

Patrick Crawford
Chief Executive



Ref: JB/RS/CH

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Dear Sirs

Consultation on Proposed Revisions to ECGD's Business Principles and Ancillary Policies

Thank you for your letter of 8 March. In that letter you refer to the joint submission to which your client is a signatory which makes the complaint that the Consultation Document contains no evidence that an Impact Assessment has been conducted on any ESHR aspects of the proposals. You quote in that regard the reply which Lord Davies of Abersoch gave in writing to a Parliamentary Question of Lord Lester of Herne Hill. You ask for an Impact Assessment and a brief time for further comments.

We are a little puzzled at the timing of your client's complaint about the Consultation Document not having enclosed within it an Impact Assessment. Your client has had the Consultation Document since 3 December 2009 and, if, in fact, your client had felt difficulty in responding to the Consultation without further information, it would have been helpful to have had those views whilst the Consultation was running. At the latest, we would have expected to be in receipt of the views expressed in your letter of 8 March when your client's consultation response was submitted.

We should, first, point out that the Written Answer of 25 January 2010 stated in clear terms that it was not possible, rather than being a matter of difficulty, for a meaningful Impact Assessment to be drawn up to accompany this Public Consultation. We remain of that view and will not be attempting to produce an Impact Assessment in the sense referred to in the Guidance on Public Consultations published by the Department for Business, Innovation and Skills.



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The reasons for this were outlined in the Written Answer. We refer you to the last paragraph, in particular, of the Written Answer which you quote.

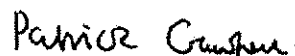
Your client's submission in the Consultation implies (in paragraph 83) that the facts of past levels of application¹ will provide a gauge for the likely extent to which "exempted projects" might, in the future, have an impact upon "the environment and human rights". This is not, in our judgement, the case. There is no statistical or logical probability that the level or size of past applications will be replicated in the future.

We would also point out that, whilst it is not possible to make a meaningful Impact Assessment in the sense of that term referred to in the Guidance on Public Consultations, the problem, the reason for government intervention, the policy objectives and the intended effects and, by implication, any options, are considered in the Consultation Document.

Notwithstanding all the above, we are prepared to provide to all consultees who have currently made a submission, without resiling from our view that no Impact Assessment can be offered in this Consultation, some facts about applications to ECGD in previous years and afford those consultees a brief opportunity to consider and comment upon these facts before we reach any conclusions about amending our policies in relation to ESHR impacts and the application of the Common Approaches.

A letter to this effect will follow shortly.

Yours faithfully



Patrick Crawford

¹ In fact at paragraph 83 your clients suggest the level of past applications to our Dutch counterpart