



HOUSE OF COMMONS

# International Trade Committee

## Oral evidence: UK Export Finance, HC 700

Wednesday 28 April 2021

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Members present: Angus Brendan MacNeil (Chair); Mark Garnier; Paul Girvan; Sir Mark Hendrick; Anthony Mangnall; Mark Menzies; Taiwo Owatemi; Lloyd Russell-Moyle; Martin Vickers; Mick Whitley; Craig Williams.

Questions 81 - 106

### Witnesses

[II](#): Dr Alistair Clark, Chair, Export Guarantee Advisory Council; Dr Susan Hawley, Executive Director, Spotlight on Corruption; and Professor Andreas Klasen, Professor of International Business and Head of the Institute for Trade and Innovation (IfTI), Offenburg University.



## Examination of witnesses

Witnesses: Dr Alistair Clark, Dr Susan Hawley and Professor Andreas Klasen.

Q81 **Chair:** That allows me to extend that hand of appreciation to our second panel, who I hope are all online and ready to open their cameras and unmute themselves. We are looking for Dr Alistair Clark, Dr Susan Hawley and Professor Andreas Klasen. I will ask you all to introduce yourselves on your own terms: name, rank and serial number in no particular order. I think it is alphabetical. Alistair Clark.

**Dr Clark:** In terms of name, Alistair Clark. Rank, I think I am called chair of the Export Guarantee Advisory Council. This is a team or council of advisers, which are independent. We advise UKEF on environmental and social issues, human rights issues, climate, sustainable lending, and anti bribery and corruption. Our real role is to advise UKEF and its Ministers on their policies.

**Chair:** Thank you very much for that. Dr Susan Hawley? You are on mute at the moment, I think.

**Dr Hawley:** Sorry, yes, looking for the mute button.

**Chair:** It gives me the opportunity to come out with my favourite line: mutations is the problem of the pandemic, which Mr Mangnall loves hearing every week.

**Dr Hawley:** I am Dr Susan Hawley. I am executive director of Spotlight on Corruption. We are a charity that monitors how the UK enforces its anticorruption laws and uphold anticorruption standards across government. We wrote a report about UKEF's anticorruption procedures last year. I have worked on UKEF and anticorruption for nearly 15 years now.

**Chair:** I am sure there are comedians in some corners who might say you might be very busy at present, but anyway we will glide on rapidly from that to Professor Andreas Klasen.

**Professor Klasen:** Good afternoon, ladies and gentlemen. Thanks for the invitation to contribute. My name is Andreas Klasen. I am Professor of International Business. I am the director of the Institute for Trade and Innovation at Offenburg University, which is in Germany. I am also an honorary fellow in the School of Government and International Affairs at Durham University.

My research and also our consultancy work here at the institute focuses on global governance and export credit and financing instruments. We have delivered, for example, international ECA benchmarking studies and export credit assessments for the Dutch Ministry of Finance, for Spain, for EKF in Denmark, and also for the Swiss State Secretariat for Economic Affairs and a number of development banks around the globe.



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Mr Chair, I maybe should mention that I have been appointed as a GlobalScot this year by Scottish Development International.

Q82 **Chair:** Fantastic. My esteemed colleagues will be delighted to hear that you are a GlobalScot. It is a much wanted role and position and it is fantastic to hear that.

Dr Clark, can you briefly explain the international agreements that form the basis of UKEF's environmental, social and human rights policies, please?

**Dr Clark:** Of course. There are two basic fundamental platforms that UKEF utilises. One is the OECD common approaches, and this relates to a common framework from the OECD DAC members. It is called the common approaches, where they agree on the way that they should do due diligence and monitoring of projects.

The second platform that they utilise is called the Equator Principles. This derives from the International Finance Corporation, the private sector arm of the World Bank. The standards are now utilised by 118 private sector project finance institutions, but also seven ECAs around the world, as the benchmark for which they can then apply standards on the individual projects, regardless of location. Those are the two basic agreements.

Q83 **Chair:** Professor Klasen, some of the world's biggest export credit agencies, some of the ones we have been looking at and comparing to, including China, India and Brazil, are not participants of the OECD's arrangement. Some will maybe say it is not a level playing field. Are the OECD arrangements, therefore, still fit for purpose?

**Professor Klasen:** That is an excellent question. The OECD arrangement is a major success story. Asymmetry in political power and political influence or government intervention is not significant for exporter success. That is the idea behind it, but I am afraid what we see is that the OECD arrangement and also other agreements are a bit of a 20th-century success story.

You mentioned the level playing field of the arrangement. Of course, it created in trades, in some ways, a bit of a textbook case, I would say, of gridlock. If we think about the OECD and non-OECD environment, there is a multipolarity. We see fragmentation. We see this institutional inertia at OECD and other levels, and it is a fundamental challenge for UK exporters that non-OECD countries such as China, India, Russia or maybe Brazil are able to support through trade-related official financing or insurance on unrestricted financing terms. What does it mean completely? You can offer minimum premium rates and you can go below. You can, for example, offer better repayment terms beyond the arrangement rules. A quite important discussion at the moment is also what we call the local cost, so exceeding the 30% you have in the arrangement.



We have to be fair and say that there is also a challenge for UK exporters that some OECD countries offer trade-related financing that might not fall under the arrangement, which is basically development financing related to exports. That is a challenge as well.

