. If it has been agreed that premium will not be paid in full on signature of this Agreement this Clause 3 should be deleted and the appropriate Clause from either Amendment Sheet A or Amendment Sheets B1 or B2 substituted.

quoting reference "ECGD - Premium BD ⁶[]"

or such other account as ECGD may from time to time notify the [Supplier]
[Companies]

⁷[The [Supplier agrees] [Companies agree] to pay to ECGD on signature of this Agreement the Sterling Equivalent of premium amounting to \$ of which the Sterling Equivalent of \$ shall constitute an administrative charge and shall not be refundable in any event]

4 INFORMATION REQUIRED FROM THE SUPPLIER

4.1 The Supplier shall promptly upon becoming aware of the same notify ECGD in writing of

4.1.1 any amounts which have fallen due for payment and any amounts paid by the Supplier to the Banker in pursuance of the letter written to the Supplier by the Buyer in the terms set out in Appendix C ⁵[B] to the Loan Agreement

4.1.2 particulars of circumstances which have arisen and which give have given or may give rise to claims by the Buyer against [name of any party providing a guarantee or bond pursuant to the Supply Contract] under [the performance bond] [the guarantee] given by [that party] and referred to in the letter in the form of Appendix D ⁵[C] to the Loan Agreement and the amount if known to the Supplier of any such claim

4.1.3 any payment not made on the due date therefor under the Supply Contract

⁶ ECGD Guarantee Reference

⁷ This wording should be used in this Clause in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

⁵ Appropriate reference in Sole Lender cases

4.1.4 the occurrence of any act or event which in the opinion of the Supplier will or may render the Supplier unable to fulfil or which will or may prevent or delay the fulfilment of its obligations under the Supply Contract or which will or may lead to the termination of the Supply Contract or to arbitration thereunder or in connection therewith

4.1.5 the commencement of any arbitration or termination proceedings under the Supply Contract

4.2 The Supplier agrees to provide at its own expense such further information as ECGD may from time to time require

5 THE OBLIGATIONS OF THE SUPPLIER

The Supplier agrees with ECGD

5.1 to exercise or to refrain from exercising its rights to suspend performance of or to terminate the Supply Contract under any of the provisions thereof only in accordance with the written requirements of ECGD

5.2 not to amend or acquiesce in any departure from the terms of the Supply Contract except in accordance with the prior written approval of ECGD PROVIDED THAT any variation to the technical specifications or in the scope of goods to be supplied or in the scope of the services to be rendered under the Supply Contract may be made without such prior written approval unless such variation would increase the total amount payable under the Supply Contract or would involve a material change in the scope or objects of the Supply Contract

⁹[5.3 to pay to the Banker all sums which the Buyer authorises the Supplier to pay the Banker]

5.4 to carry out such acts specified in Clauses 5.3.1, 5.3.2, 5.3.3, 5.3.4, 6.2.1, 6.2.2, 6.2.3, 8.2.1 and 8.2.2 of the Loan Agreement as are expected to be performed by the Supplier

5.5 not to assign or otherwise transfer either the benefit or the burden of the Supply Contract to any person whatsoever without the prior approval in writing of ECGD

⁹[5.6 to pay all legal and other expenses incurred by ECGD arising from amendments to the Supply Contract and from consequential amendments to the Loan Agreement and to any related documents]

5.7 that if the Borrower makes late payment of all or any part of any amount payable under the Loan Agreement the amount so paid shall be applied in accordance with the provisions of Clause 9.6 of the Loan Agreement and any claim the Supplier may have in relation thereto is hereby waived until ECGD has ceased to have any liability under the Support Agreement

¹³[5.8 not to submit to the Banker any Disbursement Claim pursuant to Clause 6 of the Loan Agreement before the related premium and any applicable interest thereon has been paid to ECGD in accordance with Clause 3]

5.9 that any person authorised by ECGD and if other than ECGD personnel approved by the Supplier (such approval not to be unreasonably withheld or delayed by the Supplier) may visit any of its

⁹ Where recourse obligations are on a joint and several basis Clauses 5.3 and 5.6 should be transferred to a new Clause 5 and renumbered "6.1" and "6.2" respectively. The new Clause 6 should commence as follows:

"6 THE OBLIGATIONS OF THE COMPANIES
The Companies agree with ECGD"

Clauses 5.4, 5.5, 5.7, 5.8, 5.9, 5.10 and 5.11 and Clauses 6-11 should be re-numbered accordingly

UK premises where records relating to the administration of this Agreement and performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting auditing and taking copies of any records other than those covered by legal privilege preserved in any medium or form including records stored electronically which relate specifically to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement (the "Administration Records")

~~5.8.1 relate to any measures it has taken to prevent defect and deal with any Corrupt Activity in relation to it obtaining the Supply Contract or its subsequent financing under the Loan Agreement~~

~~5.8.2 relate to it obtaining the Supply Contract~~

~~5.8.3 relate to the performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement and~~

~~5.8.4 relate to¹⁰ that if ECGD confirms in writing to the Supplier that it has reasonable grounds for suspecting that an employee agent or intermediary of the Supplier has been engaged in any Corrupt Activity (or any activity which subject to the occurrence of the subsequent events referred to in Clauses 2.7.4.1, 2.7.4.3 or 2.7.4.4 would amount to Corrupt Activity) in connection with the Supply Contract permit an independent third party acceptable to the Supplier and ECGD to visit any of its UK premises where records relating to the obtaining and performance of the Supply Contract and the making of Disbursement Claims under the Loan Agreement are kept during business hours for the sole purpose of inspecting and auditing any records other than those covered by legal privilege preserved in any medium or form including records stored~~

¹⁰ Delete Clause 5.8 if all premium is paid in full on signature of this Agreement

electronically which relate (a) specifically to the Supplier's obtaining of the Supply Contract or the employment of, and payments to or for the benefit of any agents or other intermediaries involved directly or indirectly at any time with the Supply Contract and (b) only to the period up to the date of award of the Supply Contract (the "Contract Records" and together with the Administration Records the "Records") provided that ECGD may only inspect and audit Contract Records for the sole purpose of verifying statements made and information given to ECGD by the Supplier in the Application Form and

5.11 in relation to Clauses 5.9 and 5.10 that it will furnish such oral or written explanations thereof within its knowledge as ECGD's authorised representative~~representative~~ or ECGD's personnel (as the case may be) may reasonably require and permit them to take any copies of any of the Administration Records they may reasonably require upon condition that ECGD will

~~5.10.1.1~~ give not less than five Business Days notice of such visit

~~5.10.2 observe any legal privilege that may exist in respect of records held by the Supplier~~visits referred to in Clauses 5.9 and 5.10

~~5.311.2~~ on request pay to the Supplier the cost of supplying any copies of ~~records supplied and~~ the Administration Records

~~5.10.4 hold in confidence~~1.3 hold in confidence and not disclose to any third party without the Supplier's prior written consent, the Records, the contents thereof and all written or oral explanations provided in respect thereof (the "Confidential Information") subject to ECGD's obligations at law or under the Code of Practice on Access to Government Information (the "Code") or its obligations to Parliament as a

Government Department and ECGD's right to disclose ~~such information~~any of the Confidential Information in confidence to its reinsurers or professional advisers in connection with its portfolio management ~~any information or copy record obtained from the Supplier and destroy such records~~activities provided in the case of such reinsurers or professional advisers, that ECGD shall (a) ensure that all persons to whom any of the Confidential Information is disclosed in accordance with this clause shall hold the same in confidence and ECGD shall be responsible for any breach of confidence by any reinsurer or professional advisor to whom it discloses any of the Confidential Information and (b) to the extent permitted by law give the Supplier reasonable notice of its intention to disclose any Confidential Information under the Code and consult with the Supplier in deciding whether to disclose any Confidential Information under the Code and

5.11.4 destroy the Confidential Information or if so requested return ~~them~~it to the Supplier when ECGD considers ~~they have~~that ~~it has~~ served the purpose for which ~~they were~~it was obtained

5.12 that nothing in Clauses 5.9, 5.10 and 5.11 shall:

~~5.11 that~~

5.12.1 oblige the Supplier or ECGD to act unlawfully or in breach of any regulation or requirement of any regulatory or investigatory body or any duty of confidentiality or

~~5.11.1 if the Supplier or anyone (including any of its employees) acting on its behalf with due authority or with its prior consent or subsequent acquiescence engages in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, or~~

5.12.2 be construed as consent by the Supplier to ECGD to disclose any Confidential Information in accordance with the Code

