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ANNUAL REVIEW BY THE COMMISSION
of Member States' Annual Activity Reports on Export Credits in the sense of Regulation
(EU) No 1233/2011

1. Introduction

Regulation (EU) No 1233/2011 of the European Parliament and of the Council of 16 November 2011 on the application of certain guidelines in the field of officially supported export credits and repealing Council Decisions 2001/76 EC and 2001/77/EC¹ foresees in its Annex I that Member States shall make available to the Commission an Annual Activity Report in order to step up transparency at Union's level. The Commission shall produce an annual review for the European Parliament based on this information.

The present annual review covers the calendar year 2013. As regards the scope of this exercise, it concerns export credit activities in the sense of Regulation (EU) No 1233/2011, i.e. "medium and long term" transactions with a repayment period of 2 years or more. This review does neither cover short term export credit transactions² nor activities carried out by certain Export Credit Agencies (ECAs) outside the field of export credits (such as insurance of investments). It also has to be noted that in the case of some Member States, the function of Export Credit Agency is performed by an insurance company operating under a public mandate. In such cases, the managing of the public export credit program is strictly separated from the private sector activities (the latter are of course not subject of the present review).

The Commission has taken note of the Resolution adopted on 2 July 2013 by European Parliament on the first reporting exercise under Regulation (EU) No 1233/2011³.

Bearing in mind the recommendations contained in this Resolution – such as the recommendation to the Council Working Group on Export Credits and the Commission to consult with the European External Action Service on further developing the reporting methodology – the Commission has also turned the particular attention of Member States to this Resolution in view of subsequent reporting exercises.

2. Annual Activity Reports received for the calendar year 2013

Annual Activity Reports have been received from the following Member States: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Luxemburg, the Netherlands, Poland, Portugal, Romania, Slovenia, Slovak Republic, Spain, Sweden, the United Kingdom.

Cyprus, Estonia, Greece, Ireland, Latvia, Lithuania and Malta did not have active export credit programs in the sense of Regulation (EU) No 1233/2011 during the reporting year.

Like in the previous reporting exercise, Member States have used a similar template for their reporting ("checklist" format). While some Member States have chosen to link their Annual Activity Report with national level annual reports published for the same period, others have opted to describe extensively their activities directly in the reporting template.

¹ OJ L 326, 8.12.2011, p. 45.

² To such transactions, the Communication of the Commission pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export-credit insurance, applies.

³ European Parliament resolution of 2 July 2013 on the first annual report from the Commission to the European Parliament on the activities of Member States' Export Credit Agencies (2012/2320 (INI))

3. Analysis of the Annual Activity Reports

a) General and financial information

The applicable regulatory framework (Regulation (EU) No 1233/2011) focuses on rules for export credit transactions and programs, but leaves it to the individual Member State to decide whether to run an export credit program or not, and in the affirmative case how to organise its respective Export Credit Agency (“ECA”).

In some Member States, the ECA is a government department or agency. In others, an insurance company performs this function under a public mandate and under government supervision. It is not uncommon for Member States offering different categories of export credit support to have more than one ECA (e.g. one agency providing official support in the form of guarantee or insurance-style "pure cover" and a second one to provide interest rate style support). In 2013, 21 EU Member States were running export credit programs in the sense of Regulation (EU) No 1233/2011. These programs were managed by a total of 29 different agencies and government departments.

As regards the types of export credit support offered by European ECAs, the most common form remains "pure cover" (i.e. the export transaction in question is actually financed by a credit from a commercial bank, for which the ECA provides a guarantee or insurance-type cover). All 21 Member States providing export credits in the sense of Regulation (EU) No 1233/2011 during the reporting period offer this kind of support. 14 Member States also offer other forms of support covered by Regulation (EU) No 1233/2011 and the OECD Arrangement on Officially Supported Export Credits⁴, such as direct credit or financing (in which the financing is directly provided by the ECA, not by a commercial bank)⁵, re-financing⁶ or interest rate support schemes⁷. Several Annual Activity Reports also explicitly mention project finance⁸ or tied aid⁹.

It is always difficult to compare national export credit programs with each other: Firstly, Member States have – within the general export credit types mentioned in the previous paragraph – developed a great diversity of financial products, secondly the impact of an export credit program obviously also depends on the characteristics of the national economy and on the capacities of the private financial sector. Under this reserve, a comparison of the aggregate nominal risk exposure on 31 December 2013 provides at least a general idea of the size of the biggest “pure cover” type export credit schemes:

| The biggest European “pure cover” export credit schemes in 2013 (in billion Euro) | |
|--|------|
| Germany | 87.7 |
| France | 61.2 |
| Sweden | 34.9 |

⁴ The OECD Arrangement on Officially Supported Export Credits forms an annexe to the Regulation,
⁵ Bulgaria, Czech Republic, Denmark, Finland, Hungary, Poland, Slovakia, Spain and United Kingdom.