The most relevant competition from my point of view is definitely outside the arrangement rules. If you just look at the numbers it is pretty obvious. Medium and long-term support from OECD countries was estimated at about £65 billion in 2019—a lot of large exporting countries, but already £34 billion in the BRICS countries, only five countries. So you see there is a need for a new level playing field, from my point of view, because we have this significant impact from non-OECD countries supporting their exporters.

**Chair:** Moving to somebody who is not, unfortunately, yet a GlobalScot but has the ambition to be one, I am sure, Anthony Mangnall.

**Anthony Mangnall:** I am enjoying the focus of the Chair on me during this session.

**Chair:** It was the big tip you got beforehand from Mr Garnier at the beginning of the session that has me thinking.

Q84 **Anthony Mangnall:** It is a pleasure. Thank you very much to our witnesses. It is really appreciated. I would like to start with you, Dr Clark. What is the assessment process of UK Export Finance in dealing with human rights, environment and the standards that go with it?

**Dr Clark:** Going back to what I called the Equator Principles, basically you have nine different categories of issues. Just to reel out some of them: labour standards, pollution control, resettlement issues, indigenous people, stakeholder engagement, biodiversity issues. This provides the thematic area by which any project will be looked at.

The human rights side really comes in at the project level in a variety of different places. It comes in on stakeholder engagement. It comes in particularly on labour standards, where you are looking at the core labour standards of non-discrimination, freedom of association, no harmful child labour, no forced labour. Those are where some of the fundamental human rights issues are at the project level. It also comes into, as I said, stakeholder engagement. It will come into the resettlement issues: are they being done fairly? It is a comprehensive suite of thematic areas that everybody is utilising.

When it comes down to a project, an application that comes in, the first thing that UKEF would do would be to categorise that project. Is it high risk? Is it medium risk? Is it low risk? That really will determine the type of due diligence that they would wish to do. On a high risk, obviously you would do more due diligence. If it is an offshore wind farm, for instance, that would be a category A project, so they would commission consultants to do all the studies.



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The staff currently are just below 10 in the Department. One of the things we do at EGAC is look at whether they have sufficient resources to manage the deal flow going through that. That, coupled with the support they have from consultancies, is enough, we think, currently. They do handle quite a lot of high-risk projects and they have, like all financial institutions, been somewhat restricted through Covid, but they, like everybody else, have learnt to work in a more remote fashion, with the use of local consultants, the use of remote sensing, and co-operation with other institutions.

In my opinion, they are doing quite well. I would certainly put them in the leading pack of practitioners in the ECA community.

- Q85 **Anthony Mangnall:** Can I push a little bit more on this? In a hypothetical situation, UK Export Finance invests in a business, an organisation, a development project, whatever it may be, and it is found that in the project there have been some human rights violations. What happens at that point and what steps are taken to prevent that from happening, to sanction the company in the first place for those violations, and what lessons are learned from it going forward?

**Dr Clark:** Like any financial agreement, you set up conditionality so that once you have some issues that you want to have managed effectively, they would set up in the legal loan agreements some conditionality to say that you would have to have a management system, you have to have policies and procedures and, probably most importantly, you have a grievance system that is open and transparent for people to say, "There is an issue here." They should be able to report back to UKEF or its other lenders about any issues that are coming up.

There will be occasions when people complain outside of that channel. If it has already reached support level, then in the monitoring programme they would go out and visit, if they could at the moment. They might have to send local consultants. If there has been a breach of the arrangements that have been set up, there is the nuclear option of withdrawing that support. That is the nuclear option, but more often what has happened is it is more on the business side that we say, "Okay, you really will have to improve your performance on this, this and this issue or resolve these issues to our satisfaction." It is that type of proactive management of cases, which is really important.

- Q86 **Anthony Mangnall:** Forgive me and tell me if I am going in the wrong direction on this, but I presume that some of our outlook is based on some of our own domestic legislation as to what we expect other businesses to do, especially ones that we are investing in. For example, the Modern Slavery Act, heavily focused on the supply chain and slavery within it but not focused at all on investment chains and where investment chains might be leading towards the funding of outfits that commit slavery. It is a convoluted way of looking at this, but how are we safeguarding taxpayers' money from ending up in a position of doing an enormous amount of harm?



**Dr Clark:** It is my bread and butter activity in my other life. The actual issue really is in the supply chains. Often UK Export Finance might be supporting a particular exporter and one of the issues that we have been asking for is an expansion of that due diligence to ensure that at least the first chain of contractors are managed effectively through processes. One of the biggest issues is in construction, where you might have a situation of passports, for instance, being held by the contractor or a subcontractor and workers effectively constrained by that lack of documentation to leave the site or to get back home if they wanted to. That we would constitute as forced labour, in which the equivalent in UK legislation is modern slavery. That would be covered under the core labour standards so they would be actively monitoring. One of the things they do would be to look at contractor management plans: how are they going to manage the workforce? It is quite a detailed process.

Q87 **Anthony Mangnall:** Understood, thank you very much. Within that framework, how does the Export Guarantees Advisory Council sit?

**Dr Clark:** We look at the processes. We look at the policies that they are applying and we are raising issues that may be new. There are lots of emerging issues that come up every so often. For instance, at the moment the financial community is particularly worried about gender-based violence and harassment, which could also be related to the construction industry and having, say, large influxes of males going into a particular region on a road project or on an industrial facility. Because of the sensitivity of key donors, in particular the UK and the Netherlands, all the international institutions—and UK Export Finance being a UK body—are the same: basically, you need to take on board the new issues such as gender-based violence and harassment and make sure you have policies on that.

