

THE ENVIRONMENTAL AUDIT COMMITTEE
EXPORT CREDITS GUARANTEE DEPARTMENT
AND SUSTAINABLE DEVELOPMENT

Memorandum from The Corner House

INTRODUCTION

1. The Corner House is a not-for-profit research and advocacy group, focusing on human rights, environment and development.
2. Over the past ten years, The Corner House has closely monitored the policies and operations of the UK Export Credits Guarantee Department, submitting evidence to a number of parliamentary inquiries¹ and UK Government departments. In addition, it has participated in nine field missions to assess the social and environmental impacts of a number of projects for which ECGD support was or is being sought, notably the Ilisu² and Yusufeli³ dams and the Baku-Tbilisi-Ceyhan pipeline⁴. It has also undertaken in-depth research into a number of ECGD-backed projects that have been tainted by allegations of bribery and, following court action, successfully argued for the strengthening of ECGD's anti-bribery rules.⁵ Recently, it applied jointly with WWF for a judicial review of ECGD's decision to give a legally-binding, but conditional, undertaking to support Shell's Sakhalin 2 oil and gas project before the completion of a satisfactory environmental impact assessment.⁶
3. The Corner House welcomes the Environmental Audit Committee's current inquiry and is grateful for the opportunity to comment on a number of the issues that the Committee has chosen to examine, as set out below.

A. ECGD's Decision-Making Procedures and Sustainable Development

4. The ECGD has been charged by Ministers with ensuring that "its activities accord with other Government objectives, including those on sustainable development, human rights, good governance and trade."⁷ This duty, however,

is viewed by ECGD as “secondary” (its wording)⁸ to the fulfilment of what the Department views as its primary purpose: the facilitation of UK exports.^{9 10}

5. The consequences of this ordering of priorities are evident at every level of the ECGD’s decision-making:

- **Not a single application for ECGD support is formally assessed against the UK’s stated sustainable development objectives.** Although the Department seeks information on the environmental and social impacts of the goods for which applicants seek support, the case handling procedures¹¹ do not assess – or require to be assessed – the acceptability of support for a given export against the Government’s current international priorities for achieving sustainable development.^{12 13} The extent to which an export will assist in “eliminating poverty in poor countries”¹⁴ or in “delivering sustainable consumption and production patterns” or in “reducing the rate of biodiversity loss” is not formally required to be assessed – and could not be reasonably assessed in most cases on the basis on the information gathered through the ECGD’s environmental impact questionnaires.
- Even where the ECGD’s Business Principles Unit (set up to implement the Department’s Business Principles) makes a detailed assessment of a project, as in the case of “High Impact” projects such as the Baku-Tbilisi-Ceyhan oil pipeline, “international standards” (such as the World Bank’s ten safeguard policies) rather than the UK Government’s sustainable development objectives are the benchmark against which the *acceptability* of the project is assessed.^{15 16} Such international standards do not embody either the UK’s stated sustainable development objectives (as exemplified by Government statements and initiatives) or the UK’s sustainable development obligations (as exemplified by international undertakings). **ECGD’s decision-making procedures thus entirely omit formal scrutiny of the compliance of projects with a key requirement imposed on ECGD by Ministers under the Department’s current Mission Statement.**

- **Seventy-one per cent¹⁷ (by value) of the guarantees issued by ECGD in 2006-07 went unscreened for any environmental or social impacts.** Despite two parliamentary Select Committees – the Environmental Audit Committee¹⁸ and the Trade and Industry Committee¹⁹ – both recommending that all contracts being considered for support should be subject to environmental screening, the ECGD still excludes defence and aerospace contracts (which make up the bulk of its business) from its screening procedures.
- **The environmental screening process adopted by the ECGD – described by the Select Committee on Trade and Industry as "the weakest form of environmental screening" – is not designed (let alone intended) to screen out unsustainable projects, but merely to collect information in order to categorise them by their potential impacts.** No application for support, to The Corner House's knowledge, has ever been refused on environmental grounds as a result of the screening process. Moreover, **analysis of documents released reveal that projects with potentially high impacts (such as nuclear power plants) have been categorised as "low impact", thus requiring no environmental impact assessment.**
- Although ECGD requires all projects that it supports to comply "in all material respects" with the World Bank's ten safeguard standards,²⁰ **these standards do not represent best practice in sustainable development and do not address many of the issues on which the UK Government has promulgated sustainable development objectives with which the ECGD is required to accord** – for example, human rights, sustainable consumption and good governance. Indeed, the World Bank standards are now recognised as being wholly inadequate for safeguarding against the environmental and social impacts of dams, an issue which The Corner House has brought to the ECGD's attention.²¹
- **Although the Business Principles Unit is responsible for ensuring that cases being considered for support comply with ECGD's Business Principles,²² it has no powers that would enable that responsibility to be adequately or properly discharged.** It can gather information on a

project and it can relay its concerns, along with recommendations, to the ECGD's Underwriting Committee. But it is for the Underwriting Committee to decide whether or not those concerns are acted upon, for example through recommending that the project be refused or that conditions are written into the project agreements. In The Corner House's view, this institutional arrangement fatally de-prioritises the ECGD's sustainable development obligations.

- **ECGD has reserved wide powers to derogate from its stated sustainable development and procedural standards, thus seriously weakening their effectiveness.** Categorical policy statements (for example, that all projects should comply with World Bank safeguard policies) are hedged by other statements that allow ECGD to exercise wide discretion in their application (for example, that its procedures as laid down in its 'Case Impact Analysis Process' paper are "not a statement of what will be done in every case").²³ The ECGD does not normally disclose decisions to derogate or the nature of the derogations applied. However it has acknowledged to The Corner House that derogations were applied to the South Pars oil development in Iran (classed by ECGD as a high impact).²⁴ ECGD has refused requests from The Corner House for information on the specific derogations. However, the lawfulness of the ECGD's claimed power to derogate from procedures that the Secretary of State has chosen to incorporate into ECGD's decision-making practices (such as requiring an environmental impact assessment) has recently been the subject of an application for judicial review (JR) by WWF and The Corner House in relation to the ECGD's decision to give a legally-binding but conditional commitment to support Shell's Sakhalin 2 oil pipeline, despite the project's environmental impact assessment being incomplete.²⁵ The JR application has now been withdrawn following Shell's withdrawal of its application for support.
- **Although the ECGD notifies other Government departments about "Sensitive Cases" and invites their input, the notifications that have been released to the public do not seek or even invite comment on**

compliance with the UK's sustainable development objectives. In the case of the Sakhalin 2 oil and gas project, ECGD sent the following note:

“Dear All, I would like to brighten up your Friday afternoon by letting you know about two potentially sensitive cases that the ECGD is currently considering. The first is the Sakhalin II (Phase II) oil and gas project in eastern Russia . . . The assessment of the project is likely to go on for at least another six months but we are asking you to indicate your initial interest within the next two weeks . . . If anyone has any questions or would like to discuss either project, please feel free to get in touch.” (*see* Annex 1 for full text)

No specific questions are asked and no indication is given as to the areas of compliance with UK sustainable development policy on which ECGD would seek advice.