~~5.14.2.3 that if, with the Supplier's prior consent or subsequent acquiescence, an Affiliate or any Controlled Company or anyone (including any of the Affiliate's employees) acting on the Supplier's or that Controlled Company's behalf of the Affiliate with due authority or with the Affiliate Supplier's or that Controlled Company's prior consent or subsequent acquiescence has engaged or engages in any Corrupt Activity in connection with the Supply Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, the Supplier will on demand pay to ECGD~~

~~5.14.3.1 any amounts that ECGD certifies it has paid to the Banker in respect of any loss or expense the Banker has incurred in respect of amounts advanced under the Loan Agreement, [and]~~

~~¹¹[5.143.42 any amounts that ECGD certifies as being the net cost to ECGD of making payments to the Banker in respect of advances under the Loan Agreement by way of interest equalisation or make up; and]~~

~~5.143.[53] any amounts that ECGD certifies it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the Loan Agreement, the Support Agreement or this Agreement~~

following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Supply Contract, or any related agreement, undertaking, consent, authorisation or arrangement of any kind became illegal, void or unenforceable under its governing law as a result of that activity

¹¹ Delete if this is a pure cover loan

5.14 that if the Supplier becomes aware that any Associate or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence has engaged in Corrupt Activity in connection with the Supply Contract or any related agreement undertaking consent, authorisation or arrangement of any kind the Supplier shall promptly notify ECGD accordingly and supply ECGD with full details of the Corrupt Activity in question save where such notification would or might reasonably be argued to constitute the offence of "tipping off" under section 333 of the Proceeds of Crime Act 2002

5.15 that the Supplier (1) shall have required or shall require anyone (including any of its employees) acting on its behalf with due authority and involved in obtaining or performing the Supply Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 2.7.1, 2.7.3 or 2.7.4 would amount to Corrupt Activity) in connection with the Supply Contract (2) will monitor compliance with that requirement and (3) will take appropriate action against anyone found to have engaged in Corrupt Activity

5.16 the Supplier will not unreasonably delay or withhold consent to disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Form

6 UNDERTAKING BY ECGD

Provided that

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6.1 [the Supplier is not] [¹²[neither] of the Companies is] in breach of any of [its] [their] obligations to ECGD under this Agreement and the Supplier is not in breach of any of its obligations to the Buyer under the Supply Contract and

6.2 circumstances have arisen in which in accordance with the provisions of Clause 10 of the Loan Agreement the ¹³[Lenders] ¹⁴[Banker] and/or ECGD cease to be under any obligation to make further Advances and

¹⁵6.3 the Supplier is (and remains) entitled to terminate the Supply Contract by reason of those circumstances having arisen

ECGD hereby undertakes that it will direct the ¹²[Lenders] ¹³[Banker] to exercise ¹²[their] ¹³[its] option to make or continue to make Advances and to pay the same to the Supplier (and will itself where appropriate do likewise) subject always to the provisions of the Loan Agreement and provided always that if the Buyer has exercised its right to terminate the Supply Contract under any provision thereof or if ECGD requires the Supplier to exercise its right to terminate the Supply Contract the amount to be paid to the Supplier shall be limited to the amount due to it in respect of UK Goods and UK Services under the Supply Contract in the event of such termination

7 RECOURSE

7.1 The premium hereby payable is not intended to and does not cover payments made by ECGD to the Banker under Clauses 4 and/or 7 of the Support Agreement or under the equivalent clauses in any Eligible Bank Support Agreement by reason of any default by the Borrower at any time when

¹² If more than two Companies are to sign this Agreement replace "neither" with "none"

¹³ Delete for Sole Lender cases

¹⁴ Insert for Sole Lender cases

7.1.1 the Supply Contract has been terminated by the Buyer under the terms thereof owing to the default of the Supplier or

7.1.2 a default by the Supplier under the terms of the Supply Contract has occurred and remains unremedied

7.2 Whenever ECGD makes payment to the Banker of any sum under Clauses 4 and/or 7 of the Support Agreement or under the equivalent clauses in any Eligible Bank Support Agreement in either of the circumstances described in Clauses 7.1.1 and 7.1.2 the [Supplier] [Companies] shall pay to ECGD in dollars within 90 days of ECGD's demand in writing an amount equal to the sum so paid by ECGD to the Banker unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default. Payment shall be made to the account specified in Clause 3 quoting reference "ECGD – Recourse ¹⁵["]

¹⁷[7.2 Whenever ECGD makes payment to the Banker of any sum under Clauses 4 and/or 7 of the Support Agreement or under the equivalent clauses in any Eligible Bank Support Agreement in either of the circumstances described in Clauses 7.1.1 and 7.1.2 the [Supplier] [Companies] shall pay to ECGD in sterling within 90 days of ECGD's demand in writing an amount equal to the sum so paid by ECGD to the Banker converted at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed at the close of business on the date on which such sum was paid by ECGD to the Banker unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default]

¹⁵ It is essential that the Supplier's attention is drawn to this important proviso as early as possible

¹⁶ ECGD Guarantee Reference

¹⁷ This wording should be used for Clause 7.2 in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

7.3 Whenever the Borrower fails to repay to ECGD through the Banker any amount due to ECGD under the provisions of the Loan Agreement at a time when the Supply Contract has been terminated by the Buyer under the terms thereof owing to the default of the Supplier or any default by the Supplier under the terms of the Supply Contract has occurred and remains unremedied the [Supplier] [Companies] shall pay to ECGD in dollars within 90 days of ECGD's demand in writing an amount equal to the amount so due to ECGD unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default. Payment shall be made to the account specified in Clause 3 quoting reference "ECGD - Recourse ¹⁸[]"

¹⁹[7.3 Whenever the Borrower fails to repay to ECGD through the Banker any amount due to ECGD under the provisions of the Loan Agreement at a time when the Supply Contract has been terminated by the Buyer under the terms thereof owing to the default of the Supplier or any default by the Supplier under the terms of the Supply Contract has occurred and remains unremedied the [Supplier] [Companies] shall pay to ECGD in sterling within 90 days of ECGD's demand in writing an amount equal to the amount so due to ECGD converted at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as quoted in the "Financial Times" which prevailed at the close of business on the due date for payment of such amount unless within such period ECGD confirms in writing to the Supplier that the default of the Supplier is an Immaterial Default]

7.4 If any amount is not paid by the [Supplier] [Companies] in accordance with Clause 7.2 or 7.3 the [Supplier] [Companies] shall pay to ECGD from the date 90 days after the date of ECGD's written demand until the payment of such amount interest on such amount calculated from day to day at the rate of 1.5% above the CIRR Rate applicable to the period during which such amount remains unpaid or at 5% per annum whichever is the higher

¹⁸ ECGD Guarantee Reference

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7.5 If ECGD has exercised the option contained in Clause 7.1 of the Support Agreement or under the equivalent clause(s) in any Eligible Bank Support Agreement then for the purpose of Clause 7.2 ECGD shall be deemed to have made such payments at the time it would have made them under Clause 4 of the Support Agreement or under the equivalent clause(s) in any Eligible Bank Support Agreement had it not exercised the said option

7.6 Notwithstanding the above provisions the liability of the [Supplier] [Companies] under this Clause 7 shall not exceed \$

²⁰[7.6 Notwithstanding the above provisions the liability of the [Supplier] [Companies] under this Clause 7 shall not exceed ²¹£]

8 CONDITIONS FOR RELEASE FROM RECOURSE

8.1 The [Supplier] [Companies] will be released completely from [its] [their] obligations under Clauses 7.2 and 7.3 if ECGD is satisfied (and so states in writing) that

8.1.1 the Buyer has given an unconditional acknowledgement in writing to the Supplier that all the Supplier's obligations under the Supply Contract have been performed and

8.1.2 the Supplier has given an unconditional certificate in writing to ECGD that all its said obligations have been performed, accompanied by a copy of the Buyer's said acknowledgement and any other documentation which ECGD may require in writing

¹⁹ This wording should be used for Clause 7.3 in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

²⁰ This wording should be used in this Clause 7.6 in place of the standard wording if the Supplier/Companies have opted to pay premium in sterling

²¹ This sterling limit should be calculated by converting the dollar recourse amount required into sterling at a rate being the closing mid-point of the spot buying and selling rates of exchange of dollars for sterling as

8.2 The [Supplier] [Companies] may be released from [its] [their] obligations under Clauses 7.2 and 7.3 if the Supplier

8.2.1 can satisfy ECGD that a period of twelve months has elapsed following the expiry of any guarantee/warranty/maintenance period under the Supply Contract or under any bond or guarantee given in connection therewith and the Supplier gives an unconditional certificate in writing to ECGD that all its obligations under the Supply Contract have been performed together with any other documentation which ECGD may require in writing or