One of the interesting areas is that we do get presentations post-support because we are not involved in the decision making. One of the things, and I think it is something that we should be a little bit pleased with, is that we were given a presentation by the practitioners looking at stakeholder engagement on a project in Africa. We pointed out that in every single photograph of every single meeting there were no women. Everybody was, "Oh, my God." It was really a shock. Since then, UK Export Finance has not only ensured that their category A projects and all their projects are seen through a gender lens, particularly on stakeholder engagement, but we have also encouraged them to go out into the ECA community and find out what they are doing. I would say that UK Export Finance again is leading the charge in terms of raising important issues such as gender neutrality and making sure that we look at projects through both male and female lenses.

Q88 **Lloyd Russell-Moyle:** Professor Klasen, in 2020 the UK Government announced that they would end support for fossil fuel projects as soon as possible. What does that mean in practice, "as soon as possible," and have other credit export agencies already managed to refocus their



support? Are there lessons that maybe we can learn from that?

**Professor Klasen:** The most important message really is that the United Nations' sustainable development goals, the SDGs, and in particular the action to combat climate change, are becoming much more important for export credit agencies. Of course, the most obvious one is scaling down support not consistent with the Paris Agreement and contributions to climate-resilient development and low-carbon financing.

If we think about the global ECA environment, I can say that the UK is definitely a frontrunner with its announcement in 2020, but other Governments are very ambitious as well. If you look at the climate strategies, there is evidence that this is a major topic for many ECAs and EXIM banks. Sweden, for example, does not issue new ECA guarantees for coal, and none, or only under very exceptional circumstances, for gas exploration and extraction since January 2021. This is definitely a frontrunner as well in Sweden. I can say that EKF in Denmark is one of the most important green finance institutions in the global export credit universe, but for other Governments, for other ECAs, that has become an important area as well. The Netherlands is a good example, and Spain and Germany. As you know, on a policy level the launch of the international coalition, the Export Finance for Future, E3F, signed two weeks ago to align export finance with climate objectives, is a huge success. It is maybe not what we need from a climate action perspective regarding the speed and the time for transition, but it is very ambitious and it is realistic. You have to maybe accept that as well.

If you look at the actions or what they have decided, incentivising better support for exports to sustainable projects, ending ECA support directed to coal power, creating this level playing field that duly takes the climate emergency into account, is, I think, a good step, but there is still a lot of work to do.

By the way, a new research project we do here in Offenburg, together with Oxford University, is called the export credit net zero commitment. If we think what is required, it is a good start but I think we have to look at what best practices have emerged, where more work is needed, and what a net zero coalition of ECAs would look like.

Q89 **Chair:** That is very useful. Just listening to that, is there any work being done that is scoring the various ECAs and what they are doing? We know what they give in billions but where they are giving the billions is maybe the more pertinent question. If policymakers somewhere are making things up in one country, they might be negated by another country. Professor Klasen, do you have any knowledge on that at all?

**Professor Klasen:** There is a lot of analysis and benchmarking now in the ECA environment. I mentioned our own work. We have done seven or eight benchmarking studies looking at the overall picture of what ECAs do, what their direction is, what their execution is, their products, but also their impact. In a broad perspective, creating jobs but also looking at



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technology transfer, helping buyer countries to diversify and, of course, SDGs and climate change is a very important part of that.

It is too early to say there is success in the measurement because the problem is that one of the biggest challenges is that the ECAs are very diverse regarding how they measure and what they report. That is the biggest to do from our point of view, that there will be a framework where you can clearly measure and understand what they do and what the impact is that they create. That is ongoing but it is definitely not, I would say, sufficient regarding the reporting of SDG goals, for example.

**Chair:** Thank you. Lloyd Russell-Moyle, were you quite finished? I probably rudely interrupted your train of thought there; apologies.

Q90 **Lloyd Russell-Moyle:** No, it is fine. They have said that they will not support fossil fuel projects, but is it enough to just make negative pronouncements, saying, "We are not going to support this," or do we need to transform the use of finance to be proactively positive? How well are any other bodies doing in that?

**Professor Klasen:** Is the question directed to me or to other colleagues?

**Lloyd Russell-Moyle:** To you, and then I will come to Dr Clark.

**Professor Klasen:** It is a policy issue from my point of view. Is it enough regarding the Paris Agreement and the ambitious climate goals? The answer might be no. Is it much better than what we have seen only two or three years ago? The answer would be yes. From my point of view, it is a really good start but it is only a starting point. There has to be more. There has to be more commitment regarding climate action. There has to be more precise measurement. There has to be a look at what the emerging best practices are, what some ECAs do and what others do not, but we have to also allow the ECA environment to create a fair but ambitious framework. That means saying, okay, how is this transition working? Can we create a new level playing field with regard to that transition?

That is the most important work currently from our point of view: be more ambitious. It is a good starting point, but try to do something collectively here because otherwise it will not work. It is useful to have it in the UK. It is useful to have the approach in Sweden or in the Netherlands, but if other large exporting countries do not follow that is not enough.

Q91 **Lloyd Russell-Moyle:** Dr Clark, to what extent has EGAC been involved in the Government's public consultation on this, not just in ending support but going a bit further?