The Department of Trade and Industry (DTI) reply to this note focuses only on the Department's strategic relations with Russia. Whilst this was a legitimate concern, given that accord with UK trade objectives also forms part of the Business Principles, the lack of any commentary on the project's compatibility with those sustainable development objectives for which the DTI had responsibility²⁶ is of concern. Indeed, it is hard to see how the ECGD could properly assess such compatibility without reasoned input from the DTI :

“Thanks for this. Sakhalin II is of course well-known to us and features prominently in our Russian strategic thinking. We have no concerns at this stage, but we would like to be kept aware of the developments and discussions to avoid things going pear-shaped.”²⁷

Although DEFRA (Department for Environment, Food and Rural Affairs) responded directly addressing policy concerns relating to sustainable development – expressing fears over the project's “potentially devastating effects . . . on the local environment and in particular on an endangered population of whales”²⁸ (*see* Annex 2) – ECGD nonetheless gave a legally-binding (if conditional) undertaking to support the project.

Departmental replies to other Sensitive Case Notifications that have been made public also raise questions over the adequacy of the information provided to ECGD as a basis for deciding whether or not a project complies with the UK's sustainable development commitments.²⁹

6. **The Corner House views the decision-making procedures set out above as totally inadequate to the task of re-orientating the Department’s activities towards compliance with the Government’s sustainable development objectives, let alone ensuring such compliance.** Although the Business Principles Unit has been able to use the environmental screening procedures to bring some small improvements to projects,³⁰ overall the ECGD’s portfolio remains as skewed as ever towards sectors, such as arms exports, and oil and gas infrastructure development, whose adverse impacts on sustainable development are well documented.

B. Inadequacy of Business Principles and Need for Proactive Approach

7. The objectives of the ECGD’s Business Principles are largely aspirational and, as documented above, their implementation discretionary. As such, **they fail to provide the incentives, penalties and binding rules that would make them a suitable instrument for ensuring that the ECGD business practice accord with sustainable development objectives.**
8. The Corner House believes that the ECGD’s operations will continue to remain at odds with the Government’s sustainable development commitments unless the Department takes proactive measures to exclude businesses that are unsustainable. At present, however, the ECGD is entirely passive in its approach to the sectors it supports, arguing that it is required under its founding Act of Parliament to consider all applications and that it “can consider supporting only that business which comes to us”.³¹
9. The Corner House notes that the ECGD already operates what are in practice “exclusion lists”, ruling out, for example, applications for countries that are off cover. Projects that involve child and forced labour are also nominally excluded from consideration for support (although recently the ECGD has weakened the wording of its commitment to this policy).³² The Corner House sees no reason why ECGD should not institute such an exclusion list (as operated by the European Bank for Reconstruction and Development) for projects that it considers at odds with its sustainable development objectives. **The Corner House believes that such a list could be instituted without**

exceeding its lawful powers under the 1991 Export and Investment Guarantees Act, from which the Department derives its statutory duties.

C. ECGD's Due Diligence and Monitoring

10. The ECGD does not normally disclose the impact assessments that it makes of projects and has only ever done so in response to Freedom of Information requests. Despite initially acceding to multiple requests for assessments, the Department has recently refused to release more than two at a time, with requests being dealt with on a “first come first served basis”.
11. Very few assessments have therefore made their way into the public domain. Those undertaken for the Baku-Tblisi-Ceyhan (BTC) oil pipeline project; Shell's Bonny Island Nigeria LNG Project; the South Pars 9 and 10 project, Iran; and the P-52 oil production platform project, Brazil, have been released to The Corner House. However, the Business Principles Unit's assessments of the projects have, in all cases, been entirely redacted. It is thus impossible to know what their assessments were.
12. Attempts by The Corner House to obtain the unredacted minutes of the Underwriting Committee meeting at which the BTC project was considered (and thus to assess whether or not the recommendations made by the Business Principles Unit with respect to the project were accepted and what form any subsequent action took) have also been refused. However, from the material disclosed, it is clear that at the time the project was approved, a number of environmental and social issues remained unresolved.³³ These included:
 - Return of land usage rights in Turkey;
 - Ceyhan fisherman report and compensation;
 - Oil spill response plan.

The failure to ensure that compensation and land rights issues had been resolved prior to approval constitutes, in The Corner House's view, a clear breach of the World Bank's safeguard policy on Involuntary Resettlement³⁴ – one of the standards against which ECGD assessed the project. It is also of concern that subsequent monitoring by non-government organizations, including The Corner House, record that compensation issues remain

unresolved for many villagers. The Corner House understands that evidence to this effect has been submitted by the Committee by Green Alternatives (Georgia) and by PLATFORM and Kurdish Human Rights Project (UK).

The failure to secure an oil spill response plan prior to approval of the BTC project is also of great concern, the more so given the subsequent release (by the then Department of Trade and Industry) of a Foreign and Commonwealth Office telegram (dated 1 April 2004 – thus after ECGD approval for the project) detailing the absence of any credible Emergency Response plan in Azerbaijan, one of the three countries through which the pipeline passes. The telegram reports on a “UK-US-BP stock-take” hosted by BP’s Health and Safety team, and summarises the state of emergency planning in the event of a major accident involving the pipeline:

“The bad news is that there is no machinery for policy co-ordination or planning input from relevant ministries or agencies beyond the Presidential Aparat, and no link into the National Security Council. So in a major civil contingency or terrorist attack, apart from the purely military response there would be no civil command structure, no lead agency and probably no effective communication between relevant ministries and agencies. This leaves BP’s own crisis response team exposed, as they laconically put it, to “over- or under-enthusiasm” from the military and other interested agencies getting in the way of an effective response”³⁵

13. The Corner House is also concerned that a number of projects with potentially high environmental, social, debt or developmental impacts, including the alleged use of child labour, have been classified by ECGD as being of medium or low impact. Projects classed as being of low impact are not scrutinised further by the Business Principles Unit; medium impact projects require a limited “impact questionnaire” to be completed; and both are exempted from requiring an environmental impact assessment.³⁶ Examples of concern include:

Year	Market	Exporter	Project	Case Impact
2005-06	Korea	Alstom Power Conversion Ltd	Shin Kori Power Station	Low
2005-06	Korea	Alstom Power Conversion Ltd	Shin Wolsuing Power Station	Low

Comment:

Although both projects are listed in the ECGD’s Annual Report for 2005-06 as “power stations”, they are in fact *nuclear* power stations.

After a number of refusals, The Corner House obtained the Case Screening form for the Shin Wolsuing Power Station (Annex 3).³⁷ The original screening appears to have been undertaken by COFACE, the French export credit agency, with the export being reinsured by ECGD.

Although the case screening officer correctly responded “Yes” to the form’s question as to whether or not the project was a nuclear plant, s/he (the officer's identity has been redacted) nonetheless classified the export as “low impact” despite a note in the form that states: “If ‘yes’ to any of these [questions] then probably Medium or High impact”.

No impact questionnaire was subsequently completed.

Year	Market	Buyer	Project	Case Impact
2005-06	India	Jindal Vijayanagar Steel Ltd	No. 3 Single Strand Slab Casters	Low

Comment:

Jindal Vijayanagar Steel Ltd has been accused of using child labour in mines, operated by “sister companies”, that supply one of its plants.³⁸ Although the charge has been denied by the company,³⁹ The Corner House believes that the ECGD’s absolute ban on the use of child labour in the projects it facilitates should have triggered enhanced due diligence.