8.2.2 gives a conditional certificate in a form approved by ECGD

PROVIDED THAT

8.2.3 the [Supplier] [Companies] will not be released from [its] [their] obligations under Clauses 7.2 and 7.3 at any time when

8.2.3.1 an event of default has occurred and subsists under the Loan Agreement unless ECGD is satisfied that such default is due to or arises from an Immaterial Default or is unconnected with performance under the Supply Contract or arose solely from circumstances outside the knowledge or control of the Supplier or

8.2.3.2 the [Supplier] [Companies] [is] [are] in breach of any of [its] [their] obligations to ECGD hereunder

8.2.4 Notwithstanding the provisions of Clauses 8.2.1 and 8.2.2 if the certification given by the Supplier in accordance with those Clauses proves to the satisfaction of ECGD to have been untrue or incorrect in any respect (whether that fact was known to the [Supplier]

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[Companies or ²²[either] of them] when the certification was given or not) the [Supplier] [Companies] shall be bound by the provisions of Clauses 7.2 and 7.3 as if no release had been given by ECGD

[9] JOINT AND SEVERAL OBLIGATIONS

The obligations of the Companies under this Agreement shall be joint and several]

10 NO WAIVER OF RIGHTS

No failure to exercise nor any delay in exercising on the part of any party hereto any right power or remedy hereunder shall impair or operate as a waiver thereof nor shall any single or partial exercise of any right power or remedy prevent any further or other exercise thereof or the exercise of any other right power or remedy. The rights powers and remedies herein provided are cumulative and not exclusive of any rights powers or remedies provided by law

²³ [11] LAW

This Agreement shall be governed by and construed in accordance with English Law]

²⁴ 12 RIGHTS OF THIRD PARTIES

For the avoidance of doubt the parties to this Agreement do not intend that any of the terms of this Agreement should be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement

²² If more than two Companies are to sign this Agreement replace "either" with "any".

²³ Clause 11 should be included if the recourse backer is neither registered nor incorporated in the UK

²⁴ On no account should this clause be deleted or amended without the prior agreement of GCO and BD4/PSDB

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IN WITNESS WHEREOF this Agreement has been signed in [duplicate] [triplicate]
on behalf of the parties hereto by persons duly authorised in that behalf the day
and year first above written

Signed
on behalf of ECGD

Witness to the signature of
[full name of person signing
on behalf of ECGD]

Signed

Signed
on behalf of [name of the Supplier]

Witness to the signature of
[full name of person signing
on behalf of the Supplier]

Signed

[Signed
on behalf of [name of recourse backer]

Witness to the signature of
[full name of person signing
on behalf of the recourse backer]

Signed

Examined

Date

BD4\MASTERS\13112NEW.doc

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Document comparison done by DeltaView on Thursday, September 16, 2004
12:37:55

Document 1	file://E:/Ud1/MASTERS/bcredits/DOLLAR/13112NEW.DOC
Document 2	file://G:/BD4/Supp/Brib&Corr-2004/Brib& Corr-Oct04 Final/Masters/bcredits/DOLLAR/13112NEW.DOC
Rendering set	ECGD

Legend	
Insertion	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Redline Summary		
No.	Change	Text
1-2	Change	"(Revised March 1999)" changed to "(Revised September 2004)".
3-4	Change	"2.1 "Affiliate" means" changed to "2.1 "Application Form" means"
5-6	Change	" means in relation to ...companies or any other" changed to " means the application...to this Agreement"
7	Change	"party to any" changed to "2.2 "Associate" means any ...which is a party to any"
8	Change	"joint venture or consortium or" changed to "joint venture consortium or"
9-10	Change	"arrangement with the...with the Supply" changed to "arrangement (1) which is.. any part of the Supply"
11	Insertion	Supply Contract and (2)...Supplier is also a party
12-13	Change	"2.2 "CIRR Rate" changed to "2.3

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		"CIRR Rate"
14-15	Change	"2.3 "Consensus"" changed to "2.4 Consensus"
16-17	Change	"2.4" changed to "2.5 "control" and ...capital of that company"
18	Insertion	2.6 "Controlled Company"...by the Supplier
19	Change	"Corrupt Activity" changed to "2.7 "Corrupt Activity"
20	Change	"other person and the ...criminal conduct) which" changed to "other person) which"
21-22	Change	"2.4.1 is subsequently" changed to "2.7.1 is subsequently"
23	Change	"jurisdiction to have rendered" changed to "jurisdiction (after all...to have rendered"
24	Change	"governing law, or" changed to "governing law or"
25-26	Change	"2.4.2 the Supplier" changed to "2.7.2 the Supplier"
27	Change	"the Supplier any" changed to "the Supplier or any"
28-29	Change	"any of its Affiliates or anyone (including" changed to "any Controlled Company or anyone (including"
30-31	Change	"(including any of the...acting on behalf" changed to "(including any employee)...Company's behalf"
32	Change	"behalf of or with the" changed to "behalf or with the"
33-34	Change	"or with the prior consent or" changed to "or with the Supplier's or"
35	Change	"or subsequent" changed to "or its subsequent"
36-37	Change	"acquiescence of the...freely admitted engaging" changed to "acquiescence has other...duress admitted engaging"
38	Change	"engaging in, or" changed to "engaging in or"
39-40	Change	"2.4.3 is subsequently" changed to "2.7.3 is subsequently"

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41	Change	"United Kingdom to constitute" changed to "United Kingdom (after all...exhausted) to constitute"
42	Change	"applicable law, or" changed to "applicable law or"
43-44	Change	"2.4.4 is subsequently" changed to "2.7.4 is subsequently"
45	Change	"United Kingdom to constitute" changed to "United Kingdom (after all... exhausted) to constitute"
46-47	Change	"offence under the...amended or re-enacted)" changed to "offence under the...retrospective effect)"
48	Change	"which activity, in respect" changed to "which activity in respect"
49-50	Change	"paragraphs 2.4.1, 2." changed to "paragraphs 2.7.1, 2."
51-52	Change	".1, 2.4.2 and 2." changed to ".1, 2.7.2 and 2."
53-54	Change	".2 and 2.4.3 above corresponds" changed to ".2 and 2.7.3 above corresponds"
55-56	Change	"offence under the...amended or re-enacted)" changed to "offence under the...retrospective effect)"
57-58	Change	"2.5 "Eligible Bank" changed to "2.8 "Eligible Bank"
59-60	Change	"2.6 "Immaterial" changed to "2.9 "Immaterial"
61-62	Change	"2.6.1 an act or" changed to "2.9.1 an act or"
63-64	Change	"2.6.2 the prevention" changed to "2.9.2 the prevention"
65-66	Change	"2.6.3 any measure" changed to "2.9.3 any measure"
67-68	Change	"2.6.4 the occurrence" changed to "2.9.4 the occurrence"
69-70	Change	"2.6.5 the cancellation" changed to "2.9.5 the cancellation"
71-72	Change	"2.6.6 any restrictions" changed to "2.9.6 any restrictions"

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73-74	Change	"2.7 "OECD" means" changed to "2.10 "OECD" means"
75	Insertion	2.11 "Relevant Acts" (amended or re-enacted)
76-77	Change	"[2.8 "Sterling Equivalent"" changed to "[2.12 "Sterling Equivalent""
78-79	Change	"2.9 Any expression" changed to "2.13Any expression"
80-81	Change	"2.10 Where the context" changed to "2.14 Where the context"
82-83	Change	"2.11 Unless otherwise" changed to "2.15 Unless otherwise"
84-85	Change	"2.12 Clause headings" changed to "2.16 Clause headings"
86	Change	"authorised by ECGD may visit any" changed to "authorised by ECGD and if. Supplier) may visit any"
87	Change	"any of its premises where" changed to "any of its UK premises where"
88-89	Change	"relating to the...Agreement and the Supply" changed to "relating to the performance of the Supply"
90	Change	"Supply Contract are kept during" changed to "Supply Contract and the...are kept during"
91	Change	"any records preserved in" changed to "any records other than...privilege preserved in"
92	Insertion	electronically which...Records")
93	Deletion	5.9.1 relate to any...under the Loan Agreement
94	Deletion	5.9.2 relate to it obtaining the Supply Contract
95	Deletion	5.9.3 relate to the...of the Supply Contract
96	Moved from	and the making of...under the Loan Agreement
97	Deletion	and
98-99	Change	"5.9.4 relate to the employment" changed to "5.10 that if ECGD...or the employment"
100	Change	"employment of and payments" changed to "employment of, and payments"
101	Insertion	Supply Contract and (b)...the Application Form and
102	Change	"5.10" changed to "5.11 in relation to Clauses 5.9 and 5.10"
103-104	Change	"authorised representatives may reasonably" changed to "authorised representative...may be) may reasonably"