**Dr Clark:** Obviously, we have been advising UKEF and UKEF is in an interesting situation. It is a statutory body, a statutory department. I think that it is the oldest export credit agency in the world, so it is quite different in set-up from other export credit agencies. It has a statutory



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duty to support projects and to support exporters. It is not given the freedom to say, "But not in this sector" without some form of either a change in that legislation or a strong Government position.

What was so welcome about the statement on fossil fuels was that for the first time it had a clear direction about what it could support and what it could not. I think that that was, in a way, a relief because it was stuck in this position. I know that the previous witness mentioned a project in Africa, in Mozambique, but it was supporting UK exporters for that and it had a statutory duty to do so.

We were advising it on what is the right way to do a climate risk assessment. One of the things that is really encouraging, going forward, is that we have an organisation that is signed up to TCFD, the Task Force on Climate-Related Financial Disclosures. We have an organisation that will do climate risk assessments on all the projects. At least it can do eyes wide open, so if it has to support a project in a particular sector—maybe a hard to abate sector like cement—then it can do the work and make sure that that goes through a climate assessment, and that it is aligned with the Paris Agreement also. There have been a number of rapid developments in this area going forward.

In terms of proactivity, there are new business lines being created in UKEF in terms of green growth. It certainly sees this as a major opportunity for it, particularly issues like offshore wind where there is UK expertise deriving from the oil and gas sector. If you talk to Louis or you talk to any of his colleagues from UK Export Finance directly, they will be able to tell you exactly their plans for green growth and more pro-climate investments.

**Q92** **Martin Vickers:** Could I initially put this to Dr Clark? Do you feel that UKEF has sufficiently robust systems in place to identify and deal with bribery and corruption?

**Dr Clark:** It does but it is a moving target. We are very pleased that the spending review has provided sufficient resources for it to double its capacity. It will be internalising some of the resources that it would have to get from the outside. In that sense, we are pleased with the recognition.

One thing that I would be critical of would be that it has been poor on stakeholder engagement over recent times, particularly with organisations such as Spotlight on Corruption, which Sue Hawley is here to represent. We have encouraged it to say, "You really do need to engage better to find out what you think their issues are," not just to fall back totally on statutory requirements. There is room within those statutory requirements to be a bit more proactive.

I think that it really welcomed and took on board a lot of the issues raised by Spotlight on Corruption. There are some areas that they do not agree with for a variety of reasons, which we can discuss, but in most



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cases it did agree with them. I think that Spotlight on Corruption was absolutely right to say that its published policy was old. The practice might not have been but its published policy was, so there is now work going on to get an updated one out into the public domain. You have to thank organisations such as Spotlight on Corruption for that activity.

In terms of robustness, like any due diligence, first of all you get your information, and it gets its information from potential clients, and it is usually through a form. Based on those responses and whether there are any red flags identified, it then does a proportional and maybe an accelerated due diligence process. The more issues it finds, the more it will have to go digging. In that sense, we have had at least one case where we could see post fact that the degree of investigation, the degree of concern that was demonstrated, showed that it did have these issues at heart but, like anything, it can improve. I think that it will be updating some of its policies and procedures, more training, and, as I said, it will be effectively doubling in size its internal resources.

Yes, I think that we can have confidence that it has systems in place, but it is a target that we must not be complacent about.

**Q93** **Martin Vickers:** Dr Hawley, Spotlight on Corruption has identified 11 of the 20 countries that the UK has identified as areas for export growth as being potential areas for bribery and corruption. What can UKEF do to mitigate that?

**Dr Hawley:** It is really great to hear from Alistair that UKEF will be doubling its staff devoted to tackling bribery and corruption. That was something that we did not know about, so we are delighted to hear that.

In terms of UKEF mitigating the risks, it is not just about the countries it operates in but also the kinds of companies it supports. Our report also found that seven out of 11 companies that it was supporting in recent transactions in Africa were UK subsidiaries of foreign companies, primarily European, which had very little economic activity in the UK. Several of them were involved in very serious major corruption scandals back at home relating to bribes paid abroad. I just wanted to flag that—that we are not just concerned about the countries where it is operating, but also the kinds of companies that are being supported in some instances.

We have some concerns around how UKEF does manage its procedures. If I could just go through those, it is great that, as Alistair Clark said, it has new financial procedures, which went online just a few days ago. This was a result of a comprehensive review back in 2018, so it has taken nearly three years to get that in the public domain. I should say that that is the first set of procedures where UKEF has not done a public consultation. I have been involved in every single consultation going back to 2004 of UKEF's anticorruption procedures, so I did notice that no one was being consulted on these procedures. We do welcome that they are working hard to improve them.



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How it manages risk relates to how these procedures operate. One of the problems is UKEF's remit, which has not changed since 2004. We are in a situation where UKEF is supporting companies that are required under the Bribery Act to ensure that they have procedures in place to prevent corruption or bribery taking place, but UKEF has no similar mandate to prevent corruption. In fact, its remit is to ensure that no viable export would fail. The new procedures do commit it to deterring corruption and taking reasonable precautions to avoid loss, but we would like it first of all to have a stronger remit.

We have ongoing concerns about where companies have given an anticorruption declaration to UKEF—a warranty, in effect—saying, "We have not paid a bribe. None of our agents or suppliers has paid a bribe." We have seen that there is no penalty for breaking that warranty. UKEF will only take action if it suffers a loss, and in many of these instances there is not a loss. We have real questions about how robust those warranties really are and we would like UKEF to look at whether it raises premiums for companies that breach these warranties or suspends them from cover for a while. Otherwise these warranties are, frankly, really just paper tigers.