The completed screening form has been released to The Corner House. Although one “yes” was given to a question where a “yes” response merits a probable “medium” or “high” impact classification, the project was nonetheless classed as low impact.

The completed screening form gives no indication that ECGD was even aware of the allegations of child labour.

An impact questionnaire was also completed for the project (although, technically, as a low impact project, this was not required). Many of the questions in the questionnaire are unanswered, including those relating to resettlement and whether or not the project would “cause, require, bring about or stimulate” child labour.

Year	Market	Buyer	Buyer	Case Impact
2005-06	Iran	Kala Naft Co	Dry compressors	Low

Comment:

Kala Naft is listed by the Japanese Ministry of Economy, Trade and Industry (METI) as a company suspected of involvement in procuring biological, chemical and nuclear weapons of mass destruction. The list, which is updated annually, is available at <http://www.meti.go.jp/press/20080610009/20080610009-2.pdf>.

The Wisconsin Project, a US organisation that monitors Iran's weapons programme, has also reported that that Kala Naft was "identified by the British Government in February 1998 as having procured goods and/or technology for weapons of mass destruction programs".

Year	Market	Exporter	Project	Case Impact
2005-06	Philippines	Mabey and Johnson	Highways, bridges and flyovers	Low

Comment:

The contract has been subject of corruption allegations.⁴⁰ In addition, concerns have been raised over its minimal development benefits. Many of the bridges, built for a two-lane highway, connected to single track dirt roads; others did not even connect to a road.⁴¹

14. Documents released to The Corner House under Freedom of Information legislation also raise questions about the adequacy of the ECGD's due diligence on the choice of an experimental anti-corrosion coating for the Baku Tbilisi Ceyhan oil pipeline project, for which BP obtained ECGD support. The coating had never been used previously on a pipeline of similar design, nor had it been properly tested prior to its selection by BP.⁴² In 2002 – two years before the approved funding for the project – BP's own consultant, Derek Mortimore, warned that the chosen coating (known as SPC 2888) was "utterly inappropriate to protect the pipeline".⁴³ As predicted by Mortimore, the SPC 2888-coated sections of the pipeline have been subject to extensive cracking. BP did not inform ECGD, which found out only after the problem was exposed in Britain's *Sunday Times* newspaper. Over one quarter of the pipeline in Georgia (through which the pipeline passes) was later found to have been affected.⁴⁴ In June 2004, the ECGD (and its responsible Minister) claimed that the coating had been widely used on similar pipelines.⁴⁵ The claim was repeated by the ECGD in a letter to Trade and Industry Committee of 19 July 2004,⁴⁶ despite the ECGD having informed the Minister office on 8 July 2004 that SPC 2888 "had not previously been used on a pipeline with

polyethylene coating".⁴⁷ Such confusion strongly suggests a lack of due diligence on the part of ECGD, which should have been aware whether or not such a major safety component of the pipeline was or was not experimental.

15. The cracking of the pipeline coating is not mentioned in the publicly-available environmental monitoring reports⁴⁸ undertaken by independent consultants on behalf of ECGD for the period from when the problem was first discovered by BP (December 2003) through to July 2004, by when ECGD stated that it was "reassured" BP has identified the problems and has put in place "rigorous monitoring and corrective action systems."^{49 50} Documents released to The Corner House under FOIA⁵¹ also reveal that BTC Co did not submit any incident report to ECGD on the extensive cracking along the pipeline in Georgia, despite being obliged under the loan agreements to notify any incidents that might have a material impact on the pipeline.⁵²
16. Although BP's failure to report the cracking arguably constituted a clear default of the environmental reporting conditions in the loan agreements, the default procedures were not invoked. The failure of the US Overseas Private Investment Corporation (OPIC), one of the US lenders to the project, to invoke the default clauses has been the subject of a complaint to the agency's Accountability Office by Green Alternatives of Georgia.⁵³ OPIC's response confirms that BTC Co failed to disclose crucial information in a timely manner, but did not pronounce on whether the project was in default of OPIC's loan agreements. It recommended closer monitoring of the pipeline coating in order to prevent corrosion and leaks.⁵⁴ In 2006, a major investigation by Bloomberg, the financial news agency, reported that BP had given the monitoring contract for its Azerbaijan assets to Rasco International Ltd., a Baku-based building company with no previous pipeline monitoring experience.⁵⁵
17. More generally, The Corner House is concerned that the arrangements used by ECGD to monitor projects are not sufficiently independent. In the case of the BTC pipeline, BTC Co blocks the release of environmental and social monitoring reports if it disagrees with their findings⁵⁶ but such findings are only made public after they have been presented to the BTC board.⁵⁷ In addition, the terms of reference for the Social and Resettlement Action Plan

(SRAP) panel set up to monitor the social impacts of the project specifically state that its main role is *not* to identify areas of compliance and noncompliance but rather to provide guidance and troubleshooting advice.⁵⁸ As such, it is questionable whether it should be considered a source of definitive judgment on compliance.

D. Information Disclosure

18. Under the Environmental Information Regulations (Regulation 4/1), the ECGD has a duty of proactive dissemination of environmental regulations, at least for information obtained after 1st January 2005. The Corner House's experience is that ECGD is failing to discharge that duty. Key documents which would enable the public to monitor (and improve) the effectiveness of ECGD's due diligence and other procedures are either denied to the public (for example, derogations from standards) or made available only after prolonged Freedom of Information requests. The Corner House believes that ECGD should adopt a policy of posting on its website all completed environmental screening assessments, impact questionnaires and other assessments of projects by the Business Principles Unit as a matter of course, albeit, if necessary, with redactions to preserve commercial confidentialities.
19. The Corner House also believes that, as a public institution supported by public funds, ECGD should make publication of basic project information – name, a short description of the project, its potential environmental, social and human rights impacts and its impact category – a precondition of appraisal for all projects, including cases involving insurance only.
20. The Corner House notes that documents released as a result of Freedom of Information requests have regularly revealed institutional failures and, in some cases, arguably unlawful decision-making by ECGD (for example, with respect to the weakening of anti-corruption procedures and to the granting of a legally-binding, if conditional, undertaking to support the Sakhalin 2 project). The Department's current approach to dissemination of information can only

encourage the impression that its refusal to release documents reflects a desire to keep the public in the dark rather than to protect legitimate confidentialities.

E. The OECD and ECA Reform

21. The OECD's Working Party on Export Credits and Credit Guarantees (known as the Export Credits Group) is the only multilateral forum addressing environmental and social standards for export credit agencies.
22. The Group operates at the pace of its most recalcitrant member, all decisions having to be made by consensus.
23. Since 2000, the group has been negotiating common environmental standards for OECD Export Credit Agencies, adopting an agreement (known as the "Common Approaches") in 2003. The Common Approaches was updated in 2007 and now has the stronger status of an OECD Recommendation. Although progress has been made in expanding the number of standards against which ECAs must now assess the projects they support, and with which projects are expected to comply, the Common Approaches retains a loophole allowing derogations. This loophole has widely been exploited by ECG member ECAs, bringing the Common Approaches (and indeed the ECG) into disrepute. Projects from which UK companies have withdrawn on environmental grounds (such as the Ilisu Dam in Turkey) have now been funded despite the financing ECAs acknowledging that the project violated 150 important World Bank/IFC Performance Standard requirements.
24. No mechanism currently exists within the Export Credit Group to hold member ECAs to account. Until such a mechanism is instituted, the Export Credit Group is unlikely to prove more than a taking shop for standards, rather than a mechanism for on-the-ground improvements in ECA-backed projects.
25. In 2007, non-governmental organizations set out proposals for independent peer assessment of member ECA as a mechanism, consistent with that employed elsewhere in the OECD, for improving the implementation of the Common Approaches. The proposals were sent to ECGD and to the Export Guarantees Advisory Council in March 2008.⁵⁹ No response has been received from either body, nor even an acknowledgment.

