

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

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

Attachment for banks

Attachment to the application for an Export Credit Guarantee dated _____

Details of the transaction

Name of the bank making the declaration	xxx
German exporter	xxx
Affiliated company/distributor:	xxx
Buyer/customer:	xxx
Borrower (if different):	xxx
Description of the supplies/services:	xxx
Exporter's order number:	xxx <i>(if known)</i>

1. Compliance with legal regulations

We confirm that the **conclusion of the contract**, in respect of which cover is applied for, has not been brought about by a criminal offence committed by one of our employees, a member of the management or an owner of our company or any other person acting on our behalf and will not be brought about by such an offence.

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

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

3. Duty of disclosure

We are aware that we must provide the Federal Government with complete and accurate information regarding all particulars of the contract that are material to the granting of the Export Credit Guarantee, both during the application procedure and following the issuance of the Export Credit Guarantee. This also includes answering any questions from the Federal Government in respect of any persons acting on our behalf in connection with the conclusion of the contract, questions regarding the initiation of the contract and questions concerning our internal Compliance Management System.

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

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

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

Does not apply

5. Letters of credit

In the event that cover for credit confirmation risks/purchase commitments is applied for, this declaration also refers to the credit confirmation/purchase commitment.

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

Name: _____

Position: _____

Place and Date

Personal number (DN)

Signature/company seal

EXPLANATORY NOTES

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

1. Compliance with legal regulations

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

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

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

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

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

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

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

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

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

3. Information on debarment lists

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

4. Declaration to the best of your knowledge and belief

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

5. Banking consortium

If a banking consortium is involved each member of the consortium has to provide an anti-corruption declaration of its own in the course of the application procedure.