105	Change	"any copies they may reasonably" changed to "any copies of any of the... they may reasonably"
106-107	Change	"5.10.1 give not" changed to "5.11.1 give not"
108	Deletion	notice of such visit
109	Deletion	5.10.2 observe any legal... held by the Supplier
110	Change	"5.10" changed to "visits referred to in Clauses 5.9 and 5.10"
111	Change	"." changed to "5."
112-113	Change	".3 on request" changed to ".11.2 on request"
114-115	Change	"copies of records supplied and" changed to "copies of the Administration Records"
116-117	Change	"5.10.4 hold in confidence subject to" changed to "5.11.3 hold in...Information") subject to"
118	Change	"Information or its obligations" changed to "Information (the "Code") or its obligations"
119-120	Change	"to disclose such information in confidence" changed to "to disclose any of the...in confidence"
121-122	Change	"management any...and destroy such records" changed to "management activities...under the Code and"
123	Change	"or if" changed to "5.11.4 destroy the...Information or if"
124	Change	"or if requested return" changed to "or if so requested return"
125-126	Change	"requested return them to the Supplier" changed to "requested return it to the Supplier"
127-128	Change	"ECGD considers they have served the" changed to "ECGD considers that it has served the"
129-130	Change	"purpose for which they were obtained" changed to "purpose for which it was obtained"
131	Insertion	5.12 that nothing in...5.9, 5.10 and 5.11 shall:
132	Deletion	5.11 that
133	Insertion	5.12.1 oblige the...of confidentiality or
134	Deletion	5.11.1 if the Supplier or...of any kind, or
135	Insertion	5.12.2 be construed as...accordance with the Code
136-137	Change	"5.11.2 if" changed to "5.13 that if"
138	Change	"if, with the Supplier" changed to "if the"

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		Supplier"
139-140	Change	"the Supplier's prior... or anyone (including" changed to "the Supplier or any... or anyone (including"
141	Change	"(including any of the ...employees) acting" changed to "(including any employees) acting"
142	Change	"employees) acting on behalf" changed to "employees) acting on the...Company's behalf"
143	Change	"behalf of the Affiliate with due authority" changed to "behalf with due authority"
144-145	Change	"or with the Affiliate's prior consent" changed to "or with the Supplier's...Company's prior consent"
146	Change	"acquiescence engages in" changed to "acquiescence has engaged or engages in"
147	Deletion	Supply Contract or any...arrangement of any kind,
148	Change	"5.11.3" changed to "5.13"
149	Change	"3 any amounts" changed to "3.1 any amounts"
150	Change	"Loan Agreement, [and]" changed to "Loan Agreement [and]"
151-152	Change	"[5.11." changed to "[5.13."
153-154	Change	".4 any amounts" changed to ".2 any amounts"
155	Change	"equalisation or make up, and]" changed to "equalisation or make up and]"
156-157	Change	"5.11.[" changed to "5.13.["
158-159	Change	".[5] any amounts" changed to "[3] any amounts"
160	Change	"and legal fees, under or in" changed to "and legal fees under or in"
161	Change	"Loan Agreement, the Support" changed to "Loan Agreement the Support"
162	Change	"Supply Contract, or any related" changed to "Supply Contract or any related"
163	Change	"related agreement, undertaking" changed to "related agreement undertaking"
164	Change	"undertaking, consent" changed to "undertaking consent"
165	Change	"consent, authorisation" changed to "consent authorisation"
166	Change	"became illegal, void or unenforceable" changed to "became illegal void or unenforceable"
167	Insertion	5.14 that if the Supplier...of Crime Act 2002
168	Insertion	5.15 that the Supplier...in Corrupt Activity
169	Insertion	5.16 the Supplier will...ECGD Application

	Form
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Statistics	
	Count
Insertions	85
Deletions	82
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	169

Redline options	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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AIRBUS February September 2004

Her Britannic Majesty's Secretary of State
Acting by the
Export Credits Guarantee Department
2 Exchange Tower
Harbour Exchange Square
London E14 9GS
England ("ECGD")

Dear Sirs,

PROVISION OF BUYER CREDIT SUPPORT

1 4.—In consideration of ECGD agreeing to consider providing Buyer Credit Support (which we acknowledge to be a good and valuable consideration) we undertake that:

1.1 in connection with any Contract ~~and any related agreement, undertaking, consent, authorisation or arrangement of any kind~~ neither we nor to the best of our knowledge or belief any Controlled Company or anyone (including any ~~of our~~ employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or subsequent acquiescence has engaged or will engage in any Corrupt Activity;

1.2 if we or any Controlled Company or anyone (including any ~~of our~~ employees) acting on our, or that Controlled Company's behalf with due authority or with our, or that Controlled Company's prior consent or subsequent acquiescence engages in any Corrupt Activity in connection with a Contract we will on demand pay to ECGD any amount that ECGD certifies -

1.2.1 that it has paid to the lending bank in respect of any loss or expense the lending bank has incurred in respect of amounts advanced under the relevant loan;

1.2.2 as being the net cost to ECGD of making payments to the lending bank in respect of advances under the relevant loan by way of interest equalisation or make up; and

1.2.3 it has incurred by way of interest, costs, expenses and legal fees, under or in connection with the relevant loan, or its guarantee;

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following the earlier of the date on which the relevant Corrupt Activity occurred or the date with effect from which the Contract or ~~any related agreement, undertaking, consent, authorisation or arrangement of any kind~~ became illegal, void, or unenforceable under its governing law as a result of that activity; and

1.3 to the best of our knowledge and belief :-

1.3.1 neither we nor our managing director nor any of our executive vice presidents, nor any Controlled Company nor any director of any Controlled Company

AIRBUS

1.3.1 1 appears on any list of contractors or individuals debarred from tendering for or participating in any project funded by the World Bank or any other multilateral or bilateral aid agency, ~~and;~~ or

1.3.1.2 has at any time during the last five years, other than under duress, admitted having engaged or been found by a court in any competent jurisdiction to have engaged in any corrupt activity Corrupt Activity that has not previously been notified to ECGD;

1.3.2 each Contract, or any arrangement connected with its financing or procurement, has not been, nor will be, used for the purposes of money laundering (as defined in Part 7 of the Proceeds of Crime Act 2002);

1.4 if at any time the undertakings given at paragraphs 1.3.1.1 and 1.3.1.2 above become or are found to be untrue or incorrect to the best of our knowledge and belief we will immediately give written notice to ECGD and such notice shall include details of the events that resulted in any such listing and/or any court finding;

1.5 if we become aware that any Associate, or anyone (including any of its employees) acting on its behalf (with due authority) or with its subsequent acquiescence, has engaged in any Corrupt Activity in connection with the Contract or any related agreement, undertaking, consent, authorisation or arrangement of any kind, we shall promptly notify you accordingly and supply you with full details of the Corrupt Activity, in question save where such notification would, or might reasonably be argued to, constitute the offence of

"tipping off" under section 333 of the Proceeds of Crime Act 2002:

- 1.6 (1) we shall have required, or shall require, anyone (including any of our employees) acting on our behalf with due authority and involved in obtaining or performing the Contract not to engage in any Corrupt Activity (or any activity which, subject to the occurrence of the subsequent events referred to in paragraphs 3.6.1, 3.6.3 or 3.6.4, would amount to Corrupt Activity) in connection with the Contract (2) we will monitor compliance with that requirement, and (3) we will take appropriate action against anyone found to have engaged in any Corrupt Activity; and
- 1.7 we will not unreasonably delay or withhold consent to the disclosure by ECGD of any matters which are otherwise confidential by virtue of the provisions of the ECGD Application Forms.
- 2- We agree that the above undertakings shall apply in respect of any Contract where any drawings are made from the relevant loan after 4 February 2004 the date of this letter and prior to 4th February 2005.
- 3- We understand that for the purposes of this undertaking -
- 3.1 "Buyer Credit Support" "Associate" means any company (other than us or a Controlled Company), person or other legal entity which is a party to any joint venture, consortium or other similar arrangement (1) which is, or will be, involved in the performance or financing of all or any part of the Contract and (2) to which we are also a party;
- 3.2 "Buyer Credit Support" means the provision by ECGD of support to banks under its Buyer Credit facilities in respect of loans to be provided to finance the purchase of Airbus aircraft to be supplied under contracts entered into by ourselves with buyers;
- 3.3 "Contract" means a contract for the sale of an Airbus aircraft (that receives Buyer Credit Support) or the substitute contract for which finance is provided by means of a loan that receives Buyer Credit Support;
- 3.4 "Controlled Company" means any company (in any jurisdiction) which is controlled by us;
- 3.5 "control" and "controlled" means, in relation to a company, control of that company by virtue of (1) contractual arrangements (including, without limitation, provisions in that, or any other, company's memorandum and articles of association or the equivalent documents in the case of a

company incorporated in a jurisdiction other than that of England and Wales) and/or (2) ownership (whether directly or by nominees or trustees) of the majority of the voting share capital of that company;