We also have concerns that UKEF continues to give support to companies that are facing active criminal investigation for bribery. There are two companies at the moment that UKEF is providing support to that are under investigation by the Serious Fraud Office. We are concerned at the message this sends to business, that this does not matter, it is business as usual. We understand the principle that everyone is innocent until proven guilty, but we think that there need to be some strict requirements in place, if they are going to support companies that are under investigation for corruption, that they are co-operating with law enforcement and that they really are getting their house in order. Some might prefer UKEF to go further and say, "We will suspend this until this has been cleared up." I am suggesting that there are various routes for dealing with that, but it has to be dealt with.

A final few things: a third of applicants to UKEF still do not have anticorruption codes of conduct that are being supported. We would question whether UKEF should ever support a company that does not have a code of conduct. We do think that there are some real transparency issues about how these procedures are being implemented. It is really hard for us or the public to work out how effective these procedures are without greater transparency. We do not really know how many high-risk applications UKEF has ever turned down. Figures provided to the OECD a couple of years ago said that it had never turned down an application on the basis of concerns about corruption. We do not know the exact number of suspicions it refers to law enforcement. UKEF says that it will only give a range between one and 10. There is a huge difference between one and 10 allegations a year. I know that this is on the advice of the SFO, but it does not give us very much to go on about



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how effective these procedures are and how much corruption they are actually coming across in the course of their due diligence.

We are very pleased that UKEF has committed to provide more information in its annual reports about how its anticorruption procedures are working. We would like to see it publish its contracts. It is engaged in a couple of financial crime consultancy contracts and got outside people to come in and advise it, and these contracts have still not been [*inaudible*] UKEF.

We would also like to flag—maybe Alistair Clark can help us here—that the EGAC minutes are published very late. The last public ones on record were from July 2019. Given that these contain EGAC—which is the oversight body of UKEF—recommendations on bribery, we are coming up to two years from when the last minutes were published. We would like to see those published much more promptly.

Q94 **Martin Vickers:** I see that Dr Clark is indicating, but may I just come back to you? Would it be a fair summary to say that, despite all the reservations that you have outlined, involvement of UKEF will inevitably, because of the processes it already employs, be more open and transparent than if it was not involved and, therefore, some of the countries where projects are going ahead would perhaps turn to other countries with a less robust process? Is there a balance to be struck?

**Dr Hawley:** Is that to me or to Alistair Clark?

**Martin Vickers:** Sorry, yes, as a follow-up question to what you were saying.

**Dr Hawley:** We are talking about a range of different other agencies. If we look at other agencies belonging to allies, if we look at EXIM in the US or EDC in Canada, their procedures do look a bit more robust, I am afraid, than UKEF's. We would like UKEF to look at how it benchmarks our procedures against allies like that.

Just to give you an example, EXIM robustly prosecutes any fraud against it. It did 44 prosecutions between 2012 and 2017. It has a new antifraud policy, which has been audited by the Government Accountability Office. EDC in Canada got its fingers very badly burnt by lending money to a project where the Guptas in South Africa bought a jet and they lent money to the company that was providing the jet. It has cleaned up its act on corruption. It has a lot more very clear information on its website about what it expects, and it says it has zero tolerance for corruption, including suspicions of corruption. There is that end where I think that UKEF could compare itself and work out how to do better.

Obviously, if we are looking at India and China, the export credit agencies of countries like that, that is part of multilateral work going on at the OECD. We appreciate that that is a problem, but if the UK gets its act together with its allies, I think they can really encourage those people to come into forums like the OECD Working Group on Bribery and the



Export Credits Group and be surveyed on their procedures. It is also worth flagging that in instances where UKEF engages in memorandums of understanding with some of these export credit agencies, which it does for refinancing, it could also introduce anticorruption elements into those MOUs to raise standards across ECAs globally.

Q95 **Martin Vickers:** Dr Clark, you wanted to come back?

**Dr Clark:** Just on a couple of points. I take Sue's point about the minutes. In fact, the latest EGAC minutes are on my computer right at the moment to approve, so that is a good point and I will follow up on that one.

**Chair:** We are holding you back.

**Dr Clark:** Yes, I have been told off now and I need to do that. When there is an incidence of corruption that is proven, then absolutely UK Export Finance can withdraw support at that stage. In terms of companies under investigation, yes, they are innocent until proven guilty. That remains the case, but there are some cases that we have asked them to investigate further about the possibility of not necessarily increased premiums if they are under investigation, but at least the fact is that the due diligence ramps up and the costs ramp up if there are issues. The more they go digging, the more they have to employ lawyers and so on, so the costs can be quite considerable. There is certainly a plan to perhaps recharge those costs of due diligence to applicants.

In the Spotlight on Corruption report that Sue has summarised, there are a number of cases where UK Export Finance does agree and there are those cases where it partially agrees and there are those that it cannot agree. Those ones that it cannot agree are usually because of those statutory requirements. It is a moving area. I do not think it is acceptable these days to ignore good comments or criticisms and to be complacent about these issues. Certainly, one of the features under the council that I run is to bring on sufficient expertise either on corporate governance or on business and human rights or anti bribery and corruption to ensure that we can provide sufficient challenge to UK Export Finance so that it can be best in class in all areas and in this one in particular where we want to keep pushing that envelope. Stakeholder engagement, as I said at the beginning, is the most important thing here.

