

Declaration on Combating Bribery in respect of Business Transactions covered by Federal Export Credit Guarantees

- Annex to the Application for the Granting of an Export Credit Guarantee -

- Information on the export transaction** German exporter ***
Foreign buyer ***
If applicable, financing bank ***
Goods to be supplied/
Services to be rendered ***
- Compliance with legal regulations** We declare that in entering into the export contract/loan agreement* **no** activity that would constitute a criminal offence has been or will be performed by one of our employees or any other person acting on our behalf.
- Duty of disclosure** We acknowledge that we are under the obligation to provide the Federal Government with complete and accurate information about all particulars of the transaction, in respect of which we are applying for cover, which are material to the granting of the Export Credit Guarantee both during the application procedure and following the issuance of the Export Credit Guarantee, and pursuant to the undertaking that we, as exporter, have to give if an Export Credit Guarantee for a tied buyer credit is applied for. This includes answering any questions of the Federal Government in respect of the identity of any persons acting on our behalf in connection with the transaction of the export contract (or loan agreement), as well as questions as to the basis for and the amount of any payments made to such persons.
- Details of criminal charges as well as criminal and non-criminal sanctions in connection with bribery** Employees of our company or other persons involved in entering into this export transaction and acting on our behalf or our company itself
- is/are currently subject to prosecution, or has/have been convicted within the past five years, for corruption in a state court or
 - has/have had non-criminal sanctions for corruption which are comparable to a sentence imposed on them within the past 5 years.
- True (Further particulars are required!
Please also read the explanations and notes on the following page.)
- Not true

We gave the above particulars to the best of our knowledge and belief and after reading the “explanations and notes”.

Place and Date

DN number (if known)

Signature/Stamp

*Please delete words not applicable

Explanations and notes

All references to specific legal provisions contained in this text relate to the German legal system. The duty of disclosure of companies domiciled abroad is governed by the pertinent provisions in the applicable law.

1. Compliance with legal regulations

The Federal Government will not grant any export credit cover for export transactions or loan agreements the conclusion of which involved criminal acts. Therefore the applicant is under the obligation to confirm in the course of the application proceedings that in entering into the transaction in respect of which cover is applied for no activity that constitutes a criminal offence, in particular bribery, has been performed. Should this statement later prove to be untrue, the Federal Government can plead non-liability pursuant to the General Conditions. The general rule is that untrue or incomplete information submitted together with the application for cover - including the answers to the questions in this annex to the application - can result in the Federal Government's release from liability pursuant to the General Conditions.

As regards revolving export credit guarantees, the Federal Government will, on the basis of the relevant provisions in the guarantee, be released from its liability even after granting an export credit guarantee if the conclusion of an export contract involved a criminal act.

2. Criminal liability for bribery of foreign public officials or company employees

Under German law it is an offence too, to bribe foreign public officials or employees of a company: Any acts of bribery committed for the purpose of gaining or securing an order or inequitable advantage in international business for the offender or a third person are deemed to be a criminal offence if the person bribed is a public official of a foreign state or a person who is, on behalf of a foreign state's authority, a public company domiciled abroad or in any other way, in charge of public functions on behalf of a foreign state (Section 334 of the German Criminal Code in conjunction with Article 2 IntBestG (Law against International Bribery)). Any person who offers, promises or grants an advantage to an employee or agent of a company as consideration for unfair preferential treatment of himself or any other person when procuring goods or services is also committing a criminal offence. That also applies to bribery in connection with foreign competition (Section 299, paragraphs 2 and 3, of the German Criminal Code).

3. Information on criminal proceedings and non-criminal sanctions

On the basis of the guidelines applicable within the OECD (*OECD Council Recommendation on Bribery and Officially Supported Export Credits; 2006*) certain information on criminal proceedings for bribery, which could point to misconduct in the past, has to be provided during the application procedure. Should there be any indication of corruption or bribery, the export credit insurers are obliged to check applications for cover and indemnification in detail (*enhanced due diligence*). In the course of the application procedure information on whether *the company itself* was sentenced or prosecuted for bribery or any *other* (non-criminal) *sanctions* were imposed on it, any of its employees or agents acting on its behalf has to be provided. Under German Law there exist the following non-criminal sanctions:

a) Fixing of a fine under the Regulatory Offences Act

Pursuant to Section 30 of OWiG (German Regulatory Offences Act) a company can be held responsible for a criminal offence committed by one of its managers if any obligations of the company were thereby violated or the company gained an inequitable advantage or obtaining such an advantage for the company was intended. In this context fines of up to EUR 1 million can be fixed. In order to absorb any economic benefits gained as result of the offence, this amount may be exceeded (Section 30 paragraph 2 in conjunction with Section 17 paragraphs 1 and 4 of OWiG). Besides, companies can be held responsible for their managements' failure to take the required and reasonable control measures to prevent breaches of obligations by staff members (Section 130 in conjunction with Section 30 of OWiG).

b) Withdrawal of prosecution subject to conditions or directions

Pending criminal proceedings can be suspended pursuant to Section 153a of the Code of Criminal Procedure and/or the charge can be dropped if the public interest in the prosecution can be satisfied by imposing suitable conditions or directions (e.g. payment of money to the treasury).

4. Information on the charges, sanctions etc.

If you have ticked the box **true** at the end of the question regarding criminal charges and sanctions in the declaration, further details on the background have to be provided. Please note in this context that it is not necessary to pass on personal data which deserve protection.

5. In-depth investigation

In the course of the application and/or the indemnification proceedings the Federal Government will conduct an in-depth investigation if there are either grounds to suppose that bribery was involved in the transaction in question or general facts suggesting that there have been corrupt activities at the applicant/policyholder (ban imposed by an international finance organisation; charge, conviction etc.).

If you, as applicant, marked the statement on charges and criminal and non-criminal sanctions as **true**, the Federal Government is bound by the provisions of the *OECD Recommendation on Bribery* to check the application in detail (*enhanced due diligence*). In such a case you should describe the background of the charge/sanctions. In addition to that a detailed description of your in-house procedures to prevent corrupt activities is required and also further details on the transaction in respect of which cover is applied for, e.g. on representatives/agents and commissions/brokerage.

6. Declaration to the best of your knowledge and belief

The Federal Government assumes that all information in the annex "Combating Bribery" was provided "to the best of our knowledge and belief". It is taken for granted that all necessary investigations were made with the due diligence of a prudent businessman or banker and all means that are practical and can be implemented with reasonable expense have been exhausted within the scope of the law applicable to the company applying for cover. The information on charges brought against and sanctions imposed on employees or any persons acting on behalf of the company refers to information on charges and sanctions in connection with activities on behalf of the company applying for cover. Here information is required which is normally known to a company without making any specific investigations. If, later, notifiable facts are ascertained which were, however, neither known nor should have been known to the company applying for cover, this will not result in any negative consequences for an export credit guarantee granted.