⁶ Slovakia and Sweden

⁷ Finland, France, Germany, Italy, Poland, Slovakia and Spain

⁸ Denmark, Germany, Netherlands and Slovenia

⁹ Austria, Denmark, Hungary, Poland and Spain

| | |
|------------------------------|------|
| Italy | 21.6 |
| United Kingdom ¹⁰ | 20.6 |
| Finland | 11.0 |
| Netherlands | 9.4 |
| Spain | 8.5 |

Taking into account that there are specific financing conditions prevailing in certain industrial sectors – e.g. aircraft and shipbuilding – several Member States have also developed sector-specific export credit products. As already mentioned above, European Export Credit Agencies are active in a broad range of areas beyond the scope of the reporting under Regulation (EU) No 1233/2011. The latter essentially covers medium and long term export credit activities (as defined by the OECD Arrangement on Officially Supported Export Credits). However, many European ECAs are also offering such products as short term export credits and letter of credit guarantees, manufacturing risk guarantees or investment insurance products. It is useful to keep this in mind when assessing the wider economic role of ECAs.

Detailed information may be found in Sections II and IV of the reporting template used for the Annual Activity Reports, as well as in the general annual reports to which several Member States explicitly refer.

In overall conclusion, the Annual Activity Reports provide relevant financial information on the export credit programs in 2013. It however has to be stressed that according to Regulation (EU) No 1233/2011, this reporting is done in accordance with the respective Member State's national legislative framework. This results in some differences in presentation. That being said, the Commission has no specific observations on the financial aspects of the Annual Activity Reports¹¹.

The Annual Activity Reports of the Czech Republic, the Slovak Republic, and the United Kingdom specify contingent liabilities in reference to Paragraph 1/last phrase of Annex 1 of Regulation (EU) No 1233/2011.:

b) Treatment of "environmental risks, which can carry other relevant risks"

According to Paragraph 2 of Annex I of Regulation (EU) No 1233/2011 Member States in their Annual Activity Reports “*shall describe how environmental risks, which can carry other relevant risks, are taken into account in the officially supported export credit activities of their ECAs.*”

19 Annual Activity Reports explicitly refer to this provision. While Paragraph 2 of Annex I only mentions environmental risks, several Member States¹² explicitly refer to social impacts as well. Individual Member States in treating Paragraph 2 of Annex I also

¹⁰ Measured as of 31 March 2014

¹¹ According to Annex I, paragraph 1, the present reporting process is without prejudice to the prerogatives of the Member States' institutions exercising the supervision of the national export credit programs.

¹² e.g. Belgium, Czech Republic, Denmark, France, Germany, Netherlands, Slovak Republic, Slovenia and Sweden

mention human rights¹³, fundamental labour standards¹⁴, anti-bribery¹⁵ or general impact on development¹⁶. The relevant processes of evaluating the risks in question typically aim at a clear decision whether a given project is eligible for export credit support or not (i.e. if the risks involved are disproportionate, no cover is provided). In case of risks that are considered acceptable, export credit support is typically connected with specific conditions, usually aiming at the enforcement of mitigation measures and compliance with standards. An explicit reference to such conditional cover may be found in the reports of Belgium, Denmark, Hungary, Italy, Luxemburg, Poland, Portugal, Romania, the Slovenia and Spain.

Many Member States refer to the procedures contained in the OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the “Common Approaches”)¹⁷.

As regards Member States with several ECAs, some have established a complementarity between the evaluation processes of their respective agencies (such as Italy¹⁸ and the Czech Republic¹⁹).

c) Other information contained in the Annual Activity Reports

In addition to the information already mentioned in sections 3a) and b) above, the 21 Annual Activity Reports also show that Member States in general have policies on export credits and environment, anti-bribery and sustainable lending practices concerning low income countries. The three relevant OECD Recommendations²⁰ play a major – but not exclusive – role. Even Member States which are not OECD Members apply these instruments or intend in principle to do so²¹.

Many Member States in their reports state that in particular the “Common Approaches” are applied beyond the scope defined by the OECD²². In addition, in many cases relevant

¹³ Finland, Germany and Sweden,.

¹⁴ Finland and the Netherlands

¹⁵ the Netherlands

¹⁶ Belgium, Finland and Germany.

¹⁷ Belgium, Germany, Italy, the Netherlands, Luxemburg, Poland, Portugal, Slovak Republic, Slovenia, Spain and the United Kingdom.

¹⁸ In the case of Italy, export transactions are often covered by SACE (export credit guarantee), but also may receive interest rate support from SIMEST. In such cases, SIMEST verifies that the underlying transaction meets the requirements of the OECD Recommendation on Environmental and Social Due Diligence, if any deeper analysis is requested, the relevant assessment by SACE has to be passed satisfactorily.