Q96 **Martin Vickers:** Professor Klasen, we have heard from Dr Hawley that some other ECAs have more robust procedures. I think she mentioned Canada as one. Is it fair to say that other agencies do have a mandate to prevent bribery in their transactions—a specific mandate?

**Professor Klasen:** First, I think that we have to say that bribery and corruption have become fundamental issues for many ECAs, so I totally agree with Sue and also with Alistair. Many agencies really understand that corruption is a global phenomenon and it is obstructing development. Sue mentioned, of course, EDC and US EXIM as very



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strong institutions. I totally agree with that; they are very strong. US EXIM has a very robust framework, EDC now as well.

I have to say that in the benchmarking research studies we do, interviews confirm that UK Export Finance also significantly contributed not only in the four-year process regarding the new 2019 guidelines but also regarding a better approach, carrying out rigorous ongoing due diligence on all supported transactions regarding antibribery and anticorruption. That is what I hear when we speak to other ECAs and other Governments globally.

It might be true—I am not really an expert on the processes of UK Export Finance, I have to say, but what I know is that this is a trend. The Danish ECA, Germany, for example, and the Norwegians push the topic. Let's use an example of Germany. Fighting bribery, fighting corruption, compliance, and dealing with sanctions are issues of great importance. It is not only that Germany already implemented new KYC and AML procedures eight years ago. It is also that there are in-depth examinations of individual cases performed on a regular basis in addition to the standard requirements, what we see just as an exporter declaration. This is reflected in the assessment regarding the transactions but also, of course, if cover has been granted what the legal consequence is.

The same applies from organisations' perspectives. More and more ECAs like UK Export Finance create this separate legal compliance department with overall frameworks with transaction-related issues. I won't say, to be honest, that others are very advanced with regard to the prevention or more like the role of a public prosecutor. That is what we hear all the time but they say, "That is not our role." That is something I cannot judge regarding the UK. What I hear is that, for example, the US clearly says, "As we are working closely together with the US Government system, we are an integral part of the US Government system so we are sending suspected cases to the Department of Justice on a regular basis." It is definitely a trend. I would not feel comfortable to rank UK Export Finance with regard to others.

**Martin Vickers:** Very good; thank you.

Q97 **Lloyd Russell-Moyle:** Dr Clark and Dr Hawley, last year Airbus, of course, was fined £3.6 billion in penalties for bribery following an internal investigation, which began after UKEF alerted the SFO about concerns in 2016. What are the main lessons that UKEF and the Government should take from this?

Sue, you mentioned earlier on about maybe looking at risk. Is there an argument that some aviation and arms is particularly risky and maybe should have that built into any potential export financing? We know that there is the ongoing Leonardo case, of course, of bribery. We know that there are bribery cases around aviation and arms in India. We know that there was the BAE scandal. It is a long-running area where the industry is



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liable for corruption and bribery. Should that be recognised?

Shall we go to Sue, because I mentioned specifically what you said earlier on, and then we will go to Alistair?

**Dr Hawley:** That is a very good question and I will look forward to hearing Alistair's response on that.

Coming to your question about lessons from it, on the one hand it showed that UKEF is getting better at picking these kinds of problems up. It was UKEF's questioning of Airbus about whether the agent it was using in Sri Lanka was the right person that helped start off the whole process that led to the investigation. I think it is really important to recognise that. We do have concerns that it took UKEF a long time. It took them over a year—13 months—to relay what were very clear suspicions of Airbus lying and corruption to law enforcement. We think that there has to be learning from that. Those suspicions need to be forwarded quickly, not least so that you do not mess up the law enforcement investigation. That is why it has to go quickly to law enforcement.

The second thing was that we do not feel that UKEF was fully open about the amount of coverage that it had given on some of those transactions. We had to do quite a bit of our own digging, along with the media, in Airbus and Rolls-Royce. We found that there were £345 million-worth of corrupt transactions supported in the DPAs or the wrongdoing that was subject to the DPAs with Rolls-Royce and Airbus. It would have been much better if UKEF had been up front and said, "Look, we have done a full audit. Here is what we have done." It took us months to get UKEF to admit to which transactions were covered by that. That also is not ideal and we would like more forthcoming openness about that.

The final thing relates to what I said earlier about sanctions, which is that Airbus clearly did breach the anticorruption warranties that UKEF had asked it to sign here, but there was nothing in the DPA that reflected that it had essentially defrauded the UK Government by making these false declarations. We would like UKEF to be more aggressive, a little bit like I have mentioned about EXIM, that where people lie to it, it takes action. Otherwise it gives the impression that its relationship with these clients does not matter. We have to accept that the aerospace and defence companies have been their major, predominant clients for many years. We need to see more robust action from UKEF on that.

I think that the UKEF portfolio is changing and it is trying to get a lot more SMEs and support more SMEs. These companies in the defence and aerospace sector have been risky but they have also now all been subject to deferred prosecution agreements where they are meant to be getting their house in order and have compliance monitors reviewing their procedures. I would just like to say a very quick word about that. I say "meant to be" because we only know that because that is what people say. The reports of these compliance monitors are never put in the public domain, so we never actually have the public confirmation that these



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companies have changed their procedures. That is not just for UKEF; that is something for the SFO as well, but we think there does need to be more transparency to build public confidence that these companies have actually changed.

