

**TRADE AND AGRICULTURE DIRECTORATE
TRADE COMMITTEE****Working Party on Export Credits and Credit Guarantees****EXPORT CREDITS AND BRIBERY****2017 REVIEW OF RESPONSES TO THE SURVEY ON MEASURES TAKEN TO
COMBAT BRIBERY IN OFFICIALLY SUPPORTED EXPORT CREDITS**

This document comprises the 2017 Review of Responses to the Survey on Measures Taken to Combat Bribery in Officially Supported Export Credits in the context of reviewing implementation of the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits [TD/ECG(2006)24], adopted in 2006: responses have been received from both Members and non-Members that have adhered to the Recommendation.

With the agreement of the Adherents to the Recommendation, this Review has been declassified and made publicly available on the OECD website, together with their final Survey responses.

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JT03438181

EXECUTIVE SUMMARY

This document comprises the 2017 Review of Responses to the *Survey on Measures Taken to Combat Bribery in Officially Supported Export Credits* which seeks information on implementation of the *OECD Recommendation of the Council on Bribery and Officially Supported Export Credits*, adopted in 2006: responses have been received from both Members and non-Members that have adhered to the Recommendation.

Members of the OECD Working Party on Export Credits and Credit Guarantees (ECG) initially responded to this Survey in 2008 (or, for new Members, upon their accession to the ECG) and non-Members have responded to the Survey upon their adherence to the Recommendation. Since then, Adherents are invited to provide updated or clarified responses when changes occur within their export credits systems that impact their implementation of the Recommendation or when they have new experiences with bribery to report. Accordingly, this Survey is maintained on an on-going basis: Adherents are invited to provide updates of their responses to the Survey if and when they change their anti-bribery measures or have new experiences of bribery to report; in addition, Adherents are invited to review their responses on an annual basis to ensure that they accurately reflect their current policies, practices and experiences.

In this context, since the last Review was issued on 31 October 2017, updated responses have been received from Australia (EFIC), Brazil (ABGF and BNDES), Canada (EDC), the Czech Republic (CEB), Denmark, Hungary (Eximbank and MEHIB), Israel (ASHRA), Japan (JBIC), Latvia, Norway (Export Credit Norway), Russian Federation (EXIAR, EXIMBANK and VEB) and the United Kingdom (UKEF).

The analysis in this Review aims to illustrate how well Adherents are following the undertakings in the Recommendation and to inform their further work in this area. This Review concludes that, as in previous years, the majority of ECG Members appear to fulfil their obligations under the Recommendation [*cf.* Chart 1]. Some of the non-Members would, however, require further developments to their anti-bribery measures in order to meet fully the obligations under the Recommendation. The information contained in this Review will help inform the Adherents in their current review and update of the 2006 Recommendation.

This Review also includes a Section on co-operation on anti-bribery issues within the OECD to promote policy coherence: in this context, the ECG liaises regularly with the OECD Working Group on Bribery in International Business Transactions with regard to country peer reviews pertaining to export credits conducted under the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* and co-operates on the OECD-wide initiative on CleanGovBiz, which was launched in 2011.

This Review has been reviewed by the Adherents and with their agreement, it has been declassified and made publicly available on the OECD website, together with the final Survey responses.

EXPORT CREDITS AND BRIBERY: 2017 REVIEW OF RESPONSES TO THE SURVEY ON MEASURES TAKEN TO COMBAT BRIBERY IN OFFICIALLY SUPPORTED EXPORT CREDITS

I. Introduction

1. This document comprises the 2017 Review of Responses to the 2006 version of the *Survey on Measures Taken to Combat Bribery in Officially Supported Export Credits* (hereafter the “Survey”) [[TD/ECG\(2006\)17/FINAL](#)] which seeks information on implementation of the *OECD Recommendation of the Council on Bribery and Officially Supported Export Credits* (hereafter the “Recommendation”) [[TD/ECG\(2006\)24](#)] adopted by the OECD Council in December 2006, received from Members and from non-Members that have adhered to the Recommendation (hereafter the “Adherents”). The previous comprehensive review [[TAD/ECG\(2017\)4/FINAL](#)] was issued on 31 October 2017.

2. This 2017 Review covers responses to the Survey received from the 32 Members of the OECD Working Party on Export Credits and Credit Guarantees (ECG) that have official export credit programmes¹ and also the responses to the Survey from three of the six non-Member Adherents [Brazil, Colombia, and the Russian Federation (hereafter “Russia”)], which have become Parties to the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (hereafter the “OECD Anti-Bribery Convention”) and adhered to the Recommendation².

3. As a result, this Review includes responses received from 45 Export Credit Agencies (ECAs), as follows:

- 26 Members and one non-Member (Colombia) provided responses in respect of their official export credit system as a whole (*i.e.* one response *per country*³);
- six Members provided separate Survey responses for each of their two official ECAs, *i.e.* the Czech Republic (CEB and EGAP), Hungary (Eximbank and MEHIB), Japan (JBIC and NEXI), Korea (KEXIM and K-sure), Norway [Export Credit Norway (ECNorway) and GIEK] and the United States [USEXIM and the United States Department of Agriculture (USDA⁴)]; and
- two non-Members provided separate Survey responses for their three ECAs *i.e.* Russia [Export Insurance Agency of Russia (EXIAR), EXIMBANK and VNESHECONOMBANK (VEB)] and

¹ Of the 35 Members of the OECD, as of end-June 2018, all but two countries (Chile and Iceland) are ECG Members; of the 33 ECG Members, Ireland is not expected to complete the Survey, as it has no official export credit programmes.

² Brazil, Colombia and Russia have official export credit programmes and have, therefore, completed the Survey. Costa Rica, Lithuania and Peru have also formally adhered to the Recommendation with effect from 12 September 2016, 3 February 2017 and 14 October 2016 respectively: Costa Rica, however, has already informed the ECG that it does not provide any officially supported export credits and is not, therefore, expected to participate in this monitoring process; Lithuania has informed the Secretariat that it has recently introduced a new short term export credits programme (in February 2018) and will respond to the Survey next year when it has developed its anti-bribery policies and processes; and Peru has yet to provide any information on its export credits programmes (if any) and related anti-bribery measures.

³ For example, the responses from Sweden are jointly provided for EKN and SEK.

⁴ USDA also provides official export credit support for agricultural products.

Brazil [Bank of Brazil (BB), Brazilian Development Bank (BNDES) and Brazilian Guarantee Agency (ABGF)].

4. ECG Members initially responded to this Survey in 2008 (or, for new Members, upon their accession to the ECG) and non-Members have responded to the Survey upon their adherence to the Recommendation). Since then, under the provisions of the ECG Peer Review [[TAD/ECG\(2008\)23](#)], Adherents are invited to ensure that their responses to the Survey are up-to-date on an on-going basis and at a minimum on an annual basis, to reflect any changes in their policies and practices or when they have new experiences with bribery to report. These responses then form the basis of annual reviews by the Secretariat concerning Adherents' implementation of the Recommendation, which are examined and discussed by all Adherents.

5. The up-to-date responses from Adherents are subsequently made publicly available on the OECD website to enable Civil Society Organisations (CSOs) to provide their comments on implementation of the Recommendation by Adherents; in this context, the responses (as at end-June 2018) were made publicly available on 10 July 2018.

6. The results of this Survey will help inform the Adherents in the current review and update the Recommendation, as well as inform the work of the OECD Working Group on Bribery in International Business Transactions in connection with its on-going peer reviews concerning implementation of the OECD Anti-Bribery Convention.

7. This Review comprises the following Sections:

- Section II: Situation for 2017 Review
- Section III: Survey responses
- Section IV: Comments from Civil Society Organisations (CSOs)
- Section V: ECG co-operation on anti-bribery issues within the OECD
- Section VI: Review of the Recommendation
- Section VII: Conclusions
- Section VIII: Next steps

II. Situation for 2017 Review

8. Since the last (2016) Review was issued in October 2017, revised responses, including updated comments or clarifications, reflecting updated anti bribery measures, have been received from:

- Australia (answers to Questions 1-2, 6-8, 13-14, 19 and 22);
- Brazil/ABGF (answers to Questions 1-14, 16, 19-20 and 22);
- Brazil/BNDES (answers to Questions 1-5, 7, 11-16, 19 and 22);
- Canada (answer to Question 19);
- Czech Republic/CEB (answers to Questions 6-7 and 22);
- Denmark (answers to Questions 16 and 22);
- Hungary/Eximbank (answers to Questions 1-4, 7, 9, 15 and 20);
- Hungary/MEHIB (answers to Questions 1-16 and 19);
- Israel (answers to Questions 2 and 4);

- Japan/JBIC (answers to Questions 1, 4, 7 and 16);
- Latvia (answers to Questions 4, 9-15, 19-20 and 22);
- Norway/ECNorway (answer to Question 22);
- Russia/EXIAR (answers to Questions 8 and 22);
- Russia/EXIMBANK (answers to Questions 8 and 22);
- Russia/VEB (answers to Questions 2-4 11 and 14); and
- United Kingdom (answers to Questions 4, 6 and 22).

9. Furthermore, in 2018, Brazil/ABGF, Brazil/BNDES, Canada, the Czech Republic/CEB, Hungary/MEHIB, Latvia and the United Kingdom revised the information provided on their experiences with bribery (*cf.* Questions 17 and 18).

10. A provisional version of this Review was presented for examination and discussion by the Adherents to the Recommendation in June 2018. As a result, Canada, Hungary (Eximbank) and Russia (EXIAR and EXIMBANK) provided further clarifications on their measures, *i.e.* Canada in relation to a response for Question 17, Eximbank in relation to a response for Question 16, and EXIAR and EXIMBANK in relation to a response for Question 22, which have been taken into account in this final version of the Review.

11. As usual, this final version of the Review has been declassified and is made publicly available on the OECD website⁵.

12. All responses to the Survey, as at 30 June 2018, are currently available on the OECD website and any questions concerning these responses should be directed to the Adherents concerned.

III. Survey responses

13. Questions 1-16 cover each obligation itemised in the Recommendation, as well as additional information on Adherents' policies and practices, and Questions 17-23 seek information on past experiences, on application of the terms used in the Recommendation, and on any further measures that are being contemplated. Many of the questions in the Survey have detailed sub-questions with multiple options to facilitate clarifications; and other questions in the Survey provide opportunities for free responses. In some cases, these free responses or comments have helped in the interpretation of actual policies and practices.

(a) Methodology used to assess responses

14. In this Review, summaries of responses have been provided in respect of each Survey question. In addition, the Secretariat has attempted, where appropriate, to assess the responses against the undertakings of the Recommendation in terms of whether the policies and practices meet or exceed each obligation. Last, this Review includes additional information provided by ECAs as examples of policies implemented or particular measures undertaken in certain situations.

(b) Summary and assessment of Members' responses

Question 1 - Do you inform exporters and, where appropriate, applicants, requesting official export credit support about the legal consequences of the bribery in international business

⁵ <http://www.oecd.org/tad/xcred/anti-bribery-survey.htm>.

transactions under your national legal system including your national laws prohibiting such bribery? If yes:

- (a) ***Please indicate the method(s) by which this is accomplished.***
- (b) ***Please provide the text used to describe the legal consequences of the bribery in international business transactions under your national legal system including your national laws prohibiting such bribery.***

15. Article 1 (a) of the Recommendation requires Adherents to inform exporters and, where appropriate, applicants requesting official export credit support about the legal consequences of bribery in international business transactions under their national legal system, including their national laws prohibiting such bribery. In this context:

- 43 ECAs (37 ECG ECAs and the ECAs of Brazil and Russia) have reported that they “*always*” do so;
- Estonia has reported that it only “*sometimes*” informs exporters and/or applicants about the legal consequences of bribery; however, at the same time, it also noted that relevant information is included in the text in its application forms and general conditions of cover: as a result, for the purpose of this Review, Estonia is counted as “*always*” informing exporters and/or applications about the legal consequences of bribery; and
- The remaining Adherent, Colombia, does not inform exporters and, where appropriate, applicants requesting official export credit support about the legal consequences of bribery. Colombia has, however, previously mentioned, in its initial response in 2014 (*cf.* answer to Question 22) that information on the legal consequences of bribery could be integrated into its application or other forms in the future.