The Corner House

1 July 2008

Annex 1:

From: Graham.Rowcroft@dti.gsi.gov.uk@INTERNET@ECGD
Sent: 04 March 2003 12:03
To: Martin McKee
Cc: Darbyshire Brian (Mr B); Bryan Simon (Mr SR); Gastaldello Christian (Mr CM); Mielniczek Mike (Mr MJ)
Subject: FW: ECGD Potentially Sensitive Cases

Martin
ci Brian, Simon, Christian, Mike
Brian's comment below sums up Sakhalin. No comment at this stage on the Steel Plant
Graham

-----Original Message-----
From: Darbyshire Brian (Mr B)
Sent: 04 March 2003 11:07
To: Rowcroft Graham (Mr G)
Subject: RE: ECGD Potentially Sensitive Cases

Graham,

Thanks for this. Sakhalin II is of course well known to us and features prominently in our Russian strategic thinking. We have no concerns at this stage, but we would like to be kept aware of developments and discussions to avoid things going pear-shaped !

Brian

-----Original Message-----
From: Rowcroft Graham (Mr G)
Sent: 03 March 2003 18:21
To: Gallagher Brian (Mr B); Darbyshire Brian (Mr B); Lewis Wayne (Mr WC); Tingle Janet (Miss JA); Martin Steve (BTI)
Cc: Sekar Kamala (Mrs K)
Subject: FW: ECGD Potentially Sensitive Cases

Brian G, Brian D, Wayne, Janet, Steve
ci Kamala
Please see notification of potentially sensitive cases on Sakhalin II and a [REDACTED] Steel Mill attached.
If any comments at this stage let me know.
Graham

-----Original Message-----
From: Martin McKee [mailto:mmckee@ecgd.gov.uk]
Sent: 03 March 2003 09:33
To: Graham Rowcroft (E-mail); Malcolm Rickson (E-mail); Michael Massey (E-mail); Robin Healey (E-mail); Sharon. Dobson (E-mail); William Kingsmill (E-mail)
Subject: FW: ECGD Potentially Sensitive Cases

Dear all,

I originally sent the message below on Friday afternoon, but one of the attachments was large and it was blocked by several of your email systems (so apologies if you are getting this for the second time).

The message is about two potentially sensitive cases. The attachment was a scan of the environmental chapter of a feasibility study for a [REDACTED] steel mill that we are looking at. If anyone would like to see a hard copy, let me know and I will send one by post.

Regards

Martin

Martin McKee
Business Principles Unit
(020) 7512 7072

> -----Original Message-----

> From: Martin McKee
> Sent: 28 February 2003 16:37
> To: 'Graham Rowcroft (E-mail)'; 'Malcolm Rickson (E-mail)'; 'Michael
> Massey (E-mail)'; Robin Healey (E-mail); Sharon. Dobson (E-mail);
> 'William Kingsmill (E-mail)'
> Cc: David Allwood; Jason Posner; Jeanette Swindon; Geoff Neale;
> Philippe Beerjeraz; Celia Adivihalli; Roger Gotts
> Subject: ECGD Potentially Sensitive Cases

> Dear all,

> I'd like to brighten up your Friday afternoon by letting you know
> about to two potentially sensitive cases that ECGD is currently
> considering.

> The first is the Sakhalin II (Phase II) oil and gas project in eastern
> Russia. This is very large project and I expect that some of you will
> want to be kept closely in touch with how it progresses. If
> departments are interested, I would anticipate circulating regular
> issue up-dates, similar to those some of you may have seen from David
> Allwood on the BTC project. For now I have attached a short summary
> and the overview of the ESIA. This second document was produced by the
> company and may read as being slightly positive towards the project,
> but it does give a decent description of what is involved and what the
> main issues are. The full Social and Health Impact Assessments are
> available at www.sakhalinenergy.com. The Environmental Impact
> Assessment, which has been independently written, should be posted on
> the site within the next week or two.

> The assessment of this project is likely to go on for at least another

> six months, but we are asking you to indicate your initial interest
> within the next two weeks.
>
> <<Sakhalin - OGDs letter.doc>> <<Sakhalin executive summary.pdf>>
>
> The second project, which I'm hoping you will be happier for us assess
> by ourselves, is a steel mill in [REDACTED]. [Again I've attached a short
> summary, and also the environmental chapter from the feasibility
> study. This is zipped as the scan was 8MB - {NB: as mention above this
> is no longer the case}. If anyone needs a hard copy, please let me
> know]. The timescale for this project is much tighter so, although
> the deadline for responses is also the 14 March, I would appreciate it
> if that response could be more detailed or definitive.
>
> <<[REDACTED] - OGDs letter.doc>>
>
> If anyone has any questions or would like to discuss either project,
> please feel free to get in touch.
>
>
> Regards,
>
> Martin
>
> Martin McKee
> Business Principles Unit
> (020) 7512 7072
>

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Annex 2:



Telephone
Website www.defra.gov.uk

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ECGD
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London, E14 9GS

Robin Healey
Environment Protection
International
Department for Environment, Food
and Rural Affairs
Zone 4/A2
Ashdown House, 123 Victoria Street
London, SW1E 6DE

Direct Line: 020 7944 6214
Email: Robin.Healey@defra.gsi.gov.uk

14th March 2003

Dear David,

RE: NOTIFICATION OF A POTENTIALLY SENSITIVE CASE (SAKHALIN ENERGY)

Thank you for your letter of 28th February, setting out information concerning the Sakhalin II Project.

You asked departments whether they wanted to contribute to ECGD's assessment of the project. **DEFRA would like to be included in this process.**

You also asked departments to identify any particular policy concerns that they have at this point. So far, we have not yet had time to consult thoroughly within the department and form a final view on this case. However, the analysis that we have done so far indicates that we are likely to have substantial concerns about this project. We have, so far, identified the following areas of concern.

- **Impact on Grey Whales** This is Defra's overriding concern. We have significant worries about the possible impacts on this endangered stock and that any losses are likely to be significant to its future. We are also concerned about the longer-term impacts on this population of disturbances caused by mining and explosions, and of oil spills.

The EIA itself states that the population was recently reclassified as "critically endangered" by the IUCN-World Conservation Union. The EIA also recognises the potential impacts of the project on this extremely vulnerable stock and suggests that suitable mitigation measures may be put in place. However it does not specify what these might be or what monitoring will be put in place to assess any impacts. It is not clear either how the EIA comes to the conclusion that the impact of this project on the population is likely to be "moderate". Until it is clearly established that the



project will not contribute to the extinction of the population, our view is that the impact can only be described as "major".