**Q98 Lloyd Russell-Moyle:** I would love the companies to improve their processes as well, but our focus here is on UKEF. Do you think that UKEF has learnt some of the lessons in terms of quicker reporting, or are those just desires that you wish UKEF to have learnt?

**Dr Hawley:** To be honest, it all comes down to the transparency point. Until we have greater transparency for UKEF it is not possible for us to know to what extent UKEF has learnt the lessons. We will see in the annual report this year if it is really reporting on how many transactions it has turned down because of corruption. I think that it is worth mentioning here that UKEF, in very constructive dialogue we have had with it, has said it cannot budge on this point about giving the range of allegations it refers to law enforcement. I would say that that is the one area where we would like to see action because other—

**Q99 Lloyd Russell-Moyle:** So it is saying that it cannot give numbers of how many it has referred to the authorities?

**Dr Hawley:** It could only say whether it is zero or one to 10, or 10-plus, I presume. That is our understanding, Alistair.

**Dr Clark:** That is correct and I think that that is under the recommendation of the SFO. It is under guidance itself about what it can report on.

Picking up from what Sue was saying, the Airbus scandal is slightly outside of EGAC. This was occurring under a legal process so it was not anything that EGAC was advising on, but we were informed of it. If you go through this type of process, it is clearly going to have some lessons learnt in terms of the amount of effort, the amount of time, the management time it took. It was not the French export credit agency, it was not the German export credit agency; it was UKEF that raised it with the authorities first.

**Q100 Lloyd Russell-Moyle:** So there is an example there that maybe we were already leading the way?

**Dr Clark:** In terms of this transaction, that is for sure. From what I have read, I think that the judge involved in the DPA settlement has congratulated the approach of UK Export Finance to come out with the documentation. I cannot really comment on the timing of it because, like any of these processes, you want to make sure you have all your ducks in a row. Maybe that is something to do with it, but I really am not knowledgeable about the particular circumstances. I agree that in the general process these things should go as quickly as possible. They should not drag on. It is not fair for clients, it is not fair for UK Export Finance or UK taxpayers. These things should go as quickly as possible.



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Going back to lessons learnt, I would not say there was a need for a huge culture change, but I think that it was really reinforced that all staff have been trained very much on anti bribery and corruption practices. There are whole new training programmes, new internal policies and procedures, a relationship with SFO that was not there before, and maybe less of a reluctance to go to SFO, probably a more proactive approach. These are cultural things. I think that it has also provided training to staff about when to raise these issues with the SFO. Hopefully, that will give some people more confidence that when these issues come to the fore they are treated quickly, expediently and fairly, not just on allegations but with some hard evidence.

Going back to Sue's comment about transparency and the range, it is a very hard question to say why we have turned down support, why we are not financing a particular project. I know this from my other hat. Quite often things will occur informally. Effectively, you just do not like the smell of it, so there is nothing really processed at all. Does that constitute turning them down? Well, it does in a way but you are not going to document it as such. The data itself you need to understand.

Q101 **Lloyd Russell-Moyle:** How would you document that, then?

**Dr Clark:** You don't. Somebody comes to you and says, "I would like to put in a submission" and you do a little bit of skirting around in terms of the country and the sector and you say, "This is going to cause us some issues"—

**Lloyd Russell-Moyle:** The person goes away?

**Dr Clark:** The person goes away.

Q102 **Lloyd Russell-Moyle:** Should that not be recorded somewhere as initial enquiries or something like that, or would that not work?

**Dr Clark:** It could be, and maybe that is something that we can investigate a bit better, but it is a really hard thing that organisations would be happy to even say that they had approached and were edged away. I am not sure whether the other side would be particularly comfortable with that.

Q103 **Lloyd Russell-Moyle:** I do not think that anyone is suggesting you say, "This company has—". I think it is about a recording mechanism where you say, "There were 50 approaches. Out of those approaches, 10 came to fruition of actual grants that we gave, five went away but resubmitted with different submissions, and the rest we never had follow-ups". You would have imagined that within an organisation they would want to monitor to see how successful enquiry to finance is generally, in terms of statistics, not individuals.

**Dr Clark:** I guess there is a parallel in other areas as well, in that if you have accidents you record accidents but you now would want to also record near misses, where it wasn't an accident but it was a near miss. I



would say that is tricky data; you should not over-interpret it. Maybe that is something that we can investigate with UK Export Finance.

**Lloyd Russell-Moyle:** Thank you very much. I really appreciate that.

Q104 **Mick Whitley:** Good afternoon. This question is to Dr Sue Hawley and Professor Klasen. How can UKEF balance its role as a lender of last resort, particularly for projects in countries and sectors that are less attractive to commercial providers, with its commitments to environmental, social and human rights? Sue, do you want to take that first?

**Dr Hawley:** You have saved the hardest question until last. I think that is a really important question. The way that we see it is that UKEF is also a Government Department; it is not just any old lender of last resort, and it does need to uphold those commitments. It needs to make sure that the way it behaves does not undermine other Government work and other Government commitments. So we think it is really important that UKEF is not just looking at bribery and a very limited role around bribery, but making sure that the projects it supports are not undermining the sustainable development goals, particularly No. 16, which is about building accountable institutions. It is not just about whether you support a company that pays bribes, it is whether you are supporting projects that are riven with corruption and are undermining good governance in those countries.