16. With respect to how the first obligation in Article 1 (a) of the Recommendation is met, the Survey invites ECAs to indicate the method(s) by which they inform exporters and, where appropriate, applicants of the legal consequences of bribery. In this context, the first five set responses to Question 1 (a) in the Survey⁶ are considered to be ‘sure’ methods of communications, as they involve text in project specific documentation. Of these five options, the first three are considered to be the best methods of communication, as they relate to documentation provided at the earliest stage possible in the life of a potential officially supported export credit, *i.e.* during the application process rather than the underwriting process, when any problems might be quickly identified.

17. The remaining two set responses to Question 1 (a)⁷ are not considered to be ‘sure’ methods of communication, as there is no guarantee that an exporter and/or applicant will refer to these on a transaction-by-transaction basis.

18. Of the 44 ECAs that “*always*” inform exporters and/or applicants requesting official export credit support about the legal consequences of bribery:

- 41 ECAs (35 ECG ECAs, and the ECAs of Brazil and Russia) meet the first obligation in Article 1 (a) by using one of the five ‘sure’ methods of communication involving text in project specific documentations; of these, all 41 ECAs use one of the first three options for informing exporters and/or applicants at the earliest stage possible;

⁶ Text in the application form, a stand-alone document provided to applicants, text included in a stand-alone document submitted by applicants, text in the general conditions of cover, and text in the credit agreement.

⁷ Information posted on the organisation’s website and customer publications, *e.g.* brochures and handbooks.

- The United States/EXIM includes information concerning the legal consequences of bribery in its exporter's certificates: this is also considered to be a 'sure' project-specific method of communication; and
- The remaining ECAs, Latvia and Mexico, also meet the minimum obligation in Article 1 (a), but by using a non-'sure' method, as they inform exporters and, where appropriate, applicants of the legal consequences of bribery via their websites, which exporters and/or applicants may not necessarily consult.

19. Last, 36 ECAs (32 ECG ECAs, Brazil/ABGF, Brazil/BNDES, Russia/EXIAR and Russia/EXIMBANK) exceed the minimum obligation by using more than one method of communication to inform exporters and/or applicants of the legal consequences of bribery. Furthermore, Canada has reported that EDC's President and CEO semi-annually writes to all its new customers informing them of CSR-related issues, including bribery, and provides them with a copy of its Anti-Corruption brochure.

20. The texts used by ECAs to inform exporters and, where appropriate, applicants can be found in the Survey responses made available on the OECD website. In this context, since the last Review, Brazil/ABGF, Brazil/BNDES, Hungary/Eximbank and Hungary/MEHIB, which continue to meet this requirement, have updated the related information on texts used in their application forms and/or the special conditions in the insurance policy.

Question 2 - Do you encourage exporters and, where appropriate, applicants, requesting official export credit support to develop, apply and document appropriate management control systems that combat bribery? If yes:

(a) Please indicate how this is accomplished.

(b) Please provide the text used to encourage exporters and, where appropriate, applicants, requesting official export credit support to develop, apply and document appropriate management control systems that combat bribery.

21. In respect of the second obligation in Article 1 (a) of the Recommendation,

- 41 ECAs (35 ECG ECAs, the three ECAs of Brazil, the three ECAs of Russia) have reported that they "always" encourage exporters and, where appropriate, applicants, to develop, apply and document appropriate management control systems that combat bribery.
- Australia, Estonia and Latvia do not do so.
- Colombia includes an encouragement in its credit agreement for clients to develop appropriate control mechanisms; however, this encouragement only aims to combat money laundering activities, although Colombia previously mentioned in its initial response in 2014 that this existing framework could be developed to include bribery in the scope (*cf.* answer to Question 22). For information, Colombia's ECA, Bancoldex, is a second tier bank⁸ and this encouragement in the credit agreement only requires its direct clients, such as intermediary banks, to implement such control systems and delegates intermediary banks to ensure exporters have done the same.

22. With respect to how the second obligation in Article 1 (a) of the Recommendation is met, the Survey invites ECAs to indicate the method(s) by which they encourage exporters and, where appropriate, applicants to develop, apply and document appropriate management control systems. In this context, the

⁸ Bancoldex's officially supported export credit is provided in the form of refinancing to private financial institutions, instead of direct financing.

first four set responses to Question 2 (a) in the Survey⁹ are considered to be ‘sure’ methods of communications as they involve text in project-specific documentation; of these, the first two are considered to be the best methods of communication, as they relate to documentation provided at the earliest stage possible in the life of a potential officially supported export credit.

23. The remaining two set responses to Question 2 (a)¹⁰ are not considered to be ‘sure’ methods of communication, as there is no guarantee that an exporter and/or applicant will refer to these on a transaction-by-transaction basis.

24. The methods chosen by the 41 ECAs for fulfilling the second obligation in Article 1 (a) of the Recommendation appear to be less ‘sure’ than in respect of the first obligation, with more reliance being placed on websites and customer publications than on project-specific documentation. In this context, 26 ECAs (22 ECG ECAs, Brazil/ABGF, Brazil/BB, Russia/EXIAR and Russia/EXIMBANK) meet the second obligation of Article 1 (a) of the Recommendation by using one of the four ‘sure’ methods of communication involving text in project-specific documentation. Of these:

- 25 ECAs, including Brazil/ABGF, Brazil/BB, Russia/EXIAR and Russia/EXIMBANK, encourage the exporters and/or, applicants at the earliest stage possible; and
- Norway/ECNorway reported that this encouragement is included in its anti-corruption declaration which exporters, and, where appropriate, applicants are required to submit before support is provided.

25. The remaining 15 ECAs¹¹ also meet the second obligation in Article 1 (a) of the Recommendation, but by using non-‘sure’ methods: for example, 13 ECAs encourage exporters and, where appropriate, applicants via their websites or in customer publications and Japan/JBIC relies on oral communication. Last, Brazil/BNDES reported that it asks exporters to sign two anti-bribery forms: the Previously Agreed Standards and Procedures (PASP) form relating to the existence, implementation and registry of a compliance programme, which should be audited annually by an independent audit firm; and the Customer Integrity Questionnaire pertaining to the exporter's internal anti-corruption control practices and systems.

26. On the other hand, 30 ECAs (27 ECG ECAs, Brazil/ABGF, Russia/EXIAR and Russia/EXIMBANK) exceed the minimum obligation by using more than one method of communication, both ‘sure’ and non-‘sure’. Of these, France and the Slovak Republic have reported using application documentation, text in the official support documentation, and their websites.

27. In addition, some ECAs have reported additional measures undertaken in relating to management control systems, such as asking exporters and/or applicants about their Codes of Conduct, and informing exporters and/or applicants about the OECD Guidelines for Multinational Enterprises.

28. The texts used by ECAs to encourage exporter and/or applicants to develop, apply and document appropriate management systems can be found in the Survey responses made available on the OECD website. In this context, since the last Review, Brazil/ABGF, Brazil/BNDES, Hungary/Eximbank, Hungary/MEHIB and Russia/VEB, which continue to meet this requirement, have updated the related information on texts used in their application form and exporter’s declaration form.

⁹ Text in the application form, a stand-alone document provided to applicants, text in the general conditions of cover, and text in the credit agreement.

¹⁰ Information posted on the organisation’s website and customer publications, *e.g.* brochures and handbooks.

¹¹ Austria, Brazil/BNDES, Canada, the Czech Republic/CEB, the Czech Republic/EGAP, Germany, Hungary/Eximbank, Japan/JBIC, Japan/NEXI, Luxembourg, Mexico, Poland, Russia/VEB, the United States/EXIM and the United States/USDA.

Question 3 - Do you require exporters and, where appropriate, applicants, requesting official export credit support to provide an undertaking/declaration that neither they, nor anyone acting on their behalf, such as agents, have been engaged or will engage in bribery in the transaction? If yes:

- (a) The requirement is communicated to exporters/applicants via which method.**
- (b) The undertaking/declaration is obtained from exporters/applicants through which method.**
- (c) Please provide the text of the requirement and/or the undertaking/declaration provided by exporters/applicants.**

29. With respect to the obligation in Article 1 (b) of the Recommendation, 44 ECAs always require exporters and/or applicants to provide an undertaking/declaration that neither they, nor anyone acting on their behalf, such as agents, have been engaged or will engage in bribery in the transaction, whereas Colombia, uses texts in the application form to require a similar undertaking/declaration concerning money laundering activities from intermediary banks; however it does not, at this moment, specifically refer to bribery activities, although Colombia previously mentioned its initial response in 2014 that anti bribery measures could be integrated into this existing framework (*cf.* answer to Question 22).

30. The Survey invites ECAs to indicate the method(s) by which the requirement for an undertaking/declaration is communicated to exporters and/or applicants. In this context, the first four set responses to Question 3 (a) in the Survey¹² are considered to be ‘sure’ methods of communications as they involve text in project-specific document; of these, the first two are considered to be the best methods of communication, as they relate to documentation provided at the earliest stage possible in the life of a potential officially supported export credit.

31. The remaining two set responses to Question 3 (a)¹³ are not considered to be ‘sure’ methods of communication, as there is no guarantee that an exporter and/or applicant will refer to these on a transaction-by-transaction basis.

32. All 44 ECAs communicate effectively to the exporters and/or applicants regarding the requirement for an anti-bribery undertaking/declaration by using one of the ‘sure’ methods of communication involving text in project-specific documentation. Furthermore, 41 ECAs meet the expected standard at the earliest possible stage, with only Mexico and Brazil/BNDES relying on texts in the credit agreement and information posted on the website, and Norway/ECNorway noting only that it requires exporters, and, where appropriate, applicants to submit the anti-corruption declaration before support is provided. Colombia, on the other hand, informs intermediary banks about its undertaking/declaration related to money laundering, using a ‘sure’ method of the earliest stage, *i.e.* as part of the application form.

33. In addition, 36 ECAs, including Brazil/ABGF, Brazil/BNDES, Russia/EXIAR and Russia/EXIMBANK, exceed the standard expectation by using multiple channels of communication.

34. With regard to how the undertaking/declaration is actually obtained from exporters and/or applicants:

- 18 ECAs (17 ECG ECAs and Colombia in relation to money laundering) obtain the undertaking/declaration through application forms. For information, Estonia has explained that

¹² Text in the application form, a stand-alone document provided to applicants, text in the general conditions of cover, and text in the credit agreement.

¹³ Information posted on the organisation’s website and customer publications, *e.g.* brochures and handbooks.

the undertaking/declaration is obtained through its application form for medium and long term transactions and through general conditions of insurance contract for short term transactions;

- 13 ECAs (9 ECG ECAs, the three ECAs of Brazil and Russia/VEB) obtain it through stand-alone documents submitted by the exporter and/or applicant;
- 13 ECAs (11 ECG ECAs, Russia/EXIAR and Russia/EXIMBANK) obtain the undertaking/declaration through both the application forms and stand-alone documents. Similarly, a number of other ECAs also include additional anti-bribery undertakings/declarations in their transaction documentation, and;
- Mexico obtains the undertaking/declaration through text in the credit agreement.