- **Potential effect of oil spills.** The EIA shows that Sakhalin Energy are aware of the potentially devastating effect that an oil spill could have on the local environment. It sets out the oil spill response plan that the company has developed, and also the leak-detection system that will be put in place both to monitor small and chronic spills. However, the ability to implement mitigation measures will be absolutely crucial. Some stakeholders have raised concerns about the ability of the company to react quickly and about the adequacy and location of the facilities which would be used to combat a large oil spill. There needs to be a procedure in place to carry out regular reviews of both the response plans and the adequacy of the facilities and equipment that would be used in an emergency. Perhaps this could be provided for in an environmental management plan.
- **Disposal of waste.** The EIA refers to Sakhalin energy's solid waste management plan, and says that if implemented properly, the associated environmental impacts are likely to be minor. As with the question of oil spill, there would need to be a mechanism put in place in order to ensure that the company are abiding by the commitments they have made in the plan. Over and above this, we are concerned about whether adequate measures are in place to dispose of quarrying waste (which has the potential to be a major impact, according to the EIA). We are also very concerned by stakeholder claims that the project will be discharging untreated production and drilling waste into the sea.
- **Effect on local fisheries.** Reports indicate that since 1999, when commercial oil production started, local stocks of herring and cod have shrunk significantly (although we note the positive action taken by Sakhalin Energy on this issue since the start of the 1st phase of the project). There are also significant concerns over the effect of the proposed 800km pipeline which will run down Sakhalin Island, and which could interfere with the salmon stocks which currently inhabit rivers through which the pipeline is routed.

I'd be very grateful if you were able to provide some clarification on the issues outlined above.

Our preliminary view on this project is that the potentially devastating effects of this project on the local environment and in particular on an endangered population of whales and biodiversity in a sparsely populated region are not compensated for by the positive effect of this project on the global climate (supplying primarily gas to a region that is currently dependent on coal for its energy needs).

Yours sincerely,

Robin Healey

Annex 3:
Case Screening Impact Form Shin Wolsung Nuclear Plant, South Korea

CASE IMPACT SCREENING

CASE: *ECGD/COFACE Reinsurance Agreement* BUYER COUNTRY: *South Korea*

DATE OF SCREENING:

	Aspect for consideration	Response ¹	Influence on potential impact category
1.	Is the buyer country a HIPC or IDA-only country?	Yes / <input checked="" type="radio"/> No	If yes - productive expenditure check required
2.	Do the goods/services being exported comply with UK standards? I.e. could the goods/services be sold in the UK without any modification?	Yes	Depends only on the project impacts
		No	Depends on the standards with which the goods/services comply and also the project impacts if there is an identifiable project
3.	Is there an identifiable project? I.e. can the current and future activities on the destination site be identified?	<input checked="" type="radio"/> Yes	Depends on the impacts of both the goods/services and project.
		No	Depends only on the direct impact of the goods/services.
4.	Are the exported goods/services replacements of existing minor components?	Yes	Low if goods/services comply with UK or international standards
		<input checked="" type="radio"/> No	Depends on impacts of both goods/services and the project.
5.	Is the project a greenfield project or a large expansion of an existing facility?	Yes	High potential impact if project in a potentially damaging business sector (See Q6)
		<input checked="" type="radio"/> No	Low or Medium potential impact
6.	Is the project in one of the following potentially damaging business sectors:		
	mining and/or mineral extraction?	Yes / <input checked="" type="radio"/> No	If 'yes' to any of these then probably Medium or High potential impact
	oil and/or gas field development?	Yes / <input checked="" type="radio"/> No	
	oil refineries, pipelines and/or large tank farms/	Yes / <input checked="" type="radio"/> No	
	petrochemicals, plastics and/or chemicals manufacturing/	Yes / <input checked="" type="radio"/> No	
	forestry, wood industry, pulp and/or paper manufacturing?	Yes / <input checked="" type="radio"/> No	
	dams (for irrigation, flood control or hydropower), large scale water reservoirs and irrigation?	Yes / <input checked="" type="radio"/> No	
	Nuclear power generation and/or fuel processing	<input checked="" type="radio"/> Yes / No	
	thermal power plants and/or associated transmission systems?	Yes / <input checked="" type="radio"/> No	
	large scale agriculture and/or aquaculture involving change of land use?	Yes / <input checked="" type="radio"/> No	
	cement production?	Yes / <input checked="" type="radio"/> No	
	manufacturing of glass and/or ceramic products?	Yes / <input checked="" type="radio"/> No	
	production of iron & steel and/or manufacturing iron & steel products?	Yes / <input checked="" type="radio"/> No	
	metal processing?	Yes / <input checked="" type="radio"/> No	
	manufacture of rubber and/or plastic products?	Yes / <input checked="" type="radio"/> No	
	spinning, weaving and/or finishing or natural and/or synthetic fibres?	Yes / <input checked="" type="radio"/> No	
	food (meat, fish, fruit and/or vegetable) processing?	Yes / <input checked="" type="radio"/> No	
	leather tanning?	Yes / <input checked="" type="radio"/> No	
	asbestos processing?	Yes / <input checked="" type="radio"/> No	
	major road, railway, airport, sea port and/or inland waterway development?	Yes / <input checked="" type="radio"/> No	
	large scale tourism development?	Yes / <input checked="" type="radio"/> No	

¹ Circle actual response and/or comment as necessary.

CASE IMPACT SCREENING

Is the project located close to:		
7.	a World Heritage cultural site? ²	Yes / <u>No</u>
	a World Heritage natural site? ³	Yes / <u>No</u>
	an IUCN protected area? ⁴	Yes / <u>No</u> (Category:)
	a World Biosphere Reserve? ⁵	Yes / <u>No</u>
	a 'Ramsar' site? ⁶	Yes / <u>No</u>
	another sensitive receptor?	Yes / <u>No</u>
If 'yes' to any of these then Medium or High potential impact		
Is there the potential for significant:		
8.	adverse environmental impacts?	Yes / <u>No</u>
	adverse health & safety impacts?	Yes / <u>No</u>
	adverse social impacts?	Yes / <u>No</u>
If 'yes' to any of these then Medium or High potential impact		
9.	Do the exported goods/services and/or the project give rise to potential conflicts with any of the international conventions that the UK has signed?	Yes / <u>No</u>
	If 'yes' to any of these then Medium or High potential impact	
Do checks of the exporter and buyer using any of the following give rise to concerns?		
10.	Nexis.com	Yes / <u>No</u>
	SERM-rating	Yes / <u>No</u>
	FTSE4good	Yes / <u>No</u>
	World Bank list of ineligible firms	Yes / <u>No</u>
If 'yes' to any of these then probably Medium or High potential impact		
Which key UN Human Rights instruments has the host country ratified?⁷		
11.	International Covenant on Economic, Social and Cultural Rights	<u>Yes</u> / No
	International Covenant on Civil and Political Rights	<u>Yes</u> / No
	International Convention on the Elimination of all forms of Racial Discrimination	<u>Yes</u> / No
	Convention on the Rights of the Child	<u>Yes</u> / No
	Convention on the Elimination of All Forms of Discrimination Against Women	<u>Yes</u> / No
	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	<u>Yes</u> / No
12. Which key ILO conventions has the host country ratified?⁸ (Circle those ratified)		
	Forced Labour: C29 C105	Discrimination: <u>C100</u> <u>C114</u>
	Freedom of association: C87 C98	Child Labour: <u>C138</u> <u>C182</u>

CONCLUSION: The case has Low Medium / High⁹ potential impacts.