The Foreign Secretary has just announced a brand-new corruption sanctions regime. It would be very unfortunate if UKEF was then supporting projects which actually exacerbate corruption because it would conflict with overall Government policy. That is how we would see it: that it cannot let its role as lender of last resort be something that means it does not support and does not complement broader Government policy in these areas.

**Professor Klasen:** I will just add a couple of other comments. I agree with Sue that it is a very important question, a tricky one. ECAs such as UK Export Finance play a really important role. It is their mandate to foster economic impact and their core role is to create and safeguard existing jobs. What their role is—they finance, they insure—translates into volumes of supported exports and that is exactly what we need in times of crisis. The mandate, someone said, is to ensure that no viable UK export fails because of a lack of finance or insurance, and that is the main role.

On the other hand, what we have discussed before is that environmental, social, human rights and governance issues are major aspects now. They are major aspects of UK Export Finance but also other ECAs' underwriting decisions. You have a lot of international rules and regulations and they must be met. If I think about the reality and the strategic perspective for the last two to four years, our research results show that until 2017 or 2018, SDGs and environmental aspects were less important for many



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ECAs, with some exceptions like EDC in Canada or maybe EKF in Denmark, and that really changed.

The main challenge for UK Export Finance and other ECAs, from my point of view, is that the policymakers have to give guidance with regard to the direction and the ECAs' clearly defined mandates. What is the right balance between the promotion of exports—because that is the role of an ECA; it is not a development finance institution, it is an export promotion institution—and other policy objectives, particularly environmental, social and human rights aspects? It is a very fine line: no compromise regarding international commitments on ESHR but a need for a forward-looking model aligning export promotion and sustainable development goals. That is, from my point of view, the clear task for the next three or four years on strategic development.

**Chair:** Anthony Mangnall is next, although he is briefly away from his monitor, I am sure.

**Martin Vickers:** I think he has gone to vote, Angus.

Q105 **Chair:** Okay; thanks for that, Martin. We knew there would be something obvious that would have happened there.

Picking up from where I think Anthony was roughly going to go, do you think that UKEF is sufficiently responsive to changing environmental, social and human rights guidance and, of course, bribery and corruption? Does it react to when it is happening or does it just leave it be and try to muddle through?

**Dr Clark:** I am just going to answer the previous question that Mick Whitley asked. For once I am in total agreement with Sue and Andreas. I have been through three crises in my life. I have been through 2008, I have been through the Arab Spring, and I now am going through Covid. In each of those there has been a certain amount of pressure from project sponsors and various people saying, "Isn't this now the time to stop standards so that we can pump money into the system?" I have been gratified to work with organisations, including UK Export Finance, that in each of those circumstances said, "Absolutely not. We stand for standards." I think that is a really important thing. I do not think there should be any compromise dependent on country or crisis. That is what we stand for.

Going back to your question, my personal view—and I work with a number of export credit agencies and there are different strengths and weaknesses in each of them—is that the two that have been mentioned, EDC and US EXIM, are very strong export credit agencies. There is a leading pack of export credit agencies and UKEF is right there in that pack. To an extent it is leading in a number of different circumstances. I mentioned the issue on gender. It has also come on board on TCFD so it will be, I think, the second Government Department to report on TCFD. As I think a previous witness said, in its annual report you will see the



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first TCFD report. That is really important. That shows how it is taking climate risk and climate change into its activities.

One of the roles of EGAC is to be that critical friend—to say, “Here are some issues, here are some new issues you may not have thought of.” For instance, SDGs. UK Export Finance has no particular statute that relates to SDGs, but we see that this is becoming the language of investment for the future: how does a project influence an SDG? What I can say is that under my chairmanship I think that Louis Taylor deserves a lot of credit for being willing to accept the challenge. We have members on the committee who are challenging and it is not a rubber-stamping type of organisation. I think that that is part of our role—to futureproof UK Export Finance going forward.

Q106 **Chair:** Thank you. We are hoping to see Louis Taylor at some point in the future hearings. Sue Hawley, what is your own view?

**Dr Hawley:** Sorry, would you remind me of the question?

**Chair:** Is UKEF sufficiently responsive, do you think, to the environmental, social and human rights guidance, including bribery and corruption?

**Dr Hawley:** I welcome what Alistair said about better engagement with stakeholders and civil society. I think that is the one area it could improve. If it had regular meetings with civil society organisations from across those different areas—environment, bribery, corruption and slavery—that would be a huge step forward and would help it be more responsive. I think that it does need to be more responsive in terms of transparency as well. As I said earlier, it is hard for us to tell sometimes how responsive it is when it is very hard to get information out of the agency and when it is quite behind on some of its transparency requirements.

We are generally seeing progress and we think it is really good that it is taking financial crime seriously and is increasing the staff. We just need to know more, so that we can assess whether it is working.

**Chair:** Thank you for that. I thank all three witnesses. Apologies to my colleague Anthony Mangnall. I did not realise he was off to vote. He is trying to do two jobs at once and multitasking is never easy for the best of us. I thank Dr Alistair Clark, Dr Susan Hawley and Professor Andreas Klasen for their time today. It is a very interesting area. It was a great joy, I must say, to have a GlobalScot with us on the session this afternoon. It is something for everybody else to aspire to. Anyway, on that happy note from the sunny Hebrides, I wish you all well and we will see you again, I hope, someday, no doubt.