35. With regard to the timing to obtain the stand-alone documents, nine ECAs, *i.e.* France, Israel, the three ECAs of Russia, the Slovak Republic, Sweden, Switzerland and the United States/USDA, reported that they obtain the required undertaking/declaration both at the time of application and before support is provided. For example, Sweden/EKN requires the anti-corruption declaration submitted via the application form to be renewed before support is provided. This might be a useful practice particularly with processing applications for complex projects, which may take many months, or when there are lengthy delays in proceeding with projects.

36. The full text of each ECA's undertaking/declaration can be found in the Survey responses made available on the OECD website. In this context, since the last Review, Brazil/ABGF, Brazil/BNDES, Hungary/Eximbank, Hungary/MEHIB and Russia/VEB, which continue to meet this requirement, have updated the related information on the texts used in the general conditions of cover and exporter's declaration form.

Question 4 - Do you verify and note whether exporters, and where appropriate, applicants, are listed on the publicly available debarment lists of the following international financial institutions (IFIs): World Bank Group, African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development and the Inter-American Development Bank? If yes:

- (a) *Which actors associated with the transaction are subject to verification?*
- (b) *Please indicate how the verification is achieved.*

37. Pursuant to Article 1 (c) of the Recommendation, the standard expectation with regard to Question 4 is that Adherents will always verify and note whether exporters and/or applicants are listed on the publicly available debarment lists of certain named IFIs. In this context, the IFIs signed an *Agreement for Mutual Enforcement of Debarment Decisions*, in April 2010 under which they agreed to enforce debarment decisions made by other participating IFIs and to cross-debar firms and individuals found to have engaged in wrong-doing in financed projects. All the IFIs have now implemented this Agreement and made their debarment lists publicly available: links to these lists are provided on the OECD intranet to facilitate ECAs' due diligence processes.

38. In terms of the requirement of Article 1 (c) of the Recommendation, 42 ECAs (37 ECG ECAs, Brazil/ABGF, Brazil/BNDES and the three ECAs of Russia) always verify and note whether exporters and/or applicants are listed on the publicly-available IFI debarment lists, while Brazil/BB, Colombia and the United States/USDA do not always do so:

- Brazil/BB has responded "No" to Question 4; however, it has previously responded that, in future, its staff may start to check if the exporter and the lending bank (legal persons) are listed on the IFI debarment lists, on the Registration Integrated System of the National Registry of Inapt and Suspended Companies (CEIS) and on the National Registry of Punished Companies (CNEP) at the time of the application;

- Colombia implements a similar procedure to check against anti-money laundering and anti-terrorist lists, and has previously commented that it could develop this procedure to include verification against the IFI debarment lists (*cf.* answer to Question 22); and
- The United States/USDA implements a verification procedure against the US Government's debarment list and has previously stated that it would review whether verification against the IFI debarment lists might be incorporated into its current system.

39. Of the 42 ECAs that meet fully the requirement of Article 1 (c) of the Recommendation, all 42 ECAs verify and note whether exporters are listed on the debarment lists; and all but five¹⁴ ECAs do so for the applicants (when not the exporter). In addition, of these 42 ECAs, 22 go beyond the requirements of the Recommendation by verifying also whether other parties involved in the export transaction, such as banks, agents and intermediaries, are listed on the debarment lists.

40. Table 1 provides information on timing of when ECAs verify the IFI debarment lists, as well as the parties that ECAs verify. In this context, 16 ECAs (13 ECG ECAs and the three ECAs of Russia) verify the IFI debarment lists for both the exporters and applicants both at the time of application and before support is provided: this might be a useful practice particularly in processing applications for complex projects, which may take many months, or when there are lengthy delays in proceeding with projects.

41. With regard to how to undertake the verification as requested in Question 4 (b), footnote 3 of the Recommendation states that implementation may take the form of a self-declaration from exporters and/or applicants: in this context, of the 42 ECAs that always undertake the verification:

- Five ECG ECAs rely on self-declaration submitted by the exporter and/or applicant;
- 9 ECAs (8 ECG ECAs and Brazil/BNDES) rely on checks carried out by their staff, and;
- 28 ECAs, including Brazil/ABGF and the three ECAs from Russia, rely on both self-declarations by exporters and/or applicants and checks by staff. In many cases, the self-declarations from exporters and/or applicants are included in the text of the undertaking/declaration referred to in Question 3.

¹⁴ Brazil/ABGF, Brazil/BNDES, Japan/JBIC, the Netherlands and Turkey.

Table 1 – The timing of verifying the IFI debarment list by Members/ECAs

	Applicant		Exporter(s)		Other parties involved in the transaction						
	At the time of Application	Before support is provided	At the time of Application	Before support is provided	Bank	Agent	Intermediary	Other	At the time of Application	Before support is provided	
Australia	X		X	X	X						X
Austria	X	X	X	X							
Belgium	X	X	X	X	X	X			X	X	X
Canada	X	X	X	X	X	X			X	X	X
Czech Republic/CEB	X	X	X	X							
Czech Republic/EGAP	X	X	X	X	X	X		X		X	X
Denmark	X	X	X	X	X	X	X				X
Estonia	X		X	X	X	X			X		X
Finland	X		X	X	X	X		X			
France	X	X	X	X	X						
Germany	X	X	X	X							
Greece	X	X	X	X							
Hungary/Eximbank	X		X	X	X	X		X			X
Hungary/MEHIB	X	X	X	X							
Israel	X	X	X	X	X						
Italy	X	X	X	X	X	X	X		X	X	X
Japan/JBIC			X	X							
Japan/NEXI	X		X	X	X						
Korea/KEXIM	X	X	X	X							
Korea/K-sure	X	X	X	X							
Latvia	X		X	X	X						
Luxembourg	X	X	X	X							
Mexico	X	X	X	X	X						
Netherlands			X	X	X	X		X		X	
New Zealand	X	X	X	X	X						
Norway/ECNorway	X		X	X	X	X		X			X
Norway/GIEK	X	X	X	X	X	X		X		X	
Poland	X	X	X	X	X						
Portugal	X	X	X	X	X	X		X			X
Slovak Republic	X	X	X	X	X						
Slovenia	X	X	X	X	X						
Spain	X		X	X	X	X				X	
Sweden	X	X	X	X	X	X		X		X	X
Switzerland	X	X	X	X	X			X		X	
Turkey			X	X	X						
United Kingdom	X	X	X	X	X	X		X	X	X	X
United States/EXIM	X		X	X	X	X		X			X
United States/USDA	X	X	X	X							
Brazil/ABGF			X	X	X				X	X	
Brazil/BB											
Brazil/BNDES			X	X	X				X	X	
Colombia											
Russia/EXIAR	X	X	X	X	X	X				X	X
Russia/EXIMBANK	X	X	X	X	X	X				X	X
Russia/VEB	X	X	X	X	X						

Question 5 - Do you require exporters and, where appropriate, applicants, to disclose whether they or anyone acting on their behalf in connection with the transaction are currently under charge in a national court or, within a five-year period preceding the application, have been convicted in a national court or been subject to equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country? If yes:

(a) Please indicate how requirement is met.

42. Question 5 relates to Article 1 (d) of the Recommendation, under which Adherents are expected to require exporters and/or applicants to disclose whether they or anyone acting on their behalf in connection with the transaction are currently under charge in a national court¹⁵ or, within a five-year period preceding the application, have been convicted in a national court or been subject to equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country.

43. All except two ECAs (from Colombia and the United States/USDA) fulfil the obligation of Article 1 (d) of the Recommendation by always requiring such disclosure. In meeting this obligation:

- 16 ECG ECAs rely on the application form. For information, Estonia has explained that such disclosure is obtained through its application form for medium and long term transactions and through general conditions of insurance contract for short term transactions;
- 14 ECAs (11 ECG ECAs, Brazil/BB, Brazil/BNDES and Russia/VEB) rely on self-declarations in stand-alone documents submitted by the exporter and/or applicant;
- 12 ECAs (nine ECG ECAs, Brazil/ABGF, Russia/EXIAR and Russia/EXIMBANK) require such disclosure in more than one form, e.g. the application form, the stand alone document, and/or the credit agreement, and;
- Mexico has reported that this requirement is met in the Declaration in the Credit Contract.

44. Last, seven ECAs (France, Israel, the three ECAs of Russia, the Slovak Republic and Sweden) require disclosure both at the time of the application and before support is provided: this might be a useful practice when processing applications for complex projects, which may take many months, or when there are lengthy delays in proceeding with projects.

Question 6 - Are agents' commissions (included in the export contract) eligible for official support? If yes:

(a) Do you apply a ceiling to agents' commissions for which official support is provided? If yes:

(b) Please provide details on the ceiling(s) applied.

(c) What is the rationale for imposing a ceiling on agents' commissions?

45. Question 6 is not directly related to obligations under the Recommendation; it concerns general policies and practices of ECAs with regard to supporting agents' commissions. Of the 45 ECAs:

- 20 ECAs “always” allow for official support to be provided for agents' commissions (included in the export contract);

¹⁵ Question 21 contains additional information on Adherents' interpretation of the term “national court”.

- 13 ECAs¹⁶ “*sometimes*” provide support; and
- 12 ECAs¹⁷ do not usually provide support for agents’ commissions.

46. With respect to whether a ceiling is applied to agents’ commissions for which official support is provided, of the 33 ECAs that may provide support for agents’ commissions:

- Eight ECAs¹⁸ “*always*” apply a ceiling;
- Five ECAs¹⁹ “*sometimes*” set a ceiling; and
- 20 ECAs, including Brazil/ABGF, Brazil/BNDES, Russia/EXIAR and Russia/VEB, apply no fixed ceiling.

47. In this context, some ECAs have provided numerical details in respect of their ceiling, for example: Slovenia sets a ceiling of 5% of the contract amount; similarly, the Netherlands applies a ceiling of 5% of the contract amount or EUR 4.5 million (whichever is the lower); and Spain maintains a limit of 5% of the total value of exported goods and services. In addition, the numerical ceiling of agents’ commissions triggers further actions by some other ECAs, for example: Brazil/ABGF requires the exporter to demonstrate that the level of commissions is consistent with standard business practice if the commissions paid to the agent represent more than 5% of the commercial contract value; and Norway/GIEK conducts an enhanced due diligence if the commission either is of large absolute value, constitutes more than 5% of contract value or is large relative to the duties performed by the agent. The rationale provided for applying a ceiling to agents’ commissions is that a high commission, either as a percentage or in absolute volume, in excess of standard business practice and without an adequate explanation of the purpose of the commission, might be an indication that these funds are being used to channel illicit payments.

48. Where a fixed ceiling is not always applied to agents’ commissions, a number of ECAs reported that they review the level or amount of agents’ commissions on a case-by-case basis, in accordance with common business standards: this would appear to be a pragmatic approach to examining agents’ commissions given the variations in market practices for agents’ commissions by transaction, industry sector and project country.

Question 7 - Do you require that details be provided in respect of agents' commissions associated with the transaction? If yes:

- Do you require the amounts of commissions to be disclosed?***
- Do you assess whether the level of commissions is consistent with standard business practice?***
- Do you require the purpose of commissions to be clearly identified?***
- Do you require that details (e.g. name, company, address) be provided in respect of the agent(s) to whom commissions are paid?***

¹⁶ Belgium, Denmark, Germany, Israel, Luxembourg, the Netherlands, New Zealand, Norway/ECNorway and Norway/GIEK, Poland, Russia/VEB, Slovenia and the United States/EXIM.