3.6 "Corrupt Activity" means any ~~corrupt~~ activity (including without limitation, the offering of any payment, reward or other advantage to any public official or other person) which

~~3.3.4 has been~~ 6.1 is subsequently found by a court in a competent jurisdiction (after all available rights of appeal have been exhausted) to have rendered the Contract illegal, void, voidable or unenforceable under its governing law, or

~~3.3.2 we~~ 6.2 we have, or any Controlled Company or anyone (including any ~~of our employees~~) acting ~~on our behalf~~ (with due authority) on our, or any Controlled Company's, behalf or with our ~~prior consent~~, or its subsequent acquiescence ~~has freely~~, other than under duress, admitted engaging in, or

~~3.3.3 has been~~ 6.3 is subsequently found by a court in any competent jurisdiction outside the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under any applicable law, or

~~3.3.4 has been~~ 6.4 is subsequently found by a court in the United Kingdom (after all available rights of appeal have been exhausted) to constitute an offence under the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted) Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect)

and which activity, in respect of paragraphs 3.36.1, 3.36.2, and 3.36.3 above corresponds to an offence under the Relevant Acts (except by virtue of an amendment to the Relevant Acts having retrospective effect).

3.7 "Relevant Acts" means the Prevention of Corruption Acts 1889 to 1916 (as from time to time amended or re-enacted);

4- This undertaking shall be construed in accordance with English law and we agree to submit to the exclusive jurisdiction of the English courts in respect of any dispute arising in connection with this undertaking.

Yours faithfully,

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Noel FORGEARD

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Document comparison done by DeltaView on Thursday, September 16, 2004
11:13:29

Input	
Document 1	file:///G:/BD4/Supp/Donovan/B&C Presentation/Airbus Undertaking Letter (previous version) v29.rtf
Document 2	file:///G:/BD4/Supp/Brib&Corr-2004/Brib& Corr-Oct04 Final/Applications/Airbus Undertaking Letter 2004092.doc
Rendering set	ECGD

Legend	
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Split/Merged cell	
Padding cell	

Redline Summary		
No.	Change	Text
1	Insertion	C:\Documents and...Letter 2004092.doc
2	Deletion	AIRBUS
3	Change	" " changed to "[
4-5	Change	"February 2004" changed to "] September, 2004"
6-7	Change	"Acting" changed to "acting"
8	Change	"In consideration" changed to "1. In consideration"
9	Insertion	undertake that:
10	Change	"any Contract and any...any kind neither we nor" changed to "any Contract neither we nor"
11	Change	"knowledge or belief anyone (including" changed to "knowledge or belief any...or anyone (including"
12	Change	"(including any of our employees) acting" changed to "(including any employees) acting"
13	Change	"acting on our behalf with" changed to "acting"

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		on our, or that...Company's behalf with"
14	Change	"or with our prior consent" changed to "or with our, or that...Company's prior consent"
15	Change	"1.2 if we or anyone (including" changed to "1.2 if we or, any...or anyone (including"
16	Change	"(including any of our employees) acting" changed to "(including any employees) acting"
17	Change	"acting on our behalf with" changed to "acting on our, or that...Company's behalf with"
18	Change	"or with our prior consent" changed to "or with our, or that...Company's prior consent"
19	Change	"1.2.1 it has paid" changed to "1.2.1 that it has paid"
20-21	Change	"relevant loan," changed to "relevant loan;"
22-23	Change	"equalisation or make up, and" changed to "equalisation or make up; and"
24	Deletion	its guarantee,
25	Change	"the Contract or any...any kind became illegal," changed to "the Contract became illegal,"
26	Insertion	and belief , -
27	Change	"neither we nor" changed to "1.3 1 neither we nor"
28	Insertion	vice presidents, nor any...any Controlled Company
29	Deletion	AIRBUS
30	Change	"1.3.1 appears on any" changed to "1.3 1 .1 appears on any"
31-32	Change	"bilateral aid agency, and" changed to "bilateral aid agency; or"
33	Change	"1.3.2" changed to "1.3 1.2"
34	Change	"at any time been found by" changed to "at any time during the ..engaged or been found by"
35	Change	"by a court to have engaged" changed to "by a court in any ..to have engaged"
36-37	Change	"engaged in any corrupt activity" changed to "engaged in any Corrupt...been notified to ECGD;"
38	Change	"," changed to "1.3.2 each Contract,

		or... of Crime Act 2002);"
39	Change	"paragraphs 1.3.1 and 1.3" changed to "paragraphs 1.3.1.1 and 1.3"
40	Change -	"and 1.3.2 above become" changed to "and 1.3.1.2 above become"
41-42	Change	"court finding." changed to "court finding;"
43	Insertion	1.5 if we become aware... of Crime Act 2002;
44	Insertion	1.6 (1) we shall have... Corrupt Activity; and
45	Insertion	1.7 we will not... ECGD Application Forms.
46	Change	"2. We agree that" changed to "2. We agree that"
47-48	Change	"loan after 4 February 2004 and prior to" changed to "loan after the date of this letter and prior to"
49	Change	"and prior to 4 February 2005." changed to "and prior to 4th February 2005."
50	Deletion	3.
51	Change	"understand that for the purposes" changed to "understand for the purposes"
52-53	Change	"3.1 "Buyer Credit Support"" changed to "3.1 "Associate" means... we are also a party;"
54	Change	"means the provision" changed to "3.2 "Buyer Credit Support" means the provision"
55-56	Change	"with buyers." changed to "with buyers;"
57-58	Change	"3.2 "Contract" changed to "3.3 "Contract"
59-60	Change	"Contract" means a contract" changed to "Contract" means a contract"
61-62	Change	"Credit Support." changed to "Credit Support;"
63	Insertion	3.4 "Controlled Company"... is controlled by us;
64	Insertion	3.5 "control" and... capital of that company;
65	Change	"3. "Corrupt Activity"" changed to "3.6 "Corrupt Activity""
66	Change	"Activity" means any corrupt activity (including" changed to "Activity" means any activity (including"
67-68	Change	"3.3.1 has been found by a" changed to "3.6.1 is subsequently found by a"

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69	Change	"jurisdiction to have rendered" changed to "jurisdiction (after all...to have rendered"
70-71	Change	"3.3.2 we or anyone (including" changed to "3.6.2 we have, or any...or anyone (including"
72	Change	"(including any of our employees) acting" changed to "(including any employees) acting"
73-74	Change	"employees) acting on our... with due authority" changed to "employees) acting (with due authority"
75	Change	"due authority or with our" changed to "due authority) on our, or...behalf or with our"
76-77	Change	"or with our prior consent or" changed to "or with our, or"
78	Change	"or subsequent" changed to "or its subsequent"
79-80	Change	"acquiescence has freely admitted engaging" changed to "acquiescence has, other...admitted engaging"
81-82	Change	"3.3.3 has been found by a" changed to "3.6.3 is subsequently found by a"
83	Change	"United Kingdom to constitute" changed to "United Kingdom (after all...exhausted) to constitute"
84-85	Change	"3.3.4 has been found by a" changed to "3.6.4 is subsequently found by a"
86	Change	"United Kingdom to constitute" changed to "United Kingdom (after all...exhausted) to constitute"
87-88	Change	"offence under the...amended or re-enacted)" changed to "offence under the...retrospective effect)"
89-90	Change	"paragraphs 3.3 1, 3." changed to "paragraphs 3.6.1, 3."
91-92	Change	".1, 3.3.2" changed to ".1, 3.6.2"
93	Change	".2, and 3." changed to ".2 and 3."
94-95	Change	"and 3.3 3 above corresponds" changed to "and 3.6.3 above corresponds"
96	Insertion	offence under the...retrospective effect).
97	Change	"Prevention of" changed to "3.7 "Relevant Acts" means the Prevention of"
98-99	Change	"re-enacted)." changed to "re-enacted)."
100	Change	"4." changed to "4"

Statistics:	
	Count
Insertions	60
Deletions	40
Moved from	0

Moved to	0
Style change	0
Format changed	0
Total changes	100

Redline options	
	Status
Redline Statistics at End of Document	ON
Include Redline Comparison Summary	ON
Show Line Numbering	OFF
Show Change Numbers in Left Margin	ON
Show Change Bars On Left	ON
Show Hidden Text	OFF
Detect List Numbering Changes	ON
Compare Headers/Footers	ON
Compare Footnotes	ON
Display DeltaView Footers	OFF
Ignore Embedded Objects/Images	OFF
Compare at Character Level	ON
Compare Numbers at Character Level	ON
Show Moved Deletions	OFF
Show Changes to Spaces	OFF
Show Paragraph Changes	OFF
Ignore Case Changes	OFF

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24 September 2004

Mr Patrick Crawford
Chief Executive
PO Box 2200
ECGD
2 Exchange Tower
Harbour Exchange Square
London
E14 9GS

Dear Patrick

ECGD Documentation

I refer to your letter of 13th September and the email from Nicholas Ridley of 16th September attaching marked up copies of the principal documents which we have been discussing over the past weeks

We have solicited the views of Airbus, BAE SYSTEMS and Rolls Royce on the letter and the mark up, and can now provide you with our consolidated response.