NB All High potential impact cases are potentially sensitive cases and possible prior disclosure cases (Underwriting Committee to confirm whether case details should be circulated to other Government Departments to enable them to identify any issues for which they have lead responsibility and whether the exporter's agreement should be sought for project information to be put on ECGD's website)

Screening performed by:

Date: 14.7.05

Screening checked by:

Date: 15/7/05

² See website: <http://whc.unesco.org/heritage.htm>

³ See website: <http://www.unep-wcmc.org/sites/wh/index.html>

⁴ See website: http://www.unep-wcmc.org/protected_areas/data/un_97_list.html

⁵ See website: <http://www.unesco.org/mab/wnbr.htm>

⁶ See website: http://www.ramsar.org/index_list.htm

⁷ See Annex 5 of FCO Human Rights Annual Report 2003 at <http://www.fco.gov.uk/humanrightsreport2003>

⁸ See website: <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-ratif8conv.cfm?Lang=EN>

⁹ Circle actual category and delete the others

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1. See, for example, submissions to inquiries into the Ilisu Dam by the Select Committee on Trade and Industry and by the International Development Committee, into ECGD and Sustainable Development by the Environmental Audit Committee (2003), and on the Baku-Tbilisi-Ceyhan oil pipeline and ECGD's Anti-Bribery rules to the Trade and Industry Committee.
 2. See, for example: Campaign to Reform the World Bank, The Corner House, Kurdish Human Rights Project, Ilisu Dam Campaign, Pacific Environment, WEED, *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, March 2001.
 3. See: Amis de la Terre, Corner House, France Liberte, Friends of the Earth (EWNI), Ilisu Dam Campaign, *Damning Indictment: How the Yusufeli Dam Violates International Standards and Peoples' Rights*, July 2002.
 4. Reports available at: <http://www.bakuceyhan.org.uk/missions.htm>.
 5. See: "Corner House Double Victory on UK Government Department's Anti-Bribery Rules and Public Interest Litigation", 25 January 2005, <http://www.thecornerhouse.org.uk/item.shtml?x=107362>
 6. See: <http://www.thecornerhouse.org.uk/pdf/document/SakLegalGrounds.pdf>.
 7. ECGD, Mission Statement, <http://www.ecgd.gov.uk/index/aboutecgd/ecgdmissionandobjectives.htm>.
 8. ECGD, Sustainable Development Action Plan 2007, http://www.ecgd.gov.uk/sdap_final_2007-3.pdf. Para 10: "ECGD also has certain *secondary* duties set for it by Ministers. These include compliance with its Statement of Business Principles . . ." (emphasis added).
 9. The ECGD's statutory powers derive from the Export and Investment Guarantees Act 1991, under which the Department, acting on behalf of the Secretary of State for Business, Enterprise and Regulatory Reform, is required to "facilitating, directly or indirectly" the supply of British exports. SENTENCE NOT GRAMMATICAL RE FACILITATING.
 10. It is perhaps of note that the ECGD does not even mention sustainable development objectives as part of its statement of aims on the Department's home web page. The ECGD's aim is stated as being "to help UK exporters of capital equipment and project-related goods and services win business and complete overseas contracts with confidence. See: ECGD, "Welcome to ECGD", <http://www.ecgd.gov.uk/>.
 11. ECGD, Case Impact Analysis Process, http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004-4.pdf.
 12. The Government's international sustainable development priorities, "primarily arising from the World Summit on Sustainable Development, the Doha Development Agenda of the WTO, the Monterrey Consensus on Financing for Development and the Millennium Development Goals", are set out at <http://www.sustainable-development.gov.uk/international/priorities.htm>.
 13. As Friends of the Earth note in a letter of 26 April 2006 to ECGD (available at http://bankwatch.org/documents/Ltr_ECGD_280406.pdf) with respect to the Sakhalin 2 oil and gas project: "In processing applications for support, ECGD will also take account of applicable Government policies and initiatives on the environment, sustainable development and human rights. We note from the above that the ECGD does not commit itself to determine the acceptability of the impacts of a project by comparing them with or on the basis of applicable Government policies and initiatives on the environment, sustainable development and human rights. This is not a semantic distinction. For example, we note that in the BPU Review of the BTC Pipeline Project, international standards, and not Government policies or initiatives (*a fortiori*/ not Government obligations), were specifically listed in the 'Main criteria for acceptability' section."

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14. Although ECGD does not issue export credits for any expenditures that are not defined as “productive”, its “productive expenditure test” applies only to Heavily Indebted Poor Countries and countries eligible for assistance from the World Bank’s International Development Association. The productive expenditure test does not, however, consider whether or not a project will contribute to or undermine poverty eradication. Oil development, for example, would pass the productive expenditure test but may have major adverse impacts on poverty, particularly in countries where democracy is weak and the economy overly dependent on mineral extraction. (For the linkages between poverty and oil development, see: *Striking a Better Balance: The Final Report of the Extractive Industries Review*, December 2003, available at <http://www.eireview.org/eir/eirhome.nsf/be65a087e9e6b48085256acd005508f7/75971F6A8E5A11385256DE80028BEE2?Opendocument>).
 15. ECGD, Business Principles Unit Review of Baku-Tbilisi-Ceyhan Pipeline Project, 3rd December 2003, redacted version released to The Corner House following Freedom of Information request, p.3.
 16. Although a section of the Business Principles Unit (BPU)’s BTC assessment report raises issues related to unsustainable use of resources, it does so without any indication of the UK’s objectives in this area and thus provides no basis for an objective assessment of compliance. From correspondence obtained under the Freedom of Information Act, it appears that the BPU raised concerns on the issue of unsustainable consumption to the ECGD’s Underwriting Committee but it is unknown what the specifics of those concerns were since they have been redacted from the copies released to The Corner House. The Committee’s response is also unknown, since ECGD has refused to release it.
 17. ECGD, Annual Review and Resource Accounts 2006-07, p.17, http://www.ecgd.gov.uk/ecgd_bus_overview_2006-07.pdf.
 18. Environmental Audit Committee, Seventh Report, Session 2002-03, <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmenvaud/689/68902.htm>.
 19. Trade and Industry Committee, Third Report, Session 1999-2000, *The Future of the Export Credits Guarantee Department*, para 56, p.xxvi: “We can see no reason for defence equipment and aerospace to be exempted from the screening process and request and explanation for the exemption.”
 20. ECGD, Case Impact Analysis Process, May 2004, para 2.6, www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004.doc. “It is ECGD’s policy that projects should comply in all material respects with the relevant safeguard policies, directives and environmental guidelines of the World Bank Group.”
 21. The World Bank safeguard policies do not embody international good practice and are lower in all major respects to the development standards now promoted by the United Nations and by the major hydro-industry trade associations. See: The Corner House, “Increased Export Credit Subsidies for Large Dams and Water Projects”, Letter to Patrick Crawford, Chief Executive, ECGD, 23 August 2005. See also: The Corner House and Environmental Defense, “The OECD Arrangement and New Subsidies for Dams – The Case for Strengthened Standards”, August 2005.
 22. ECGD, “Case Handling Process Information Note”, p.3, [www.ecgd.gov.uk/ecgd_case_handling_process_-_information_note_\(may_2004\).doc](http://www.ecgd.gov.uk/ecgd_case_handling_process_-_information_note_(may_2004).doc). “The Business Principles Unit is responsible for ensuring the case complies with ECGD’s Business Principles.”
 23. At para 1 of its “Case Impact Analysis Process”, ECGD states (categorically) that: “It is ECGD’s policy that all cases supported are compatible with its Statement of Business Principles.” At para 2.6, it states: “It is ECGD’s policy that projects should comply in all material respects with the relevant safeguard policies, directives and environmental guidelines of the World Bank group.” However, both these policy commitments are limited by the caveat at para 2.1 that the “case Impact Analysis Process” is “not a statement of what will be done in every case as the BPU will