¹⁷ Brazil/BB, Colombia, the Czech Republic (CEB), Estonia, France, Greece, Hungary/MEHIB, Latvia, Mexico, Russia/EXIMBANK, Turkey and the United States/USDA.

¹⁸ Denmark, Italy, the Netherlands, Norway/GIEK, Portugal, the Slovak Republic, Slovenia, and Spain.

¹⁹ Israel, Luxembourg, Norway/ECNorway, New Zealand, and United States/EXIM.

49. Question 7 is related to Article 1 (e) of the Recommendation, under which Adherents should require exporters and/or applicants to disclose upon demand (i) the identity of persons acting on behalf of the exporter and/or applicant in connection with the transaction, and (ii) the amount and purpose of commissions and fees paid, or agreed to be paid, to such persons. In this context, those ECAs that answered “Yes, always” or “Yes, sometimes” are deemed to meet the obligations of Article 1 (e) of the Recommendation.

50. As shown in Table 2, 41 ECAs either “always” (21 ECAs, including the three ECAs of Brazil) or “sometimes” (20 ECAs, including the three ECAs of Russia) require the details in respect of agents’ commissions associated with transactions, and four ECAs, *i.e.* from Colombia, Estonia, Latvia and the United States/USDA, do not require the details of agents’ commissions to be provided. For information, Colombia, Estonia, Latvia and the United States/USDA are among the ten ECAs that do not provide support for agents’ commissions (Question 6 refers), meaning that Brazil/BB, the Czech Republic/CEB, France, Greece, Hungary/MEHIB, Mexico, Russia/EXIMBANK and Turkey may require the details of agents’ commissions to be provided although they do not provide cover for agents’ commissions.

Table 2 – Requirement/Assessment of the details in respect of agents’ commissions

	Yes, always	Yes, sometimes	No
Do you require that details be provided in respect of agents’ commissions associated with the transaction?	21	20	4
Of the 41 ECAs:			
(a) Do you require the amounts of commissions to be disclosed?	24	16	1
(b) Do you assess whether the level of commissions is consistent with standard business practice?	19	17	5
(c) Do you require the purpose of commissions to be clearly identified?	15	23	3
(d) Do you require that details (e.g. name, company, address) be provided in respect of the agent(s) to whom commissions are paid?	17	20	2

Note: Answers for sub-Questions 7 (a) to 7 (d) from those who answered “no” to Question 7 (requiring details) are not included in this Table 2. In addition, Mexico did not respond to Question 7 (d).

51. 41 ECAs that may require exporters and/or applicants to disclose the details of agents and agents’ commissions:

- (a) 40 ECAs may also require the amount of commissions to be disclosed (the exception is Mexico).
- (b) 36 ECAs may assess whether the level of commissions is consistent with standard business practice (the exceptions are: Brazil/BB, Brazil/BNDES, the Czech Republic/CEB, Greece, Japan/JBIC and Japan/NEXI).
- (c) 37 ECAs may require the purpose of commissions to be clearly identified (the exceptions are: Brazil/BNDES, Brazil/BB and Greece).
- (d) 37 Members/ECAs may require that details (*e.g.* name, company and address) be provided in respect of the agent(s) to whom commissions are paid (the exceptions are: Brazil/BB, Brazil/BNDES, the Czech Republic/CEB and Mexico).

52. Most ECAs require the information on agents' commissions to be provided either at the time of application or before a final decision to provide support is made, either systematically or on a case-by-case basis as part of an enhanced due diligence process or when deemed necessary: for example, if an ECA has reason to believe that the level of the commission is inconsistent with standard business practice, it may request additional information on the purpose of the commissions. The only exception to this is Luxembourg, which will usually review agents' commissions only before a claim is indemnified unless bribery is suspected during the application process, in which case further assessment is undertaken at this stage. Similarly, nine other ECAs, *i.e.* Austria, Belgium, Canada, France, Germany, Italy, Portugal, Switzerland and Turkey, will also undertake further assessments of agents' commissions prior to paying claims. Last, Australia, Turkey and the United States/EXIM have noted in their responses that they refer to the exporter's certificates for details of all payments made prior to approval of drawdowns. Table 3 below shows the overall pattern of when information on agent's commissions is collected.

Table 3 – Time when details in respect of agent's commissions is required/assessed

	At the time of application	Before the final decision to provide support is made	Before a claim is indemnified	Other
Require the amounts of commissions to be disclosed	20	17	8	13
Assess whether the level of commissions is consistent with standard business practice	14	20	7	8
Require the purpose of commissions to be clearly identified	14	19	9	10
Require that details be provided in respect of the agent(s) to whom commissions are paid	14	17	9	11

Note: Multiple choices from Members are all equally treated (not mutually exclusive) and "other" responses include, for instance, "as part of the enhanced due diligence", "on a case-by-case basis" and "when deemed necessary."

Question 8 - Have you developed and implemented procedures to disclose to your law enforcement authorities instances of credible evidence²⁰ of bribery? If yes, please provide a short description of your policies and procedures.

53. Question 8 relates to Article 1 (h) of the Recommendation. With the exception of Brazil/BB and Colombia, the remaining 43 ECAs have developed and implemented procedures to disclose instances of credible evidence of bribery to law enforcement authorities.

54. In their responses to this questions, ECAs have provided a comprehensive description of their policies and procedures, including how instances of credible evidence of bribery are reported internally via legal departments, senior management, compliance committees/management boards, and/or guardian authorities for disclosure to law enforcement authorities: these details can be found in the Survey responses made available on the OECD website. In this context, since the last Review was issued: Australia, Brazil/ABGF, Hungary/MEHIB, Russia/EXIAR, Russia/EXIMBANK, have revised the descriptions in their responses to the Survey, reflecting recent updates to their procedures.

²⁰ As defined in the OECD Council Recommendation on Bribery and Officially Supported Export Credits.

Question 9 - *If, before credit, cover or other support has been approved, you become aware that an exporter and, where appropriate, applicant (or anyone acting on their behalf in connection with the transaction) are listed on any of debarment lists that you verify, what action(s) are taken? If enhanced due diligence is undertaken:*

- (a) *Does the enhanced due diligence process include, inter alia, verification that the exporter/applicant has in place appropriate management control systems that combat bribery?***
- (b) *Does the enhanced due diligence process include, inter alia, verification that the exporter/applicant has taken appropriate internal corrective and preventative measures after having been debarred?***
- (c) *How is the application treated?***

55. In accordance with Article 1 (f) of the Recommendation, Adherents are expected to undertake enhanced due diligence if they become aware that an exporter and/or applicant is listed on one of the publicly available IFI debarment lists. Although the Recommendation provides no specific guidance on what should be included in the enhanced due diligence process, Questions 9 (a) and 9 (b) address measures that might reasonably be expected to be part of an enhanced due diligence procedures.

56. Forty ECAs would always undertake enhanced due diligence in the above-mentioned situation. Several ECAs added that, depending on the outcomes of such enhanced due diligence, they might subsequently refuse to provide cover²¹.

57. For the remaining five ECAs: Brazil/ABGF sometimes undertakes enhanced due diligence but also reported that the official support is automatically denied in accordance with its national law if the exporter/applicant is listed in either of its national lists - CEIS (the National Registry of Inapt and Suspended Companies) or CNEP (the National Registry of Punished Companies), both of which are maintained by the Brazilian Ministry of Transparency and Office of the Comptroller General (CGU); Brazil/BB does not currently check debarment lists but has previously reported that the measures mentioned in Question 9 are part of the new compliance procedures that might be implemented soon; Colombia would also always undertake enhanced due diligence following verification against the debarment lists in relation to money laundering activities; Estonia has reported that, instead of undertaking enhanced due diligence, it would not sign an insurance contract in such a situation; and Latvia has reported that the application is rejected and business relations are not started with the exporter/applicant.

58. Of the 40 ECAs that would always undertake enhanced due diligence: 37 ECAs would "*always*" verify that the exporter and/or applicant had in place appropriate management control systems that combat bribery when undertaking enhanced due diligence. France, Hungary/Eximbank and Russia/VEB would "*sometimes*" undertake this verification; and Greece does not currently include this measure in its enhanced due diligence process.

59. With regard to verifying that the exporter and/or applicant had taken appropriate internal corrective and preventative measures after having been debarred, 38 ECAs would "*always*" undertake this verification. France, Hungary/Eximbank and Russia/VEB would "*sometimes*" include this measure in their enhanced due diligence processes.

²¹ In this context, for example, Australia has commented, "*the underwriter reports the matter, including the outcome of the enhanced due diligence, to EFIC's Executive team who will determine, on a case-by-case basis, the necessary action to be taken in relation to the Exporter and where appropriate, the applicant, and the proposed application. The action may include refusing to provide the credit*".

60. With regard to how the application is treated, 40 ECAs that would undertake enhanced due diligence would suspend the approval of the application pending the outcome of the enhanced due diligence process. Of these, France, New Zealand and Sweden might take additional measures depending on the information received from the exporter and/or applicant, on the outcome of the due diligence. The exception is Brazil/BNDES, which will also suspend the application assessment but only pending the Corporate Register²² rating upgrade, *i.e.* until debarment list removal.

Question 10 - *If, before credit, cover or other support has been approved, you become aware that an exporter and, where appropriate, applicant (or anyone acting on their behalf in connection with the transaction) is currently under charge in a national court for violation of laws against bribery of foreign public officials of any country, what action(s) are taken? If enhanced due diligence is undertaken:*

(a) *Does the enhanced due diligence process include, inter alia, verification that the exporter/applicant has in place appropriate management control systems that combat bribery?*

(b) *How is the application treated?*

61. In accordance with Article 1 (f) of the Recommendation, Adherents are expected to undertake enhanced due diligence if they become aware that an exporter and/or applicant (or anyone acting on their behalf in connection with the transaction) is currently under charge in a national court for violation of laws against bribery of foreign public officials of any country. Question 10, therefore, addresses the action(s) ECAs might take in such circumstances.

62. In responses to this question, 39 ECAs would always undertake enhanced due diligence in the above-mentioned situation. Furthermore, Sweden would undertake enhanced due diligence at an earlier stage, *i.e.* when the applicant and/or exporter has been notified about suspicion of bribery by the prosecutor.

63. For the remaining six ECAs: Brazil/BB has previously reported that a new compliance procedure would be implemented soon; Colombia does not undertake enhanced due diligence, but it would instead stop the transaction and deny any disbursement; Greece has reported that, rather than undertaking enhanced due diligence, it would await the outcome of the legal proceeding before making a final decision on whether to provide support; Hungary/Eximbank has reported that the application would be suspended pending the outcome of the court case; Latvia has reported that the application is rejected and business relations are not started with the exporter/applicant, and; Mexico has reported that the application for support would be null and void if an exporter and/or applicant (or anyone acting on their behalf in connection with the transaction) were under charge.

64. Among the 39 ECAs that undertake enhanced due diligence, 35 ECAs would "*always*" verify that the exporter and/or applicant has in place appropriate management control systems that combat bribery. For the remaining five ECAs: Belgium, France and the United States/USDA would "*sometimes*" undertake this verification as part of their due diligence; and Estonia does not include such verification.

65. With regard to how the application is treated: 37 ECAs would always suspend approval of the application pending the outcome of the enhanced due diligence process; In addition, Australia, France, Hungary/MEHIB, New Zealand and Russia/EXIMBANK might take additional measures depending on the outcomes of the enhanced due diligence, which may include refusal of the application.

²² According to BNDES' credit policies, the Corporate Register assessed by BNDES's Credit Division may result in one of the following ratings: Positive, Regular or Negative. If the corporation is listed on any of the debarment lists its Corporate Register will be rated as Negative and while so such corporation is restricted in the support that it might receive from BNDES.