¹⁹ Under the Czech export credit system, it is the normal case that transactions by the Czech Export Bank (“CEB”) are also insured by the Export Guarantee and Insurance Corporation (“EGAP”). The environmental and social risk assessment of a project is normally done by EGAP. In the exceptional cases where EGAP is not insuring a CEB transaction, the latter assumes the responsibility for taking into all environmental and social risks of the supported project.

²⁰ 1. OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the so-called “*Common Approaches*”) 2. OECD Recommendation on Bribery and Officially Supported Export Credits. 3. The Principles and Guidelines to Promote Sustainable Lending Practices in the provision of Official Export Credits to Low-Income Countries

²¹ It is however obvious that the OECD’s Guidelines and Principles on Sustainable Lending cannot be applied by export credit providers who are not doing any lending to low income countries (as is the case for Romania).

²² Denmark, France, Italy and the Netherlands.

instruments and practices have been developed related to the policy areas concerned, which aim at going beyond the content of the OECD Recommendations²³. In several cases, the ECAs in question have developed relevant instruments themselves (e.g. a Corporate Social Responsibility policy or an ethics code)²⁴.

Like in the previous reporting exercise, many Member States stress the special importance of human rights. Practically all reports continue to reflect support for the developing of a human rights' dimension under the new Common Approaches. For several Member States, human rights considerations have a distinct status within their project assessment²⁵. In some cases, the topic is directly linked with labour rights/rights of employees²⁶.

Quite a few Member States also dedicate specific importance to anti-bribery and anti-corruption policies²⁷. A broad range of instruments (e.g. national legislation, domestic good practices, international instruments) are in use.

Other Member States' policies linked to export credit activities include transparency (openness and confidentiality policy), dialogue with stakeholders civil society, contribution to sustainable development, corporate social responsibility (either in the form of a CSR policy for the ECA itself or by promoting efforts of exporters in this field), and the promotion of respect of the OECD Guidelines for multinational enterprises.

During the reporting period, Germany has decided to stop granting export credits for supplies and services intended for nuclear facilities (new and existing ones). Only in certain exceptional cases (e.g. supplies and services improving the safety of existing facilities, decommissioning of nuclear facilities, supplies and services for research and medical facilities) will export credit coverage still be available in the future.

d) Compliance of ECAs with Union objectives and obligations

According to Paragraph 3 of Annex I *“the Commission shall produce an annual review for the European Parliament based on this information, including an evaluation regarding the compliance of ECAs with Union objectives and obligations”*.

The Treaty on the European Union (TEU) enumerates the general objectives of the Union in its Article 3 and the principles and objectives of the Union's External Action in its Article 21.

As regards the EU's common commercial policy, reference to the principles and objectives of the Union's external action is made in Article 206 and in the first paragraph of Article 207 of the Treaty on the Functioning of the European Union, which read:

²³ Austria, Belgium, Bulgaria, Denmark, Finland, France, Germany, Netherlands, and Sweden.

²⁴ Denmark, Italy, Luxemburg, the Netherlands, Slovenia and Sweden.

²⁵ Germany and Sweden.

²⁶ Denmark, Netherlands and Sweden.

²⁷ Bulgaria, Croatia, Germany, Hungary Italy, Luxemburg, the Netherlands, Sweden and the United Kingdom. The reports by Germany and Sweden develop in particular on this topic.

Article 206:

By establishing a customs union in accordance with Articles 28 to 32, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

Article 207:

The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

The European Commission takes note that Member States with export credit activities in the sense of EU Regulation 1233/2011 have established policies to accompany the management of their export credit programs that are in line with the EU's objectives. The export credit-specific Policy Recommendations developed in the OECD - the only international organisation to have developed specialised rules for this policy area so far – are in common use, but the activities of Member States go beyond this level.

Leaving aside the specific case of Germany's exit from providing export credits for the nuclear sector, there have overall been no radical changes in the policies accompanying Member States' export credit programs since the last reporting exercise, an observation which is not supposed to imply that no progress would have been made at all.

Bearing in mind a recommendation contained in the above-mentioned Resolution by the European Parliament of July 2013 on guidance for future reporting exercises, the Commission already in the previous Annual Review had issued a recommendation to notably use the work of international monitoring institutions (including the UN) as guidance in further policy developing. Member States' reports, to a different degree, already use such international instruments as references and the Commission encourages further work in this direction. Further dialogue with the European External Action Service when it comes to human rights policies would also be crucial.

The European Parliament has called upon the Commission for a statement on whether Member States comply with Union objectives and obligations; the European Commission considers that Member States that have provided relevant information on the matter have overall complied Articles 3 and 21 TEU. Of course, the European institutions may like to set themselves jointly more ambitious political targets. The Commission stands ready to facilitate and promote a relevant inter-institutional dialogue in this regard.

As regards compliance with international obligations and obligations under EU competition law, there have been no disputes at WTO level involving European export credit programs during the reporting period. No complaints concerning potential infringements of EU law involving export credit agencies were received by the European Commission in 2013.