

EXPORT CREDIT GUARANTEES OF THE
FEDERAL REPUBLIC OF GERMANY► **Hermes Cover**

**ANTI-CORRUPTION DECLARATION IN RESPECT OF BUSINESS TRANSACTIONS
COVERED BY
FEDERAL EXPORT CREDIT GUARANTEES**

Attachment for exporters

Attachment to the application for an Export Credit Guarantee dated _____ (exporter's application)
 _____ (bank's application)
 (if known)

Details of the transaction

German exporter	xxx
Affiliated company/distributor:	xxx
Buyer/customer:	xxx
Financing bank if applicable	xxx
Description of the supplies/services:	xxx
Exporter's order number:	xxx

1. Compliance with legal regulations

We confirm that the **conclusion of the supply/service contract** has not been brought about by a criminal offence committed by one of our employees, a member of the management or an owner of our company or any other person acting on our behalf and will not be brought about by such an offence.

2. Agents, intermediaries or other persons acting on our behalf

As far as agents, intermediaries or other persons acting on our behalf in connection with the transaction are or were involved in the contract negotiations and/or the conclusion of the supply/service contract, we confirm that commissions and fees paid, or agreed to be paid, or any other payments are, or will be, for legitimate services only.

3. Duty of disclosure

We are aware that we must provide the Federal Government with complete and accurate information regarding all particulars of the supply/service contract that are material to the granting of the Export Credit Guarantee, both during the application procedure and following the issuance of the Export Credit Guarantee as well as pursuant to the Letter of Undertaking, which has to be signed in the event that buyer credit cover is applied for. This also includes answering any questions from the Federal Government in respect of any persons acting on our behalf in connection with the conclusion of the supply/service contract, questions regarding the initiation of the supply/service contract and questions concerning our internal Compliance Management System.

4. Details of criminal charges, (criminal) investigations, sentences, official measures as well as arbitral awards and debarment lists

- (a) Employees, members of the management or owners of our company (irrespective of whether they are involved in the conclusion of this contract or the contract negotiations or not) or
 - (b) other persons involved in the conclusion of the this contract and acting on our behalf or
 - (c) our company itself
- are/is currently accused of a breach of anti-corruption provisions applicable or subject to criminal investigations by the public prosecution office,
 - have/has been convicted by a court for a breach of anti-corruption provisions within the past five years prior to the application, penalised with a comparable official measure or found guilty of having committed an act of bribery by a public arbitration ruling or
 - are/is currently on a debarment list of a multilateral financial institution.

Applies (Further details required! Please also read the explanatory notes on the following page.)

Does not apply

5. In the case of buyer credit cover

Our **Letter of Undertaking**

is enclosed

will be submitted later

6. Consortia and joint ventures

In the case that a consortium or a joint venture is concerned, the declaration is to be issued by the leader for all members of the consortium or by one partner of the joint venture on behalf of all other partners.

7. We provided the above information to the best of our knowledge and belief and noting the “explanatory notes”.

Declaring company: xxx_____

Name: xxx_____

Position: xxx_____

xxx_____

Place and Date

xxx_____

Personal number (DN)

xxx_____

Signature/company seal

EXPLANATORY NOTES

The anti-corruption measures in connection with the granting of an export credit guarantee are based on the provisions of international conventions, especially the OECD Recommendation on Bribery and Officially Supported Export Credits. The declaration on compliance with legal regulations and the information on criminal charges, (criminal) investigations, sentences, official measures as well as arbitral awards are governed by the **relevant applicable law**. Any untrue statements made in this anti-corruption declaration relating to the involvement in or knowledge of a criminal offence in connection with the supply/service contract may result in a release from liability and/or recourse claims of the Federal Government. In connection with Revolving Supplier Credit Guarantees, the Federal Government is, on the basis of the relevant provisions in the Guarantee, also released from its liability if the conclusion of a supply/service contract, which is entered into after the Export Credit Guarantee has been granted, involved a criminal act.

1. Compliance with legal regulations

The Federal Government will not grant export credit cover for any supply/service contracts or loan agreements the conclusion of which involved criminal offences. Therefore, the declaring company is under the obligation to confirm in the course of the application procedure that the supply/service contract was not brought about by a criminal offence, in particular corruption.

Among other things, bribery and corruption of public officials are punishable offences (Sections 334 and 332 of the German Criminal Code). The same applies in the case of foreign and international officials of a foreign state or a person who is entrusted with fulfilling public functions on behalf of a foreign state as these have the same status as a German official under German penal law (Section 335a, paragraph 1 of the German Criminal Code). Besides, criminal responsibility may result from bribery and/or corruption in connection with business transactions (Section 299 paragraphs 1 and 2 of the German Criminal Code).

2. Information on criminal charges, (criminal) investigations, sentences, official measures as well as arbitral awards

As part of the application procedure, certain information on criminal charges and criminal investigations in connection with corruption allegations has to be provided. This includes also information on criminal and non-criminal decisions and criminal investigations by foreign courts, authorities or institutions that are statutorily entrusted with the investigation and sanctioning of corrupt practices in business and in dealings with public officials. Please note in this context that it is not necessary to pass on personal data. In the event that you ticked the box "true" in this declaration, further details on the background must be provided.

If there is any indication of corruption-related circumstances, the Federal Government will perform an enhanced due diligence in connection with applications for cover and indemnification. In the course of the application procedure information on whether the company itself was sentenced or charged with corruption offences or any other (non-criminal) sanctions were imposed on it, any of its employees, members of its management, its owners or any agents acting on its behalf has to be provided. In addition, it must be reported whether preliminary investigations because of corruption offences initiated by the public prosecution against any of the above-mentioned legal persons are known. Under German law, the following non-criminal sanctions exist:

a) Imposition of a fine under the German Act on Regulatory Offences (OWiG)

Pursuant to Section 30 of the OWiG (*fine imposed on legal persons and associations of persons*) a company can be held responsible for a criminal offence committed by one of its executives if any of the company's obligations were thereby violated or the company gained a benefit or obtaining such a benefit for the company was intended. Besides, companies can be held responsible for their managements' failure to take the required and reasonable control measures to prevent breaches of obligations by employees (Section 130 in conjunction with Section 30 of OWiG).

b) Dismissal of criminal proceedings against the imposition of conditions or instructions

Pending criminal proceedings may be dismissed pursuant to Section 153a of the German Code of Criminal Procedure and/or the charge may be dropped if the public interest in the prosecution can be satisfied by imposing appropriate obligations or instructions (e.g. payment of a certain sum of money to the treasury).

3. Information on debarment lists

With regard to information on debarments by multilateral financial institutions, the following organisations have to be taken into account: World Bank Group, African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development and Inter-American Development Bank.

4. Declaration to the best of your knowledge and belief

The Federal Government assumes that all information in the attachment “Anti-Corruption Declaration” was provided to the best of your knowledge and belief. It is taken for granted that all necessary investigations were made with the due diligence of a prudent businessman (“*Sorgfalt eines ordentlichen Kaufmannes*”) or banker (“*bankübliche Sorgfalt*”) – as applicable – 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 declaring company. The information on criminal charges, (criminal) investigations, sentences, official measures as well as arbitral awards against employees, members of the management or owners of the declaring company or any persons acting on behalf of the company refers to relevant information in connection with activities of such persons on behalf of the declaring company. Here, information is required which is normally known to the declaring company without making any specific investigations. If, later, notifiable facts are ascertained which were, however, neither known nor should have been known to the declaring company, this will not result in any negative consequences for an Export Credit Guarantee granted.