Question 11 - *If, before credit, cover or other support has been approved, you become aware that an exporter/applicant (or anyone acting on their behalf in connection with the transaction) has been convicted in a national court or has been subject to equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country within a five-year period, what actions are taken? If enhanced due diligence is undertaken:*

- (a) *Does the enhanced due diligence process include, inter alia, verification that the exporter/ applicant has in place appropriate management control systems that combat bribery?***
- (b) *Does the enhanced due diligence process include, inter alia, verification that the exporter/applicant has taken appropriate internal corrective and preventative measures after having been convicted?***
- (c) *How is the application treated?***

66. In accordance with Article 1 (f) of the Recommendation, Adherents are expected to undertake enhanced due diligence if they become aware that an exporter and/or applicant (or anyone acting on their behalf in connection with the transaction) has been convicted in a national court or has been subject to equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country within a five-year period. Question 11, therefore, addresses the action(s) ECAs might take in such circumstances.

67. In responses to this question, 42 ECAs would always undertake enhanced due diligence in the above-mentioned situation. In addition, Norway has reported that its two ECAs do not limit the scope to the last five years if an earlier conviction may be of relevance, for example, if a person were convicted for instance six years earlier, its ECAs would look into the case and might take appropriate actions, as described in Question 11. Similarly, Denmark has also reported that it would perform enhanced due diligence if the violation had taken place for more than five years ago. The exceptions are: Colombia, in whose procedure, the transaction is stopped and disbursement is denied without undertaking enhanced due diligence; Latvia has reported that the application is rejected and business relations are not started with the exporter/applicant; and Mexico, which has reported that, if it becomes aware that an exporter and/or applicant has been convicted in a national court, then it would consider the application for support null and void.

68. Of these 42 ECAs, 41 ECAs would always verify that the exporter and/or applicant had in place appropriate management control systems that combat bribery when undertaking enhanced due diligence, while Estonia does not include this verification process.

69. With regard to verifying that the exporter and/or applicant had taken appropriate internal corrective and preventative measures after having been convicted: 40 ECAs would "*always*" undertake this verification; the United States/USDA would "*sometimes*" include this measure in its enhanced due diligence process; and Estonia does not currently undertake this verification.

70. With regard to how the application is treated for those 42 ECAs that would always undertake enhanced due diligence in relation to Question 11, 41 ECAs would suspend the approval of the application pending the outcome of the enhanced due diligence process, with only one exception, Brazil/BNDES, which will also suspend the application assessment pending the Corporate Register²³ rating upgrade.

²³ According to BNDES' comment, "*the conviction in a national court or has been subject to equivalent national administrative measures for violation of laws against bribery of foreign public officials of any country within a five-year period will be considered in the Corporate Register assessment. Thus, in*

71. In addition, Australia, Brazil/BB, France, Hungary/MEHIB, Latvia and Russia/EXIMBANK have indicated in their responses that other actions might be taken, for instance, denying the related application even before undertaking enhanced due diligence, reporting to their relevant management boards/committees to decide on further measures, or taking actions prescribed by the law of their own country or recommended by the competent authorities. In this context, the United States/USDA has provided additional information on the process for placing a party on its suspension or debarment list, which can be found in the relevant response made available on the OECD website.

Question 12 - *If, before credit, cover or other support has been approved, you have reason to believe that bribery may be involved in the transaction (e.g. press reports from a reputable source, information provided by participants in the transaction) related to the award of the export contract, what action(s) are taken? If enhanced due diligence is undertaken:*

(a) *Does the enhanced due diligence process include, inter alia, verification that the exporter/applicant has in place appropriate management control systems that combat bribery?*

(b) *How is the application treated?*

72. In accordance with Article 1 (f) of the Recommendation, Adherents are always expected to undertake enhanced due diligence if they have reason to believe that bribery may be involved in the transaction. Question 12, therefore, addresses the action(s) ECAs might take in such circumstances.

73. In responses to this question, 42 ECAs would "always" undertake enhanced due diligence in the above-mentioned situation, Colombia would stop the transaction and deny any disbursements, Latvia rejects the application and does not start business relations with the exporter/applicant, and Mexico would "sometimes" undertake enhanced due diligence.

74. Of the 42 ECAs that would always undertake enhanced due diligence, 37 ECAs, including the six ECAs from Brazil and Russia, would "always" and four ECAs (from Belgium, France, Portugal and the United States/USDA) would "sometimes" verify whether the exporter and/or applicant has in place appropriate management control systems that combat bribery, while Estonia does not currently include this verification.

75. With regard to how the application is treated in relation to situations described in Question 12, of the 42 ECAs that would always undertake enhanced due diligence, 39 ECAs would always suspend the approval of the application pending the outcome of the enhanced due diligence process, while the three ECAs of Brazil and the Czech Republic/CEB do not always take this action.

76. A number of ECAs have also reported that they would seek additional information during the due diligence process concerning allegations received from third parties after which they (*i.e.* their relevant management boards/committees) would take a decision on whether to take additional measures. Other actions by ECAs may include, for example, denying the related application before undertaking enhanced due diligence, actions prescribed by the law of its own country, or recommendations by the competent authorities. Last, Korea/K-sure has noted that it does not have the mandate to investigate allegations from third parties and would instead pass such allegations to the appropriate authorities.

accordance with all negative elements in the Corporate Register assessment such corporation might be rated as Negative and, therefore, the application assessment would be suspended pending the Corporate Register rating upgrade".

Question 13 - If, before credit, cover or other support has been approved, you become aware of credible evidence that bribery was involved in the award of the export contract for the transaction, what action(s) are taken? If enhanced due diligence is undertaken:

(a) Does the enhanced due diligence process include, inter alia, verification that the exporter/applicant has in place appropriate management control systems that combat bribery?

(b) How is the application treated?

If investigative authorities are informed:

(c) How is the application treated?

77. Taking together Articles 1 (i) and (j) of the Recommendation, Adherents are required to inform law enforcement authorities and suspend the approval of an application pending the outcome of the enhanced due diligence process when there is credible evidence that bribery was involved in the award of the export contract. In addition, Adherents should not provide cover or other support for a transaction if the result of any enhanced due diligence process undertaken concludes that bribery was involved in the transaction. Question 13, therefore, addresses the action(s) ECAs might take in such circumstance. The set responses to the Question are: law enforcement authorities are informed, enhanced due diligence is undertaken, and support is not provided for the transactions.

78. As shown in the Table 4, 41 ECAs would "always" inform law enforcement authorities in the above-mentioned situation. All of these ECAs but one would then suspend the approval of the application pending the outcome of the review by law enforcement authorities, while Latvia rejects the application.

79. Brazil/BB, Mexico and the United States/USDA would "sometimes" inform investigative authorities, depending on the circumstances: Brazil/BB would then suspend the approval of the application pending the outcome of the review by law enforcement authorities; Mexico would deny any support; and the United States/USDA would suspend approval of the application pending the outcome of the enhanced due diligence and might also disqualify the application in accordance with its internal regulations.

80. Last, Colombia has reported that it may not inform law enforcement authorities or undertake enhanced due diligence in such situation; rather, it would, when it became aware of the investigation, stop the transaction, deny any disbursements and put the case under a monitoring control procedure.

81. Thirty two ECAs would also undertake their own enhanced due diligence, which would include, in most cases²⁴, *inter alia*, verification that the exporter and/or applicant has in place appropriate management control systems that combat bribery, and would suspend approval of the application pending the outcome of both their enhanced due diligence. The remaining 12 ECAs²⁵ would not undertake their own due diligence, but would either not provide support or would suspend approval pending clearance from the law enforcement authorities.

²⁴ In this context, for example, Australia has commented that "the enhanced due diligence to be undertaken would depend on the circumstances of the allegation. In some cases it would not be appropriate to contact the exporter/applicant to assess the management control systems to combat bribery (for example where the law enforcement agency investigating the matter has requested that the matter be kept strictly confidential to allow the investigation to proceed)."

²⁵ Austria, Canada, Estonia, Germany, Hungary/Eximbank, Italy, Latvia, Luxembourg, Russia/EXIMBANK, Slovenia, Spain and Switzerland.

Table 4 – Actions when there is credible evidence of bribery before the decision to provide support has been made

	Law enforcement authorities (LEA) are informed?			Enhanced due diligence (EDD) is undertaken?				Support not provided at all?	
	Always?	Approval suspended pending clearance by LEA?		Always?	Management control systems verified?	Approval suspended pending outcome of EDD?		Always?	
Australia	X	X	yes, sometimes	X	X	Sometimes	Yes, always		
Austria	X	X	Yes, always					X	X
Belgium	X	X	Yes, always	X	X	Sometimes	Yes, always		
Canada	X	X	Yes, always					X	X
Czech Republic/CEB	X	X	Yes	X	X	Always	Yes	X	X
Czech Republic/EGAP	X	X	Yes, always	X	X	Always	Yes, always		
Denmark	X	X	Yes, always	X	X	Always	Yes, always	X	X
Estonia	X	X	Yes, always					X	X
Finland	X	X	Yes, always	X	X	Always	Yes, always	X	
France	X	X	Yes, always	X	X	Always	Yes, always	X	
Germany	X	X	Yes, always					X	X
Greece	X	X	Yes, always	X	X	Always	Yes, always		
Hungary/Eximbank	X	X	Yes, always					X	X
Hungary/MEHIB	X	X	Yes, always	X	X	Always	Yes, always		
Israel	X	X	Yes, always	X	X	Always	Yes, always	X	X
Italy	X	X	Yes, always						
Japan/JBIC	X	X	Yes, always	X	X	Always	Yes, always		
Japan/NEXI	X	X	Yes, always	X	X	Always	Yes, always		
Korea/KEXIM	X	X	Yes, always	X	X	Always	Yes, always		
Korea/K-sure	X	X	Yes, always	X	X	Always	Yes, always		
Latvia	X	X						X	X
Luxembourg	X	X	Yes, always					X	X
Mexico	X			X		Sometimes	Yes, always	X	X
Netherlands	X	X	Yes, always	X	X	Always	Yes, always		
New Zealand	X	X	Yes, always	X	X	Always	Yes, always	X	
Norway/ECNorway	X	X	Yes, always	X		Sometimes	Yes, always	X	
Norway/GIEK	X	X	Yes, always	X	X	Always	Yes, always	X	X
Poland	X	X	Yes, always	X	X	Always	Yes, always		
Portugal	X	X	Yes, always	X	X	Always	Yes, always		
Slovak Republic	X	X	Yes, always	X	X	Always	Yes, always	X	X
Slovenia	X	X	Yes, always					X	X
Spain	X	X	Yes, always						
Sweden	X	X	Yes, always	X	X	Always	Yes, always	X	
Switzerland	X	X	Yes, always					X	X
Turkey	X	X	Yes, always	X	X	Always	Yes, always		
United Kingdom	X	X	Yes, always	X	X	Always	Yes, always		
United States/EXIM	X	X	Yes, always	X	X	Always	Yes, always	X	X
United States/USDA	X		Yes, always	X	X	Sometimes	Yes, always	X	
Brazil/ABGF	X	X	Yes, always	X	X	Always	Yes, always		
Brazil/BB	X		Yes, always	X	X	Always	Yes, always		
Brazil/BNDES	X	X	yes, sometimes	X	X	Always			
Colombia									
Russia/EXIAR	X	X	Yes, always	X	X	Always	Yes, always		
Russia/EXIMBANK	X	X	Yes, always					X	X
Russia/VEB	X	X	Yes	X	X	Always	Yes, always	X	X

Note: Responses are shown as “Yes” where the frequency (always or sometimes) is not specified.