1. Points from the mark up which are not referred to in the letter of September 13th:
 - a) During negotiations ECGD produced a helpful footnote defining what was meant by the phrase "to the best of our knowledge and belief." This does not appear in the latest version of the documentation and should be restored to each document in which the phrase appears.
 - b) At 7.6.3 in the general Schedule and 9.6.3 in the Airbus schedule there is a requirement to specify the country or countries where commission is payable. This point, although mentioned in the early stages of the recent discussions was not agreed. It was not included as one of the key issues on agency information set out in your letter of September 13th, and is unacceptable to the companies.

2. Points from the letter of September 13th

Using the same numbering as in the letter:

- (i) The exporters are currently reserving their position on this point, pending a satisfactory response on all other points raised.



INVESTOR IN PEOPLE

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Director-General: Digby Jones President: John Sunderland

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- (ii) We understand that grounds of commercial confidentiality will be accepted by ECGD as a valid reason for not disclosing the names and addresses of agents and that cover will not be refused simply because Agents' details cannot be divulged due to issues of commercial confidentiality. We would appreciate your written confirmation on this point
- (iii) This is acceptable if qualified by "to the best of our knowledge and belief", and subject to the inclusion of the definition of the phrase as referred to in para a) in section 1 above
- (iv) This is in principle acceptable. It may be that the information required will be provided within a separate letter. A related point is that in 7.4 in the general schedule and 9.4 in the Airbus schedule, the word "or" should be deleted where it appears before the word "intended" above the tick boxes. As regards details of services, exporters will provide ECGD with a generic definition of services, and confirm in individual cases that the services performed are consistent with those set out in the generic definition. Please could ECGD confirm their agreement on this point.
- (v) So far as we are aware, the newly-included limiting parameter in relation to an absolute amount, and indeed the suggested percentage, have no statutory or regulatory basis. The acceptability of the principle of declaring a percentage amount remains under discussion by the exporters. However, even if such provision relating to a percentage is acceptable, given the very large contract values for which the major UK exporters are responsible, an absolute amount will not be. There is in addition a concern that if the amount of commission is declared under the provisions of (iv) above, and that amount exceeds the percentage which may ultimately be agreed under this paragraph (v), then cover will either not be made available, or will only be granted subject to the exporter furnishing additional detailed information. It would be helpful if ECGD could confirm formally that neither will be the case
- (vi) If agreement can be reached on (v) above, and subject to the comments on services made in (iv) above, then this would be acceptable.

Clearly on the main body of the documentation we are very close to total agreement. On the points raised in your letter of 13th September, most of the remaining issues appear to be capable of resolution following satisfactory confirmation of ECGD's detailed position, which in view of the protracted nature of the matter, we feel sure all parties would like to achieve within the next few days.

The CBI remains committed to facilitating an agreement on these issues which meets the Government's requirements for transparency and is capable of practical implementation by UK exporters

Yours sincerely



Andy Scott
Director
International Competitiveness Directorate

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Roy Donovan

From: John Weiss
Sent: 30 September 2004 14:46
To: 'Caldwell, James (UK)', nigel.taylor@airbus.com; mary-jane.little@airbus.com; joanna.carver@airbus.com; sue.walton@airbus.com; John Weiss; andy.scott@cbi.org; Wood, Chris (UK Legal); Aldridge, Julia (UK); Cronin, Dominic (UK); 'roger.bourne@dti.gsi.gov.uk', Roy Donovan
Cc: Scopes, Julian (UK)
Subject: RE: ECGD anti-corruption measures - next meeting

James / Andy

ECGD will be represented by John Weiss and Roy Donovan. Roger Bourne will also attend from DTI.

Thanks

CLAIRE STOKES
SPS to John Weiss
1: 0207 512 7012

-----Original Message-----

From: Caldwell, James (UK) [mailto:james.caldwell@baesystems.com]
Sent: 30 September 2004 11:00
To: nigel.taylor@airbus.com; mary-jane.little@airbus.com; joanna.carver@airbus.com; sue.walton@airbus.com; John Weiss; andy.scott@cbi.org; Wood, Chris (UK Legal); Aldridge, Julia (UK); Cronin, Dominic (UK)
Cc: Scopes, Julian (UK)
Subject: ECGD anti-corruption measures - next meeting

This is to confirm that CBI have kindly agreed to host a meeting for industry and ECGD at Centrepoint at 1130 on Thursday 7th October. The purpose of the meeting is to try to reach agreement on the remaining issues set out in the recent exchange of correspondence between ECGD and CBI. Please could Airbus RR and ECGD let Andy Scott know who from their organisations will attend. From BAE it will be me, Dominic Cronin and probably one of Chris Wood or Julia Aldridge.

James Caldwell
BAE Export Finance
BAE SYSTEMS

Telephone: +44 1252 384805
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Note of meeting at the CBI, Centrepont on 7 October 2004

Present:

ECGD - John Weiss
Charles Redfearn
Roy Donovan

CBI Solutions Group:
CBI
BAE
Rolls-Royce
Airbus

It was agreed that the most constructive way to progress the meeting would be to go through the points raised in CBI's letter to Patrick Crawford of 24 September.

Point 1(a)

To the best of our knowledge and belief – it was agreed that the explanation of how ECGD interprets this phrase will be attached as an Appendix to the Application Form.

Point 1(b)

Industry - Specifying the country where agent's commission is paid is not acceptable. There were concerns that this could enable an agent to be identified. Industry also believed that this detail was commercially confidential between a company and its agent and should be of no concern to ECGD.

ECGD – This detail had always been required by ECGD when the commission was included in the contract price and was being covered by ECGD and ECGD would continue to insist upon it. This information was needed for foreign content purposes as commission paid in the UK was treated as UK content, when paid in the Buyer's country as locals and anywhere else as third country. There was also a potential legal issue in that commission included in the contract price payable outside of the Buyer's country may not be legal in some jurisdictions and this would be of direct concern to ECGD when it was being asked to support this amount. However, ECGD was prepared to amend the question on the Application Form to make it clear that it only applied when the commission was being covered by ECGD.

Agreed – Subject to BAE's confirmation (which needed to carry out some further checks) it was agreed that when ECGD was being asked to cover agent's commission the Applicant would be required to disclose the country where such commission was payable.

Point 2 (i)

Industry – its response to this was closely linked to the other points dealt with below, particularly Points 2(v) and 2(vi). Identifying whether an agent exists or not is a major issue for Airbus. It recognises ECGD's concerns if the level of commission is above 5% but is not prepared to make any disclosure if the level is below this as this is a purely commercial matter for Airbus itself. Industry strongly believes that there must be an element of trust in the dealings between ECGD and its business customers. Some companies had already provided ECGD, and others were

willing to do so, with evidence of the robust processes they have in place concerning agents. They take the issue of illicit practices very seriously and always ensure that the arrangements with their agents fully comply with the law and are legal in every respect. ECGD should take comfort from this. It was recognised that because it was not Airbus practice to seek support from ECGD for any agent's commission, whereas both BAE and RR normally do, there was this difference between the companies on this particular issue. However, they all felt that 5% was an appropriate threshold, reflecting as it did a figure recognised by both the OECD and NGO's, below which companies should not be required to disclose the existence of an agent provided ECGD was not being asked to cover the commission. Industry also did not understand what benefit ECGD would obtain from just being told that there was an agent.