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- exercise its professional judgment on the basis of the actual circumstances of each individual case.”
24. ECGD, Response to request for Internal Review, IR(06) [Original request EIR(06)01], 7 March 2007.
 25. The arguments are set out at para 65ff of the detailed legal grounds submitted by WWF and The Corner House in the their judicial review application, available at <http://www.thecornerhouse.org.uk/pdf/document/SakLegalGrounds.pdf>.
 26. Departmental responsibilities for implementing the UK Sustainable development objectives are set out at <http://www.sustainable-development.gov.uk/government/department/index.htm>.
 27. Email from Graham Rowcroft, DTI, to Martin McKee, ECGD, 4 March 2003, reproduced at Annex 1, released to Friends of the Earth under Environmental Information Regulations, following High Court ruling upholding Information Tribunal Decision EA/2006/0073, http://www.informationtribunal.gov.uk/Documents/decisions/frinedofearthVinfocomExporeCredGuardep_20Aug07.pdf.
 28. Email from Robin Healey, DEFRA, to David Allwood, ECGD, 14 March 2003, reproduced at Annex 2, released to Friends of the Earth under Environmental Information Regulations, following High Court ruling upholding Information Tribunal Decision EA/2006/0073, http://www.informationtribunal.gov.uk/Documents/decisions/frinedofearthVinfocomExporeCredGuardep_20Aug07.pdf.
 29. For discussion of concerns over the quality of the advice given by the Foreign and Commonwealth Office to ECGD on human rights impacts, see: “Correspondence between the Foreign and Commonwealth Office and the Kurdish Human Rights Project and Corner House”, available at <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrind/374/374we08.htm>.
 30. For example, environmental conditions were incorporated into the project agreements for a flexible oil pipeline contract in 2002 (see: <http://www.ecgd.gov.uk/egacminutes11december2002.doc>). In at least one case, the ECGD has also used its productive expenditure criteria – under which loans to Heavily Indebted Poor Countries and countries eligible for assistance from the World Bank’s International Development Association must be “productive” – to refuse support for a project (see: Vivian Brown, Oral evidence, Environmental Audit Committee Inquiry into ECGD and Sustainable Development, 2003, question 90, <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmenvaud/689/3052104.htm>).
 31. ECGD Annual Review and Resource Accounts, 2002/03, p.18.
 32. The policy of an outright ban on supporting projects involving child labour, adopted on the recommendation of the Environmental Audit Committee, has now apparently been watered down to a commitment to “avoid” supporting projects where child labour is involved”. See: Appleyard, B., “Britain’s Dirty Business”, *The Sunday Times Magazine*, 6 April 2008, <http://www.timesonline.co.uk/tol/news/environment/article3666273.ece>.
 33. ECGD, Minutes of Underwriting Committee, file “UCMinsUC(03)30thmeetingfinal – 29.12.03”, redacted version released to The Corner House following Freedom of Information request.
 34. The World Bank’s Involuntary Resettlement safeguard policy (OD 4.30) – listed as the benchmark standard against which ECGD assessed compliance – states in Paragraph 3(b)(i) that where resettlement takes place, those concerned should be “compensated for their losses at full replacement cost prior to the actual move”. The more recent revised IFC Performance Standards published in 2006 also state that “cash compensation will be made available prior to relocation” (IFC PS 5.16). Finally, the project’s own ESAP – referenced in the ECGD’s contract – sets out in R18 that “Compensation payments for crops will be paid [...] prior to land entry”.

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35. Telegram from s=TGM-Baku, Restricted, to Priority FCO, "Subject: Azerbaijan – Pipeline Security and Crisis Response", 010615Z April 04, obtained by The Corner House through access to information request to Department for Trade and Industry.
 36. ECGD, "Case Impact analysis Process", paras 6.3-6.4, http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004-4.pdf.
 37. Released by ECGD to The Corner House in response to Freedom of Information request, EIR (07)04, 25 September 2007, reproduced at Annex 3.
 38. See: <http://www.iicrd.org/cap/files/childlabourmines.pdf>
 39. See: <http://www.business-humanrights.org/Links/Repository/789542/jump>.
 40. Trade and Industry Committee, Fifth Report, Session 2005-06, "Appendix 4: Further Memorandum from The Corner House", <http://www.parliament.the-stationery-office.co.uk/pa/cm200506/cmselect/cmtrdind/1124/1124we05.htm>.
 41. See: Sinag Ng Bayan Foundation Inc., "Complaint to Office of the Ombudsman, Republic of The Philippines", August 2005; Leigh, D and Evans, R., "British family firm accused of getting rich by building bridges to nowhere", *The Guardian*, <http://www.guardian.co.uk/politics/2005/dec/20/uk.freedomofinformation>.
 42. See: Gillard, M. Memorandum to Trade and Industry Committee, Ninth Report, Session 2004-05, <http://www.parliament.the-stationery-office.com/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>; also, Gillard, M, Second Memorandum, paragraphs 33, 86 and 91.
 43. "BP Caspian Developments, AGT Pipelines Project, Review of Field Joint Coating Specification No 410088/00/L/MW/SP/015 (issue 02.10.02)", unpaginated, Appended to Mortimore D., "Response from Derek Mortimore to ECGD submission" in Trade and Industry Select Committee, Ninth Report, Session 2004-05, 4 April 2005, *Implementation of ECGD's Business Principles*, Written Evidence, Appendix 4, <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we05.htm>.
 44. WorleyParsons Energy Services, Desktop Study Final Report Field Joint Coating Review (Redacted Version) , Section 5: Field Joint Cracking, para 5.1, unpaginated, /in/ Trade and Industry Select Committee, Ninth Report, Session 2004-05, 4 April, 2005, / Implementation of ECGD's Business Principles/, Written Evidence, Appendix 2, <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmtrdind/374/374we03.htm>.
 45. Mr O'Brien, the Minister responsible for ECGD at the time, told Parliament that SPC 2888 had been used extensively in North America on major pipelines where the pipeline is coated with a three layer, high density, polyethylene coating. Similarly, in a letter to the Trade and Industry Committee, Mr Weiss of the ECGD stated, "The coating . . . has a track record in similar conditions in a significant number of other pipelines". See: Minister of Trade, Response to Question 179981, Hansard, 28 Jun 2004 : Column 5. Simon Thomas MP asked: "What assessment has been made into the use of SPC 2888 by major pipelines other than the Baku-Tbilisi-Ceyhan pipeline where the pipeline is coated with a three layer, high density, polyethylene coating". Mr O'Brien replied (without qualification): "The WorleyParsons report on the field joint coating issue (SPC 2888), included a case history of use of SPC 2888 on other pipelines. It showed that SPC 2888 had been used extensively in North America." Hansard 28 June 2004: Column 50W, 'SPC 2888';
 46. John Weiss, Letter to Trade and Industry Committee, 19 July 2004, quoted in Gillard, M., See: Gillard, M., Second Memorandum to Trade and Industry Committee, Ninth Report, Session 2004-05, para 3, <http://www.parliament.the-stationery-office.com/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>.