Question 14 - If, after credit, cover or other support has been approved, you have reason to believe that bribery may be involved in the transaction (e.g. press reports from a reputable source, information provided by participants in the transaction) related to the award of the export contract, what action(s) are taken?

82. In accordance with Article 1 (f) of the Recommendation, Adherents are expected to undertake enhanced due diligence if there is reason to believe that bribery may be involved in the transaction. In this context, Question 14 asks about ECAs' actions in such a situation; in contrast to Question 12, this time it addresses ECAs' actions after the credit, cover or other support has been approved.

83. In responses to this question, 37 ECAs have reported that enhanced due diligence would always be undertaken in such cases, with some ECAs noting that their next step would depend on the information received and on the outcomes of deliberations by legal departments, senior management, guardian authorities, etc.; for example, of these 37 ECAs, 24 ECAs (22 ECG ECAs and Brazil/ABGF and Russia/VEB) might also (depending on the outcomes of the enhanced due diligence) inform law enforcement authorities. Another six ECAs²⁶ may not undertake enhanced due diligence; however, they would directly inform law enforcement authorities and allow such authorities to undertake whatever investigation might be necessary. Therefore, these 43 ECAs meet the requirements of the Recommendation by taking appropriate action if, after credit, cover or other support has been approved, they have reason to believe that bribery may be involved in the transaction.

84. Colombia would directly claim for immediate payment from the financial intermediary. Latvia, in such case, would make the contract concluded with the exporter void and notify the exporter thereof.

85. With regard to other measures in addition to undertaking enhanced due diligence and/or informing law enforcement authorities: Australia, Brazil/BNDES, Mexico, New Zealand, Norway/ECNorway, Norway/GIEK, Russia/EXIMBANK, Sweden, Turkey and the United Kingdom have commented that they might withdraw or cancel their support for the transaction, including suspending disbursements, accelerating repayments, reclaiming compensation paid, seeking recourse against the exporter, etc.; Canada has noted that it might deny further support, either for the related transaction or otherwise, until it was satisfied that bribery was not involved or that satisfactory systems had been to deter further bribery; and the United States/EXIM has reported that its Office of the Inspector General has law enforcement agents trained to handle investigations when enhanced due diligence determines that there is a reasonable basis to believe that bribery may be involved in the transaction.

Question 15 - If, after credit, cover or other support has been approved, you become aware of credible evidence that bribery was involved in the award of the export contract for a transaction, what action(s) are taken?

86. In accordance with Article 1 (i) of the Recommendation, Adherents are expected to inform law enforcement authorities if there is credible evidence at any time that bribery was involved in the award or execution of the export contract. In this context, 43 ECAs (37 ECG ECAs, and the ECAs of Brazil and Russia) would inform law enforcement authorities in such a situation. Of these, 41 ECAs would "always" inform law enforcement authorities and two ECAs, *i.e.* from Israel and Portugal, have advised that any decisions to inform investigative authorities would depend on the decisions made by their management and/or the outcomes of an enhanced due diligence process.

87. For the remaining two ECAs: Colombia, as a second-tier bank, would claim for immediate payment from its direct client, the financial intermediary; and the Czech Republic/CEB would rather conduct an enhanced due diligence than inform law enforcement authorities.

²⁶ Australia, Czech Republic/EGAP, Hungary/MEHIB, Mexico, Poland and Turkey.

88. Some other ECAs described other actions that may be taken, for instance: Brazil/BNDES, Hungary/MEHIB, New Zealand, Spain and Turkey would suspend cover until the official investigation has been completed; Canada would deny further support until it was satisfied that bribery was not involved or that satisfactory systems had been put in place to deter further bribery; Estonia may withdraw from the insurance contract; Greece would undertake its own enhanced due diligence; Latvia would make the contract concluded with the exporter void and notify it thereof; Mexico would call back the credit and request the payment if a crime had been committed; and the United States/USDA would suspend approval of any outstanding applications depending the outcome of the investigative process.

Question 16 - *If, after credit, cover or other support has been approved, it is proven that bribery was involved in the award of the export contract for a transaction, what action(s) are taken?*

89. In accordance with Article 1 (k) of the Recommendation, Adherents are expected to take “*appropriate actions*” if, after credit, cover or other support has been approved, bribery has been proven. Such actions are not specified in the Recommendation and may differ depending on the type of support that has been provided, *i.e.* financing or insurance/guarantees; however, examples are given in the Recommendation, such as denial of payment, indemnification or refund of sums provided. In addition, in accordance with Article 1 (i) of the Recommendation, Adherents are expected to inform law enforcement authorities at any time (*i.e.* before or after support is provided) if there is credible evidence of bribery, so it is reasonable to expect that this action should be undertaken if they become aware that bribery has been proven outside their own country.

90. Question 16, therefore, seeks information on the actions ECAs will take in the above mentioned situation: in this context, this Question asks whether the following actions are always, sometimes or never undertaken (the responses are shown in Table 5): Law enforcement authorities are informed; Loan disbursement is interrupted; Cover is invalidated; Claims are not indemnified; Recourse is sought for amounts disbursed; Recourse is sought for claims that have already been paid; Access to official support is denied for a specified period of time, or; Other (to be explained).

91. Of the 45 ECAs, 42 ECAs, including the ECAs of Brazil and Russia, would “*always*” inform law enforcement authorities in accordance with Article 1 (i) of the Recommendation; on the other hand, France would “*sometimes*” inform law enforcement authorities. Only the Czech Republic/CEB and Colombia would not inform law enforcement authorities; however, Colombia would, instead, claim for immediate payment from the financial intermediary.

92. In addition, Australia, New Zealand and Russia/EXIAR have noted, *inter alia*, that they would have to ensure that any action taken would not be prejudicial to the rights of any other parties involved in the transaction that were not responsible for the bribery. This is potentially the same for all ECAs providing insurance and guarantee support: for example, if an exporter were to be convicted of bribery (while the lending bank were not), it might be prejudicial of the ECAs to cancel the cover provided to the lending bank; however, recourse for any losses might be sought from the exporter. Additionally, the United Kingdom has noted that an admission of corrupt activity, as well as proven bribery, would result in appropriate actions being taken.

Table 5 – Measures taken when bribery involvement is proven

	LEAs are informed?		Loan disbursement is interrupted?		Cover is invalidated?		Claims are not indemnified?		Recourse is sought for amounts disbursed?		Recourse is sought for claims that have been already paid?		Access to official support is denied for a specified period of time?		Other	
	Always	Sometimes	Always	Sometimes	Always	Sometimes	Always	Sometimes	Always	Sometimes	Always	Sometimes	Always	Sometimes	Always	Sometimes
Australia	X	X	X	X	X	X	X	X			X	X	X	X	X	X
Austria	X	X			X	X	X	X			X	X				
Belgium	X	X	X	X	X	X	X	X			X	X	X	X		
Canada	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Czech Republic/CEB															X	X
Czech Republic/EGAP	X	X					X	X			X	X				
Denmark	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Estonia	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Finland	X	X	X	X			X	X	X	X	X	X				
France	X	X	X	X	X	X	X	X			X	X				
Germany	X	X	X	X			X	X			X	X	X	X		
Greece	X	X			X	X	X	X			X	X	X	X		
Hungary/Eximbank	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Hungary/MEHB	X	X			X	X	X	X			X	X	X	X		
Israel	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Italy	X	X			X	X	X	X			X	X				
Japan/JBIC	X	X	X	X					X	X						
Japan/NEXI	X	X			X	X	X	X			X	X				
Korea/KEXIM	X	X	X	X	X	X	X	X	X	X						
Korea/K-sure	X	X			X	X	X	X								
Latvia	X	X			X	X	X	X			X	X				
Luxembourg	X	X			X	X	X	X			X	X				
Mexico	X	X	X	X					X	X			X	X	X	X
Netherlands	X	X	X	X	X	X	X	X	X	X	X	X				
New Zealand	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Norway/ECNorway	X	X	X	X	X	X	X	X	X	X	X	X				
Norway/GIEK	X	X	X	X	X	X	X	X	X	X	X	X				
Poland	X	X					X	X			X	X				
Portugal	X	X			X	X	X	X			X	X	X	X		
Slovak Republic	X	X	X	X			X	X			X	X				
Slovenia	X	X			X	X	X	X			X	X				
Spain	X	X			X	X	X	X			X	X				
Sweden	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Switzerland	X	X			X	X	X	X			X	X	X	X	X	X
Turkey	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
United Kingdom	X	X			X	X	X	X			X	X	X	X		
United States/EXIM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
United States/USDA	X	X			X	X	X	X	X	X	X	X	X	X		
Brazil/ABGF	X	X			X	X	X	X			X	X	X	X		
Brazil/BB	X	X	X	X									X	X		
Brazil/BNDES	X	X	X	X									X	X	X	X
Colombia			X	X											X	
Russia/EXIAR	X	X			X	X	X	X			X	X				
Russia/EXIMBANK	X	X	X		X				X				X		X	
Russia/VEB	X	X	X	X									X	X		

93. With regard to denying access to future public support as a sanction for bribery, which is one area considered in the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions²⁷, 24 ECAs, including the three ECAs of Brazil, Russia/EXIMBANK and Russia/VEB, have noted that this was an action that they might "always" or "sometimes" take. At the same time, under the provisions of Article 1 (f) of the Recommendation, all ECAs would be expected to undertake enhanced due diligence before providing future support to an exporter and/or applicant or anyone acting on their behalf in connection with the transaction that has been previously convicted of bribery.

Question 17 - Please indicate by marking the appropriate boxes if you have had any experience with the following scenarios related to the time before credit, cover or other support has been approved.

94. Questions 17 and 18 seek information on past experiences with bribery scenarios and the measures taken in response to such scenarios.

95. In respect of Question 17, 21 ECAs, *i.e.* Belgium, the three ECAs of Brazil, Canada, the Czech Republic/CEB, Denmark, Germany, Hungary/MEHIB, Israel, Italy, Latvia, Mexico, the Netherlands, Norway/ECNorway, Norway/GIEK, Slovenia, Sweden, Switzerland, the United Kingdom, the United States/EXIM and the United States/USDA, have reported that they have experiences with the given bribery scenarios before the approval of official support.

96. Table 6 provides information on the scenarios and the resulting actions taken in the particular cases: for information, the shaded boxes are those relating to the expected measures under the scenarios in accordance with the provisions of the Recommendation; however, other appropriate actions may be taken depending on the specific circumstances of each case.

²⁷ <http://www.oecd.org/daf/anti-bribery/44176910.pdf>.