ECGD – Saw this as a reputational risk issue for HMG not just a financial one. Any wrongdoing involving an agent associated with a contract that ECGD was supporting would impact on ECGD regardless of whether the commission itself was being covered. Because taxpayer's money was involved ECGD had an obligation and duty to take all reasonable steps to ensure that all the transactions it supported were in accordance with its business principles. Ministers must also be assured that ECGD had done everything possible to both deter and combat bribery and corruption. However, there was no prejudgement involved. ECGD did not assume that there might be wrongdoing just because an agent is involved. ECGD had and would continue to support deals involving agents where substantial amounts of commission were involved. But it must be satisfied that all such arrangements were in accord with the Government's policy on deterring and combating bribery and corruption.

Agreed – ECGD would consider whether it still required disclosure of the existence of an agent in those cases where the commission was not being supported by ECGD and the amount was less than 5% of the total contract price.

Point 2 (ii)

Industry – Companies wanted some assurance that if they were unwilling to disclose the identity of an agent on the grounds of commercial confidentiality then this would not be used by ECGD as a reason for not providing support. They wanted confirmation that commercial confidentiality would be accepted as a valid reason for not identifying an agent. Accepted that this could not be stated in the actual Application itself. Instead, if required, companies could enter into bilateral exchanges with ECGD, which would confirm that cover would not be refused if a company used commercial confidentiality as a reason for not identifying its agent. Industry was not seeking a blanket assurance but was looking for some certainty on ECGD's position concerning this issue.

ECGD – Reiterated that the answers to the questions asked in its Application Form were used to decide whether cover would be given or not. Just completing the form did not mean that further enquiries cannot and will not be made of Applicants. The powers and actions of the SoS cannot be fettered. ECGD had already put Industry's case for not naming agents on every deal, which is why this concession had been made enabling companies to provide ECGD with a valid reason for not identifying agents on particular transactions. But it cannot give Industry a categorical assurance that commercial confidentiality will always be accepted. In most cases it will but not necessarily in every case. For this issue ECGD will abide by its original submission to the SoS.

Agreed – ECGD can confirm that commercial confidentiality will not automatically be used as a reason for not giving cover. ECGD will confirm this in writing in its response to the CBI's letter of 24 September. This confirmation will be circulated via the CBI as a draft enabling Industry to comment before the final is sent.

Point 2 (iii)

Agreed

Point 2 (iv)

Industry – Companies were willing to provide ECGD with a generic list of services provided by agents and on each individual case confirmation that these services were in line with the actual services carried out by the agent. Industry did not see the need to inform ECGD of the actual details of services provided on each case and, in any event, this would be unnecessarily burdensome to companies and also involved the issue of commercial sensitivity. Companies are prepared to provide additional information on the actual services provided, if required, where the commission was above the 5% threshold.

ECGD – The generic lists that ECGD had received to date varied quite considerably. Because of their nature they will be specific to individual customers. Also, not all companies have generic lists so they would have to provide details of the actual services provided for each case. Although, for major customers, a generic list of services along with a statement on each case confirming that the actual services provided were in line with the generic list would, for most deals, be sufficient it may not be for every transaction. In some cases ECGD may want more precise information in order to satisfy itself that the services provided are consistent with the level of commission payment.

Agreed – Those customers that have them will agree their generic list of services with ECGD. Where ECGD is being asked to cover the agent's commission but it is below the 5% threshold then ECGD will accept a statement, to be agreed with Industry, that the services provided are consistent with and are not different in any material way from the generic list. For cases where the commission is above the 5% threshold then ECGD will expect to receive details of the actual services performed.

On question 7.4 in the Schedule (9.4 in the Airbus Schedule) ECGD would amend so that it just asked whether it was intended that agent's commission should be covered in anyway by ECGD.

Point 2 (v)

Agreed – ECGD confirmed that cover would not be automatically refused just because the level of the commission payable was above the 5% threshold.

Point 2 (vi)

Industry – Companies will accept the 5% threshold but there will be major difficulties if ECGD also insists on the £2m figure as well. Commission above this amount is not unreasonable particularly for larger deals and those spread over a longer horizon. The £2m is an arbitrary figure that ECGD

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is trying to impose on Industry without any prior consultation. It has no legal validity and unlike the 5% cannot be justified by any reference to the thresholds mentioned by NGO's. An actual figure at this level would catch too many deals, increasing the amount of commercially sensitive detail that companies would be required to provide and adding to the risk that agents would be identified by competitors. Industry also had concerns that this £2m would be in the public domain and therefore be a focus for the attention of NGO's. This would also be a risk for ECGD as well as it could encourage NGO's to believe that amounts above this level were somehow suspect.

ECGD – Commission above the £2m threshold will not automatically preclude the case from being supported by ECGD. Indeed, ECGD has covered larger figures in the past. But 5% of a particularly large deal is still a substantial sum and ECGD has to be assured that the amount of commission paid is not disproportionate to the actual level of services provided by the agent. The £2m figure is, therefore, a second level check to be used as a pointer as to whether any additional information is required. It is legitimate to have a base figure for the threshold as well as a percentage. ECGD's submission to the SoS included this figure so she is aware of it. In view of the number of contracts that ECGD actually supports it is not convinced that this will be an intolerable burden to Industry, although ECGD does now recognise that for Airbus this could catch most of their deals. However, in most cases the generic list of services will be sufficient and no additional information will be required. A possible way forward would be to increase this threshold to £5m or £10m, but ECGD would have to be able to present the SoS with valid reasons for dropping the base figure altogether.

Industry – Any base figure being used as a threshold was not acceptable to Industry. The 5% was acceptable and this should be the only threshold applied in the Application Form. Airbus reiterated that it will disclose to ECGD if it is using an agent where the commission is above 5% but not when it is below this.

Agreed – ECGD will consider its response to the refusal of Industry to accept the base figure threshold.

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Roy Donovan

From: John Weiss
Sent: 13 October 2004 16:06
To: 'Mary-Jane.LITTLE@airbus.com.'
Subject: ECGD's B & C Procedures

Mary-Jane

James Caldwell has, I know, told you that I am seeking a decision from Mrs Hewitt on what to do following the last CBI-led meeting. It is crucial that my advice does not mislead her as to what industry might or might not regard as acceptable. I am confident that I do have a good handle on the position which you and Joanna set forth at the meeting but, for the avoidance of doubt, could you confirm that it is indeed as follows: Airbus is willing to disclose the existence of an agent, even where it is not asking us to support that commission, but only where the level of the agent's commission is in excess of 5%. If you did disclose the existence of an agent under these circumstances you would also be willing to answer the supplementary questions about nature of services rendered and the actual amount of the commission.

Just for the record I assume that, if you were ever to require cover for the agent's commission, you would be willing to answer the questions which the CBI Group has "signed off" for such applicants.

Regards.

John

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Roy Donovan

From: Claire Stokes
Sent: 26 October 2004 16:31
To: 'andy.scott@cbi.org.uk'
Cc: Charles Redfeam; Roy Donovan; 'roger.bourne@dti.gsi.gov.uk'; Nicholas Ridley; Rod Watson; 'MPST.SPAD@dti.gsi.gov.uk'; Patrick Crawford; John Weiss
Subject: DRAFT LETTER FOR COMMENT
Importance: High

Dear Andy

Following the meeting held with the CBI Solutions Group on 7th October, and after further consideration by us of the issues remaining outstanding following that meeting, I am now able to give you our definitive response to your letter of 24th September to Patrick Crawford.

I am confident that the response contained in this letter should now enable us to bring this matter to a satisfactory conclusion. However, as agreed at our meeting, and in order to avoid any risk of misunderstanding, I am sending the letter to you in the first instance as a draft for comment, and hopefully agreement, by members of the Solutions Group. I would therefore be grateful if you would pass this draft on to them inviting their earliest possible responses



CBI Letter 26.10.04
(Draft).doc



BCSCHED3 -
EVENTS DETAILS 15.1



BCSCHED3 -
EVENTS DETAILS 15.1

JOHN WEISS

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ECGD BUYER CREDIT GUARANTEE APPLICATION SCHEDULE

7. AGENTS

7.1 Is all or any part of any commission payable to any agent or other intermediary, engaged by you or any Controlled Company and involved, directly or indirectly, in the process leading to the Supply Contract being awarded to you or in any subsequent matters relating to the Supply Contract or any related agreement, undertaking consent, authorisation or arrangement of any kind, intended to be covered in any way by ECGD support?

☐

Yes

☐

No

(If Yes, please complete sections 7.3 to 7.7 below, if no go to section 7.2. If more than one agent or intermediary is involved please provide separate answers in respect of each party)

7.2. If your answer to the question in section 7.1 above is "no" and you are using an agent whose commission exceeds or will exceed 5% of the contract price then please complete sections 7.3 and 7.5 to 7.7 below, otherwise answer "not applicable".

