Small Business, Enterprise and Employment Bill
Briefing ahead of Committee Stage, September 2014

Campaign Against Arms Trade, Friends of the Earth (England, Wales & Northern Ireland),
Greenpeace UK, Jubilee Debt Campaign, Platform and The Corner House

Summary

1. Our organisations and others have for many years been working on export credit issues and the Export Credits Guarantee Department (ECGD) / UK Export Finance (UKEF). The Small Business, Enterprise and Employment Bill, in Clauses 9 and 10, proposes to amend the powers of the Secretary of State under the Export and Investment Guarantees Act (EIGA) 1991. The signatory organisations believe this rare legislative opportunity to examine EIGA must be taken to increase the Secretary of State's powers to implement government policy over ethical and environmental issues. This briefing is intended to inform the Committee of our concerns and to assist it in its deliberations.

2. We would draw the Committee's attention in particular to the proposal that the Bill be used to amend the 1991 EIGA to enable the Secretary of State to establish a "prohibitions list" to which can be added certain classes of exports that cannot receive UKEF / ECGD support. Such a list would be flexible; the Secretary of State would have the power to add or remove items to fit with government policies.

ECGD and UK sustainable development objectives

3. Over the years, successive UK governments has recognised the importance of sustainable development and committed to policies aimed at achieving this goal. However, the founding Act of the ECGD prevents the department from putting these policies on an equal footing with its aim of promoting exports. Instead, it is required by law to make sustainable development objectives a secondary priority.

4. Although ECGD has said it will take account of environmental and social agreements on export credits negotiated at the OECD, these agreements have no legal force in the UK. In this the ECGD differs from a number of other export credit agencies, notably US ExIM, which have adopted binding environmental and social guidelines.

5. This situation has led to ECGD being in conflict with wider UK government objectives on sustainable development, most recently, as detailed below, with respect to international efforts to ban export credit support for coal-fired power stations.

About a “prohibitions list”

6. At present no legal power for a "prohibitions list" exists. The Government's position, therefore, is that it is unable to formally prohibit UKEF from supporting coal or other fossil fuel plants, arms manufacturers, or projects that could undermine human rights or the environment, even when it wants to. Therefore, legislatively it is essential to create the ability to prohibit particular types of export credit support.

7. A "prohibitions list" would extend the Secretary of State's powers by, for example, allowing her or him to make sure that export finance provision reflects other government policies and priorities. The power would not bind a Secretary of State, now or in the future, to introducing
such a "prohibitions list", nor would it prescribe what might be included in such a list. It would merely allow the Secretary of State to create such a list if (s)he chose.

8. Some competitor export credit agencies already have "prohibitions lists". For example,
   - the Export-Import Bank of the United States (EXIM) prohibits "loans, guarantees, and insurance as to sales of defense articles or services".
   - In June 2014, the German Finance Ministry announced that Germany's official export credit agency would be prohibited from supporting nuclear contracts.

Examples of projects which could be in a "prohibitions list"

9. The legislation would not commit a Government to any or all of these, but it would enable discrimination against such projects in line with the wider Government policy of the time.

Example 1 – Coal

10. In November 2013 the Secretary of State for Energy and Climate Change announced that:

    "the UK will join the United States in agreeing to end support for public financing of new coal-fired power plants overseas, except in rare circumstances in which the poorest countries have no feasible alternative".

The detail made clear that this could not apply to UKEF because

"UKEF is not presently legally able to discriminate between classes or types of exports… [UKEF] has not supported a coal fired power station overseas since 2002".

11. The US policy that rules out public funding for coal plants overseas explicitly includes EXIM. For UK governments to permanently be able to exclude supporting coal plants, the Secretary of State must have the power to have a "prohibitions list".

12. In April 2014 Shadow Business Secretary Chuka Umunna said that Labour would close the loophole under which UKEF can continue to fund coal.

Example 2 – Other Fossil Fuels

13. In the 2010 coalition agreement the Government announced that:

    "We will ensure that UK Trade and Investment and ECGD become champions for British companies that develop and export innovative green technologies around the world, instead of supporting investment in dirty fossil-fuel energy production".

14. Yet, UKEF continues to support fossil fuel projects:

   - In 2012/13 UKEF gave a £147 million guarantee to support oil and gas exploration by Petrobras in Brazil and £15 million in guarantees to a loan for a gas power project in the Philippines.
   - In March 2014 support worth US$215 million was announced for a major petrochemical project at Nghi Son in Vietnam.

15. A "prohibitions list" is essential if UK governments are to be able to discriminate against dirty fossil fuels and in favour of green technologies.
Example 3 – military exports to repressive regimes

16. Even though arms account for just 1.5% of total UK exports, in most years the percentage of export credit support accorded military exports has been far higher. Many of the deals which have been underwritten are controversial, including military aircraft sales to Saudi Arabia and Oman, armoured vehicles to Turkey and intelligence equipment to Indonesia. Much of the historic debt owed to UKEF is the result of providing cover for arms deals in previous decades to, amongst others, Mubarak's Egypt, the 1970s military junta in Argentina, and Saddam Hussein's Iraq.

17. If a future UK government wants to stop underwriting arms sales to repressive regimes, the power to have a "prohibitions list" is essential.

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v Cabinet Office, "The Coalition: our programme for government", May 2010

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