Table 6 – Past experience before the approval of official support

	You became aware that an exporter/ applicant was on one of the debarment lists that you verify, and...	You became aware that an exporter/ applicant was under charge in a national court for bribery, and...	You became aware that an exporter/ applicant had been convicted in a national court or had been subject to equivalent national administrative measures for bribery, and...	You have reason to believe that bribery may be involved in the transaction (e.g. press reports from a reputable source, information provided by participants in the transaction), and...	You became aware of credible evidence that bribery was involved in the award of the export contract for a transaction, and...
You notified law enforcement authorities.		<u>Brazil/ABGF</u>		<u>Brazil/ABGF, UK</u>	<u>Brazil/ABGF, UK</u>
You undertook enhanced due diligence.	<u>Brazil/ABGF</u> , Brazil/BNDES, Canada, Czech Republic/CEB, Mexico, Netherlands, Sweden/EKN, USEXIM, USDA	Brazil/ABGF, Brazil/BNDES, Canada, Denmark, Germany, Italy, <u>Latvia</u> , Switzerland, USEXIM	Canada, Czech Republic/CEB, Germany, Netherlands, Switzerland, USEXIM	Belgium, <u>Brazil/ABGF</u> , Canada, Czech Republic/CEB, Germany, Mexico, Norway/ECNorway, Norway/GIEK, Slovenia, Switzerland, UK, USEXIM	Canada, Czech Republic/CEB, Mexico, <u>UK</u>
You decided not to provide support for the transaction.	<u>Brazil/ABGF</u> , <u>Hungary/MEHIB</u> , Netherlands, USEXIM, USDA	Canada, <u>Latvia</u> , Norway/GIEK	<u>Brazil/ABGF</u> , Canada	Israel, Norway/ECNorway	
You suspended approval of the application pending the outcome of the enhanced due diligence process.	Canada, Netherlands, USEXIM, USDA	Brazil/ABGF, Brazil/BB, Canada, Germany, Norway/GIEK, Switzerland, USEXIM	Canada, Germany, Netherlands, Switzerland, USEXIM	<u>Brazil/ABGF</u> , Canada, Germany, Israel, Norway/ECNorway, Norway/GIEK, Switzerland, UK, USEXIM	Canada, <u>UK</u>
You suspended approval of the application pending the outcome of the legal process.		<u>Brazil/BNDES</u> , Canada		Israel, Mexico	
[Other]	Brazil/BNDES				

Note: Any ECA(s) that reported its experiences in relation to Question 17 after the last (2016) Review was issued is underlined.

97. The Survey also allows Adherents to provide additional explanations concerning their experiences in relation to bribery. For this 2017 Review, Brazil/ABGF, Brazil/BNDES, the Czech Republic/CEB and Latvia have provided additional information relating to previous experiences in relation to bribery, which can be found in the relevant survey responses.

Question 18 - Please indicate by marking the appropriate boxes if you have had any experience with the following scenarios related to the time after credit, cover or other support has been approved.

98. In respect of Question 18, 13 ECAs, *i.e.* from Australia, Belgium, Brazil/ABGF, Brazil/BNDES, Canada, the Czech Republic/CEB, Finland, Hungary/Eximbank, Italy, the Netherlands, Switzerland, the United Kingdom and the United States/EXIM have reported that they have experiences with the given bribery scenarios, after credit, cover or other support has been approved. Colombia has reported its experiences related to money laundering (but not to bribery).

99. Table 7 provides information on the scenarios and the resulting actions taken in the particular cases: for information, the shaded boxes are those relating to the expected measures under the scenarios in accordance with the provisions of the Recommendation; however, other appropriate actions may be taken depending on the specific circumstances of each case.

Table 7 – Past experience after the approval of official support

	You became aware that an exporter/ applicant was under charge in a national court for bribery, and....	You became aware that an exporter/ applicant had been convicted in a national court or had been subject to equivalent national administrative measures for bribery, and...	You have reason to believe that bribery may be involved in the transaction (<i>e.g.</i> press reports from a reputable source, information provided by participants in the transaction), and...	You became aware of credible evidence that bribery was involved in the award of the export contract for a transaction, and...	It was proven that bribery was involved in the award of the export contract for a transaction, and...
You notified law enforcement authorities.	Brazil/ABGF, <u>Brazil/BNDES</u> , (Colombia)	Hungary/Eximbank	Brazil/ABGF, Finland, UK, USEXIM	(Colombia), UK, USEXIM	(Colombia)
You interrupted loan disbursements.	<u>Brazil/BNDES</u> , (Colombia)	(Colombia), Hungary/Eximbank	<u>Brazil/BNDES</u> , (Colombia)	(Colombia)	(Colombia)
You invalidated export credit cover.	(Colombia)	Hungary/Eximbank		(Colombia)	
You did not indemnify a claim.					
You sought recourse for disbursed loan amounts.	Canada	Hungary/Eximbank	USEXIM	USEXIM	(Colombia)
You sought recourse for claims that had already been paid.			USEXIM	USEXIM	
Denied access to official support for a specified period of time.	Canada, (Colombia)	Brazil/ABGF, Canada		Canada, (Colombia)	Brazil/ABGF, Canada
[Other]	Italy, Brazil/ABGF, Brazil/BNDES, Canada, Czech Republic/CEB	<u>Brazil/BNDES</u> , Canada, Czech Republic/CEB, Netherlands	Australia, Belgium, Brazil/ABGF, Brazil/BNDES, Czech Republic/CEB, Finland, Switzerland, UK	Czech Republic/CEB	Czech Republic/CEB

Note: Any ECA(s) that reported its experiences in relation to Question 18 after the last (2016) Review was issued is underlined. All of the cases reported by Colombia are related to money laundering, instead of bribery.

100. In addition, countries are asked to provide explanations of their experiences in relation to bribery. For this 2017 Review, Brazil/ABGF and Brazil/BNDES have provided additional information relating to previous experiences in relation to bribery, which can be found in the relevant survey responses.

101. Taking the outcome of Questions 17 and 18 together, those ECAs that have reported experience with possible bribery scenarios appear to have had in place appropriate policies and practices to combat bribery and to have taken the necessary steps that are compliant with the obligations of the Recommendation.

Question 19 - Please provide a detailed description of your Enhanced Due Diligence Procedures addressing, inter alia: whether they comprise verification that the exporter/applicant has in place appropriate management control systems that combat bribery; whether the procedures seek to verify whether an exporter/applicant that has been debarred by an IFI (or any other entity checked under your procedures) or convicted of bribery has taken appropriate internal corrective and preventative measures after having been debarred or convicted; the treatment of agents' commissions under the procedures.

102. The Recommendation provides no specific requirements in respect of enhanced due diligence; however, the three measures mentioned in Question 19 might be expected to be part of enhanced due diligence processes undertaken by Adherents. In this context, Table 8 was compiled by interpreting the detailed descriptions of enhanced due diligence processes provided by ECAs either in answers to this Question or in the detailed responses to Questions 6-7 and 9-13.

Table 8 – Content of enhanced due diligence

	Verification that appropriate management control systems that combat bribery are in place	Verification that appropriate internal corrective and preventative measures have been taken	Treatment of agents' commission
Australia	X	X	X
Austria	X	X	X
Belgium	X	X	X
Canada	X	X	X
Czech Republic/CEB		X	
Czech Republic/EGAP	X	X	X
Denmark	X	X	X
Estonia			
Finland	X	X	X
France	X	X	X
Germany	X	X	X
Greece	X	X	X
Hungary/Eximbank	X	X	X
Hungary/MEHIB	X	X	X
Israel	X	X	X
Italy	X	X	X
Japan/JBIC	X	X	X
Japan/NEXI	X	X	X
Korea/KEXIM	X	X	X
Korea/K-sure	X	X	X
Latvia		X	
Luxembourg	X	X	X
Mexico	X	X	X
Netherlands	X	X	X
New Zealand	X	X	X
Norway/ECNorway	X	X	X
Norway/GIEK	X	X	X
Poland	X	X	X
Portugal	X	X	X
Slovak Republic	X	X	X
Slovenia	X	X	X
Spain	X	X	X
Sweden	X	X	X
Switzerland	X	X	X
Turkey	X	X	X
United Kingdom	X	X	X
United States/EXIM	X	X	X
United States/USDA	X	X	X
Brazil/ABGF	X	X	X
Brazil/BB	X	X	X
Brazil/BNDES	X	X	X
Colombia			
Russia/EXIAR	X	X	X
Russia/EXIMBANK	X	X	X
Russia/VEB	X	X	X

103. On this basis, 41 ECAs include all three items mentioned in Question 19 in their enhanced due diligence processes. With respect to the four remaining ECAs:

- Colombia's measures are related to money laundering and it only assumes that bribery, as a source of risk of money laundering, might be combatted in its enhanced due diligence process. Additionally, Colombia reports that it could check applicants and exporters against anti-money laundering debarment list; however, being a second-tier bank, it does not directly verify whether exporters and/or applicants had in place appropriate management control systems that combat bribery or has taken appropriate internal corrective and preventative measures after having been debarred or convicted.
- The Czech Republic/CEB has described its internal enhanced due diligence procedures "POK 82 Combating Bribery in Export Credits Provision" which appears to include verification of whether exporters and/or applicants have taken appropriate internal corrective and preventative measures after being debarred or convicted.
- Estonia explains that enhanced due diligence procedures include establishing factual information about the case and consultations with prosecution and anti-money laundering authorities.
- Latvia appears to include in its enhanced due diligence one of the three items mentioned in Question 19, *i.e.* verification of whether exporters and/or applicants have taken appropriate internal corrective and preventative measures after being debarred or convicted.

104. Information on ECAs' enhanced due diligence procedures, together with their related comments, can be found in the responses made available on the OECD website. In this context, since the last Review was issued, Brazil/ABGF, Brazil/BNDES, Canada, Hungary/MEHIB and Latvia have updated the related information on their enhanced due diligence process.

Question 20 - Please describe how the term *Credible Evidence* is applied in practice under your system (e.g. who makes the assessment). Any Member who has adopted a definition which is broader (i.e. that sets a lower threshold) than the definition provided in footnote 5 of the OECD Council Recommendation on Bribery and Officially Supported Export Credits should provide its definition.

105. Footnote 5 of the Recommendation states "*for the purpose of this Recommendation, credible evidence is evidence of a quality which, after critical analysis, a court would find to be reasonable and sufficient grounds upon which to base a decision on the issue if no contrary evidence were submitted*". Question 20, therefore, asks for further information on how this term is applied in practice and whether any ECA has adopted a broader definition.

106. With regard to who is responsible for assessing whether evidence of bribery is credible, many ECAs have responded that an initial assessment would be undertaken by members of the underwriting and/or legal departments, after which the allegations might be forwarded to senior management and/or guardian authorities for a final decision on the nature of the allegations and on the actions to be undertaken, including, if appropriate, informing law enforcement authorities; other ECAs have, however, reported that allegations would be forwarded directly to senior management for a decision. In addition, Canada has noted that criminal lawyers or the Department of Justice might be consulted, and Australia and New Zealand have commented that they would likely request external legal advice to assist in their deliberations. Last, Colombia and Sweden have noted that a suspicion of bribery (or of money laundering for Colombia) would be promptly notified to the law enforcement authority.

107. With regard to the definition of “*credible evidence*”, 28 ECAs (23 ECG ECAs, Brazil/BB, Brazil/BNDES, Colombia, Russia/EXIAR and Russia/EXIMBANK) have specifically noted that they use the definition provided in the Recommendation. In addition: Brazil/ABGF reported that it understands credible evidence by the occurrence of sufficient indication of responsibility and materiality of the crime, so established by an investigative or judicial authority, as the concept of credible evidence does not exist in Brazilian law; Denmark has commented that the term refers to very strong evidence, not merely suspicions; Estonia has described that credible evidence has to be decided upon by court system and similarly Latvia has responded that as established by laws of Latvia the court assesses credibility of evidence; Hungary/MEHIB has responded that, while it has no legally defined formal definition of the term, in practice, under its regulation, credible evidence occurs when a “*criminal process is initiated against any representative (leading officer or employee) of the client in connection with the act of bribery*” and when the ECA becomes aware of this, via a client declaration, press article or other means, whilst Hungary/Eximbank has reported that the relevant internal procedure describes scenarios which should be considered as credible evidence, including debarment, conviction or well-founded suspicion; and Mexico has responded that the term “*credible evidence*” was equivalent to fulfilling the conditions established in the Federal Criminal Code used to determine that bribery has been committed.

Question 21 - Please describe how the term national court is applied under your system (i.e. does it apply to any national court, or is it limited to certain national courts such as your own and/or the national courts of the buyer/borrower country)

108. The term “*national court*” is not defined in the Recommendation and this question, therefore, sets out to examine how Adherents interpret the term for their own policies and procedures.