(If more than one agent or intermediary is involved please provide separate answers in respect of each party)

7.3 Name and address of agent or intermediary *(if you are unable to provide this information, please give your reason(s) for not being able to do so):*

7.4 Please specify the country or countries where the commission is payable:
(if payment is to be made outside the Buyer's country, please give an explanation)

7.5 Does, to the best of your knowledge and belief, any improper relationship exist between the agent or intermediary and the Buyer named in section 2 of this Schedule?

☐

Yes

☐

No

7.6 Please give details of the services which the agent or intermediary has provided or is providing:

7.7 Please specify the amount (or, if in the form of payments is kind, the value) of the commission payable to the agent or intermediary:

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-----Original Message-----

From: Andy Scott [mailto:Andy.Scott@chi.org.uk]
Sent: 26 October 2004 16:52
To: Cook, Josephine; Scopes, Julian (UK); Caldwell, James (UK); Walton, Sue M (RR Capital); CARVER, Joanna; TAYLOR, Nigel; LITTLE, Mary-jane; Wood, Chris (UK Legal); julia.aldridge@baesystems.com
Cc: Gary Campkin; Richard White; John Weiss
Subject: DRAFT ECGD LETTER FOR COMMENT

I attach a copy of the "draft" response from John Weiss following our last meeting on 7 Oct. As we agreed, John has circulated this to us for any final comment before sending it as ECGD's formal response to my letter to Patrick Crawford (consolidating all the aerospace cos views) of 24 September.

Please let me know as soon as possible if we are content with this response or whether there are any final points we need to raise with ECGD. This response is in light of the agreement secured from the Secretary of State.

Regards

Andy

Andy Scott
Director International Competitiveness, CBI
Tel 00 44 (0)207 395 8174
Fax 00 44 (0)207 8361972
E Mail andy.scott@chi.org.uk
----- Forwarded by Andy Scott/CBI on 26/10/2004 16:45 -----

"Claire Stokes" <Claire.Stokes@ecgd.gsi.gov.uk> on 26/10/2004 16:30:41

To: Andy Scott/CBI@CBI
cc: "Charles Redfearn" <Charles.Redfearn@ecgd.gsi.gov.uk>, "Roy Donovan" <Roy.Donovan@ecgd.gsi.gov.uk>, roger.bourne@dti.gsi.gov.uk, "Nicholas Ridley" <Nicholas.Ridley@ecgd.gsi.gov.uk>, "Rod Watson" <Rod.Watson@ecgd.gsi.gov.uk>, MPST.SPAD@dti.gsi.gov.uk, "Patrick Crawford" <Patrick.Crawford@ecgd.gsi.gov.uk>, "John Weiss" <John.Weiss@ecgd.gsi.gov.uk>

Subject: DRAFT LETTER FOR COMMENT

Dear Andy

Roy Donovan

From: John Weiss
Sent: 29 October 2004 13:00
To: Roy Donovan
Subject: FW: DRAFT ECGD LETTER FOR COMMENT

-----Original Message-----

From: Andy Scott [mailto:Andy.Scott@cbi.org.uk]
Sent: 29 October 2004 12:53
To: John Weiss
Subject: RE: DRAFT ECGD LETTER FOR COMMENT

John

Notwithstanding the substantive point you are discussing with BAES, the one other point of detail (I hope, and simply clarification) that was raised by John on behalf of BEXA was small amendments to 7.2 and 7.7 (basically making the same point) to clarify that the information requested relates specifically to the contracts in question . We understand this was always ECGD's intention but John feels it would be helpful to say so specifically . I have highlighted the additional words he is proposing . Is this acceptable ?

7.2 If your answer to the question in section 7.1 above is "no" and you are using an agent whose commission relating specifically to this contract exceeds or will exceed 5% of the contract price then please complete sections 7.3 and 7.5 to 7.7 below, otherwise answer "not applicable".
(If more than one agent or intermediary is involved please provide separate answers in respect of each party)

7.7 Please specify the amount (or, if in the form of payments is kind, the value) of the commission relating specifically to this contract that is payable to the agent or intermediary

Andy

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John Weiss CB
Deputy Chief
Executive

29th October 2004



Mr A Scott
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London E14 9GS
Telex 290350 ECGD HQ G
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email: john.weiss@ecgd.gsi.gov.uk

Fax Direct 020 7512 7400
Telephone Direct 020 7512 7376

Dear Andy

ECGD Documentation

Thank you for your letter of 24th September 2004 to Patrick Crawford and for organising our meeting on the 7th October 2004 with members of your "ECGD Solutions Group" to discuss this.

The following is ECGD's understanding of what was agreed at our meeting on each of the particular points in your letter:

- 1(a) It was agreed that the explanation of how ECGD interprets "*to the best of our knowledge and belief*" will be attached as an Appendix to the application form
- 1(b) As discussed, where ECGD is covering the commission this information will be needed, as it has in the past. We will not require it in other circumstances.
- 2(i) See our comments in the 2(vi) below.
- 2(ii) While, as explained at our meeting, we cannot bind ourselves always to accept that a particular response will satisfy our information needs in the circumstances of every case, in reaching the decision notified to you in Patrick Crawford's letter of 13 September, the Secretary of State had recognised that the disclosure of agents' names may have legitimate commercial and competitive sensitivity for you. I can therefore confirm that, where commercial confidentiality is given as the



ground for non-disclosure if an agent's name, this will not automatically be used by ECGD as a reason for not giving cover.

- 2(iii) We agreed to qualify the phrase to which you refer in the way that you suggest.
- 2(iv) What we are seeking to establish is whether ECGD support is covering the commission, irrespective of whether the commission is rolled up in the overall contract price or not. We have, therefore, revised the agent's details section of the application form to make this clear. The revised draft attached incorporates the wording agreed at the meeting.

While it is not possible for us to specify in advance the form in which the details of agent's services can be supplied to us in the circumstances of each individual case and the exporter concerned we are prepared to accept that any exporter who has a generic list of services should establish with ECGD whether such a description is likely to be adequate to meet ECGD's needs. Where such a list is agreed and ECGD is asked by the exporter to cover an agent's commission in relation to a particular contract, ECGD will then normally be prepared to accept a statement, to be agreed with the exporter, that the services provided by that agent are consistent with, and are not materially different in either number or type from, those appearing on the agreed generic list and that the generic list is a true reflection of the services provided, or to be provided, to the exporter by that agent in relation to that contract. For cases where the commission is above the 5% threshold, ECGD reserves the right to receive details of the actual services performed rather than rely on this streamlined approach.

- 2(v) I confirmed that cover would not be automatically refused just because the level of the commission payable was above the 5% threshold.
- 2(vi) I can confirm that, in relation to applications where ECGD cover for the agent's commission is not being sought, the application form will only request information about the existence of an agent, the amount of the commission and the services rendered by the agent, where the agent's commission is more than 5% of the contract price.

I attach a revised copy of the Agent details page of the Application Schedule. This has required some reworking so as to make it clear that for each application what we will require are agent's details (a) in all cases where the agent's commission is being covered in any way by ECGD and (b) in those cases where agent's commission is not being covered by ECGD but where the commission is more than 5% of the contract price. Such details will include the name and address of the agent unless the applicant can justify non-disclosure to us.

I believe that we have now reached a position where ECGD can now formally implement revised anti-bribery procedures in line with the outcome of our rather extended discussions. I intend writing to all our customers within the next few days to advise them that the new documentation will come into effect on 1st December 2004.

Once again, may I thank the CBI (in particular you, Gary Campkin and Peter Malcolm) for having helped us and our customers achieve a satisfactory outcome to this challenging issue.

Yours sincerely

John

JOHN WEISS

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(367)

Roy Donovan

From: John Weiss
Sent: 01 November 2004 10:48
To: Roy Donovan, Rod Watson
Subject: FW: ECGD Letter



Adobe Portable
Document

Roy/Rod

It looks as if my letter has only just reached the companies.

JOHN

-----Original Message-----

From: Jane Cooke [mailto:Jane.Cooke@cbi.org.uk]
Sent: 01 November 2004 10:47
To: Cook, Josephine; Scopes, Julian (UK); Caldwell, James (UK); Walton,
Le M (RR Capital); CARVER, Joanna; TAYLOR, Nigel; LITTLE, Mary-jane;
Good, Chris (UK Legal); julia.aldridge@baesystems.com;
John.tyler@chg.alstom.com; John Weiss
Subject: ECGD Letter

Please find another copy of the ECGD letter which should be easier to open.
Please let me know if you have any trouble

Jane

PLEASE NOTE: THE ABOVE MESSAGE WAS RECEIVED FROM THE INTERNET.

On entering the GSi, this email was scanned for viruses by the Government Secure
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details.

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