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47. Hansard, 22nd March 2005, Col 670W, http://www.publications.parliament.uk/cgi-bin/newhtml_hl?DB=semukparl&STEMMER=en&WORDS=simon%20thomas%20baku&ALL=Baku&ANY=&PHRASE=&CATEGORIES=&SIMPLE=&SPEAKER=Simon%20Thomas&COLOUR=red&STYLE=s&ANCHOR=50322w12.html_wqn17&URL=/pa/cm200405/cmhansrd/vo050322/text/50322w12.htm#50322w12.html_wqn17
48. See for example: D'Appolonia, "Report of the Post-Financial Close Independent Environmental Consultant (IEC), Baku-Tbilisi-Ceyhan (BTC Pipeline Project, First Site Visit, February-March 2004, Rev0-June 2004, Doc No.04-503-HI", <http://subsites.bp.com/caspian/BTC/ENG/Mar04FR/IEC%20-%20March%202004%20mission%20-%20Final%20Report%20-%2021Jun04.pdf>; D'Appolonia, "Report of the Post-Financial Close Independent Environmental Consultant (IEC), Baku-Tbilisi-Ceyhan (BTC Pipeline Project, Second Site Visit, June-July 2004, Rev3-September 2004, Doc No.04-503-H2", <http://subsites.bp.com/caspian/BTC/ENG/IEC/IEC%20-%20July%202004%20mission%20-%20Final%20BTC%20Report%20-%2006Sept04.pdf>; D'Appolonia, "Report of the Post-Financial Close Independent Environmental Consultant (IEC), Baku-Tbilisi-Ceyhan (BTC Pipeline Project, First Site Visit, February-March 2004, Rev0-June 2004, Doc No.04-503-HI", <http://subsites.bp.com/caspian/BTC/Eng/IEC/IEC%20Final%20Report%20October%202004%20Rev%203.pdf>; Mott McDonald, "Pre-Financial Close, Environmental and Social Construction Monitoring", September-October 2003, 17 December 2003", www.caspiandevlopmentandexport.com (accessed August 2004).
49. Letter from Weiss, J. (ECGD) to Trade and Industry Select Committee, 19 July 2004. See also: Gillard, M., Second Memorandum to Trade and Industry Committee, Ninth Report, Session 2004-05, para 102, <http://www.parliament.the-stationery-office.com/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>.
50. It should be noted that evidence presented to the Trade and Industry Committee, including passages from an internal BP memo of June 2004, suggest that the cracking and disbondment problems were far from over as of June 2004. See: Gillard, M., Second Memorandum to Trade and Industry Committee, Ninth Report, Session 2004-05, para 103-111, <http://www.parliament.the-stationery-office.com/pa/cm200405/cmselect/cmtrdind/374/374we07.htm>.
51. Incident reports for November 2003-July 2004, released by ECGD to The Corner House following Freedom of Information Act in response to FOI request [FOI(06)18], 9 August 2006. ECGD has confirmed by email that the released reports are the only ones available for the period November 2003-July 2004 and that they cover all three countries through which the pipeline passes.
52. The Common Terms Agreement for the Baku-Tbilisi-Ceyhan project, released to Pacific Environment under US Freedom of Information legislation, contains the following contractual obligations on BTC Co, the consortium constructing and operating the project:

20.5 Notice of defaults and certain other events

- (a) BTC Co. must promptly notify the Intercreditor Agent upon its discovery of the occurrence of:

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- (vi) any event which occurs during construction or operation of the Pipeline and is reasonably expected either to give rise to material environmental claims against BTC Co., or to constitute a material breach of the ESAP, the RAP or any OSRP by BTC Co.;
- (vii) any accident or incident that has a material adverse effect on the Environment (including social or community impact) or worker health and safety that occurs as a result of Project operations (and in any event no later than three days after becoming aware of such accident or incident), including an indication of when the incident investigation and report is expected to be finalised, and BTC Co. shall provide the Intercreditor Agent with a detailed written report of such incident promptly, in a manner consistent with the notice requirements under the Participants Agreement, after the incident report is finalised;
53. Green Alternatives, BTC Complaint,
http://www.opic.gov/doingbusiness/accountability/documents/opic_btc_complaint.pdf.
54. Office of Accountability Compliance Review of OPIC's Environmental Due Diligence and Monitoring of the Baku-Tbilisi-Ceyhan Oil Pipeline Project, OPIC, 2006,
http://www.opic.gov/doingbusiness/accountability/documents/compliance_review_opic_environmental_due_diligence0107.pdf
55. Simon Clark and Stephen Voss, "BP Ignores Warnings About Potential Leaks in Caspian Pipeline", Bloomberg, January 2006,
<http://www.bloomberg.com/apps/news?pid=20601109&sid=aDbYpRvhzoHA&refer=home>.
56. Annex K: Scope of Environmental Consultant Verification Visits During Construction, p.4,
http://www.caspiandevlopmentandexport.com/Files/BTC/English/ESAP/ESAP/Content/Annex_K.pdf. "If as a result of the monitoring, (i) the Consultant or the Senior External Finance Parties believe that BTC Co. is in material non compliance with the ESAP, applicable Environmental Laws or Applicable Lender Environmental and Social Policies and Guidelines, (ii) BTC Co. disagrees with that finding, and (iii) the disagreement cannot be resolved within the 10 working days comment period, then the Consultant's report will not be publicly released until the disagreement is resolved to the satisfaction of all parties. BTC Co or the Lenders may request that the disagreement be resolved through international arbitration in accordance with the provisions of the Common Terms Agreement for the BTC Project financing."
57. BTC Environmental and Social Documentation as agreed at Financial Closure, February 2004, Environmental and Social Action Plan, Annex L: SRAP Terms of Reference, Table 5.1 – Summary of SRAP Monitoring Reports for BTC/SCP, External Social and Resettlement Action Plan (SRAP) Monitoring Report, Column 3, p.12,
http://www.caspiandevlopmentandexport.com/Files/BTC/English/ESAP/ESAP/Content/Annex_L.pdf. "Full findings to be made available publicly after presentation to the BTC Co. Board."
58. BTC, Environmental and Social Action Plan, Annex J, p.5,
<http://www.caspiandevlopmentandexport.com>. "A management consensus was reached that the RAP monitoring process should be set up to provide practical guidance and troubleshooting advice to the project's monitoring teams as to how to solve problems that arise during the land acquisition and reinstatement process rather than simply to identify areas of compliance and non-compliance."
59. The NGO proposals are available at:
http://www.halifaxinitiative.org/updir/ECAWatch_peer_review_proposal.pdf.