109. The majority of ECAs apply a broad interpretation of the term “*national court*” to include any national court in any country, not just those in the exporting country or buyer/borrower country. In this context, eight ECAs (Denmark, Finland, the Netherlands, New Zealand, Portugal, the Slovak Republic, Sweden and Switzerland) have emphasised that this should mean a national court of a country with a legal system that is generally and legally acceptable and/or that the court should have jurisdiction over the entire respective country and not be just a regional court that is not accepted by the state government.

110. Two ECAs, *i.e.* the Czech Republic/EGAP, and Korea/KEXIM, interpret the term “*national court*” to be those of their own country and/or of the buyer/borrower country; eight ECAs, *i.e.* Colombia, Japan/JBIC, Japan/NEXI, Korea/K-sure, Latvia, Mexico, Russia/VEB and the United Kingdom interpret the term to be courts in their own country only (although Latvia did note that it might also consider proceedings in any other countries).

Question 22 - Are you considering any further general measures to deter bribery and/or changes to your policies and practices described in the survey?

111. In response to this question, 23 ECAs, including the ECAs of Brazil and Colombia, have reported that they are considering further general measures to deter bribery and/or changes to their policies and practices. The majority of comments indicate that the further measures are concerning additional trainings for both internal staff and customers, or that any further changes to policies and practices would be based on international developments and experience of existing policies and practices. In revised responses for this year:

- Brazil/ABGF has reported that it is working to implement specific compliance clauses in its Export Credit Insurance Coverage Guarantee Certificate: the Ministry of Finance Attorney General’s Office (PGFN) has already been consulted and a risk matrix is being developed in order to better define and measure the risks of anti-bribery compliance in a given operation; in addition, its anti-bribery compliance procedures will be completely reviewed and aligned to the new OECD Recommendation as soon as the new text is approved;

- The Czech Republic/CEB has reported that a system process will be implemented to control all entities involved in a business transaction, not only the applicant or debtor, but also the end-owners and members of the company's management who will in future, for example, be verified against the debarment lists, and that this system process will be continuous throughout the duration of each business transaction;
- Denmark has reported that it is currently developing a new set of routines in order to ensure a higher quality and overall approach to the risk for corruption, AML and other economic crimes;
- Norway/ECNorway has reported that it is currently developing a new set of routines in order to ensure an overall approach to the risk for corruption, money laundering and other economic crimes, and that it has developed a new application/data tool for use in the initial risk evaluation; and
- Russia/EXIAR and Russia EXIMBANK have reported that within the Russian export centre group (EXIAR, EXIMBANK, REC) several awareness raising mechanisms were established, whereby while applying for non-financial support via JSC "Russian export centre" official website, applicants (exporters) in the registration from verify that they are aware of the legal consequences of bribery in international business transactions.

112. The remaining 22 ECAs have no plans to consider further measures and/or changes to their policies and practices at this time, pending the outcomes of the negotiations of a replacement Recommendation.

113. Descriptions and comments provided by ECAs regarding their further general measures can be found in the respective responses made available on OECD website.

Question 23 - Would you be prepared to exchange information with other ECG Members about suspected and/or proven instances of bribery related to specific officially supported export credit transactions?

114. In response to this question, 43 ECAs (all except the Czech Republic/CEB and Russia/VEB) would be prepared to exchange information with other ECAs on instances of bribery related to specific officially supported export credit transactions: in this context, many ECAs consider that this would have to be on a case-by-case basis and subject to reciprocity and usual banking/commercial confidentiality rules. In addition, seven ECAs, *i.e.* Australia, Belgium, Canada, Colombia, Denmark, Switzerland and the United Kingdom, have indicated that they would only be able to exchange information for proven instances of bribery, for example, where these are a matter of public record.

(c) Section VII - Additional comments

115. ECAs have provided information on their measures to deter and combat bribery generally in relation to the relevant questions in the Survey. Additional information, including the website links to ECAs' anti-bribery measures, is available in the Survey responses on the OECD website.

IV. Comments from Civil Society Organisations (CSOs)

116. Under the provisions of the ECG Peer Review [[TAD/ECG\(2008\)23](#)], these responses received from Adherents are to be made publicly available on the OECD website to enable Civil Society Organisations²⁸ to provide comments on ECAs' implementation of the Recommendation, for inclusion in the annual reviews. In this context, the Survey responses, as at end-June 2018, were made publicly available on 10 July 2018; no comments from CSOs have been received for this Review.

V. ECG co-operation on anti-bribery issues within the OECD

117. In order to promote policy coherence at the OECD, the ECG receives regular presentations on recent developments of interest from the OECD Anti-Corruption Division (ACD) on the work of the OECD Working Group on Bribery in International Business Transactions (WGB), including the on-going peer reviews under the OECD Anti-Bribery Convention. In addition, the up-to-date responses to the Survey and the annual Reviews of these responses are used to inform the work of the WGB in connection with these peer reviews, including preparations for their on-site visits. The country monitoring reports on the implementation of the OECD Anti-Bribery Convention are all publicly available on the OECD website²⁹.

118. In addition, the ECG continues to cooperate on the OECD-wide initiative on CleanGovBiz³⁰ which was launched in 2011.

VI. Review of the Recommendation

119. At the 137th ECG Meeting, held in November 2015, Adherents agreed to consider whether any elements of the Recommendation might need to be reviewed or amended based on their experiences of implementing its provisions and on international developments since 2006. To inform this process, two Workshops were held, in March 2016 and June 2016, with the aim of examining operational aspects of the Recommendation and discussing emerging best practices with relevant external experts, including from Transparency International, law firms and multinational companies. A consultation with other stakeholders also took place at the annual CSO Consultation Meeting in November 2016.

120. The Adherents subsequently considered various options for revising the Recommendation, including with regard to its scope, screening processes, enhanced due diligence measures, etc. As a result, the Chairman prepared a proposal for a replacement Recommendation, which was shared with CSOs for comment in advance of the November 2017 Consultation Meeting [[TAD/ECG\(2017\)8](#) refers]. Since then and in light of comments from both CSOs and Adherents, the Chairman and Secretariat have been refining proposals for a replacement Recommendation with a view to obtaining a consensus from Adherents at the November 2018 ECG Meeting.

²⁸ The Business and Industry Advisory Committee to the OECD (BIAC), the ECA Watch network of non-governmental organisations, the European Banking Federation (EBF), the Trade Union Advisory Committee to the OECD (TUAC), and Transparency International (TI).

²⁹ <http://www.oecd.org/investment/briberyininternationalbusiness/anti-briberyconvention/countryreportsontheimplementationoftheoecdanti-briberyconvention.htm>.

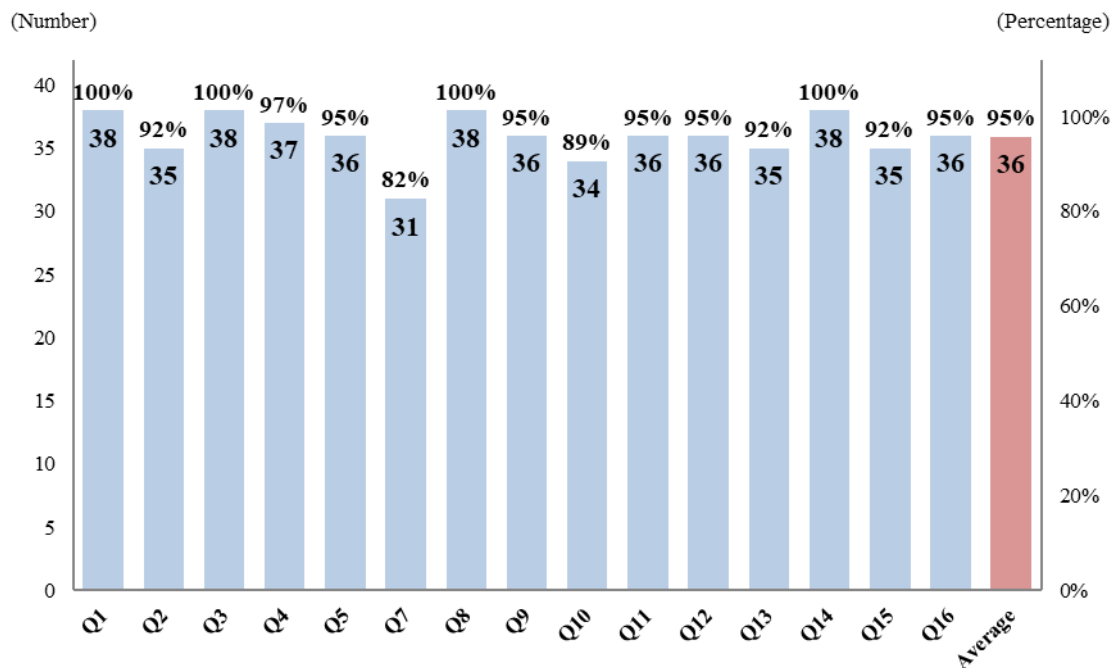
³⁰ For more information: <http://www.oecd.org/cleangovbiz/>.

VII. Conclusions

121. The ECG ECAs' responses to the Survey show that they have, overall, put in place the necessary procedures, policies and systems to meet the obligations of the Recommendation and that, if not sufficiently implemented, further measurements are under consideration. In addition, many of the differences observed in ECAs' approaches to tackling bribery are due to their different types of support provided and the different legal systems in which they operate. Furthermore, ECG ECAs have reported experiences of addressing scenarios relating to possible bribery. Their resulting actions, which are consistent with the provisions of the Recommendation, show that they have put in place the necessary measures for deterring and combatting bribery in officially supported export credits.

122. Chart 1 provides the latest overall assessment of the extent to which ECG ECAs are meeting the core obligations of the Recommendation: in this context, of a total of 38 ECG ECAs, the average number whose policies and practices are compliant with the Recommendation is currently 36 (95%).

Chart 1 – Overview of implementation of the Recommendation – ECG ECAs



Notes: The chart represents how many of the 38 ECG ECAs meet the standard expectations under the respective questions. Questions 6, 17-23 are excluded in the chart as the questions do not directly represent the formal obligations under the Recommendation.

123. With regard to the seven non-Member ECAs that adhere to the Recommendation, Table 9 shows whether they have implemented the expected measures to deter and combat bribery, under respective questions. Some of these non-Member ECAs would require further developments to their anti-bribery measures in order to meet fully the obligations under the Recommendation. As answered under Question 22 (or under corresponding questions), some of these non-Member ECAs intend to improve their anti-bribery measures as required or expected under the Recommendation. ECG ECAs and the Secretariat would be happy to work further with non-Member ECAs to improve their anti-bribery measures.

Table 9 – Implementations of the Recommendation - Non-Members/ECAs (that adhere to the Recommendation)

	Q1	Q2	Q3	Q4	Q5	Q7	Q8	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16
Brazil/ABGF	X	X	X	X	X	X	X		X	X	X	X	X	X	X
Brazil/BB	X	X	X		X					X	X		X	X	X
Brazil/BNDES	X	X	X	X	X		X	X	X	X	X	X	X	X	X
Colombia		*1	*1	*1				*1							
Russia/EXIAR	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Russia/EXIMBANK	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Russia/VEB	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

*1 Colombia reported that it implemented measures to combat money laundering; however, it does not specifically target bribery activities.

VIII. Next steps

124. This Review has now been finalised and issued as a declassified document; with the agreement of the Adherents, it is made publicly available on the OECD website, together with the final Survey responses.

125. Last, Adherents are reminded that they should provide updates to their Survey responses on an on-going basis and, at a minimum, on an annual basis.