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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/EC[1] foresees in its Annex I that Member States shall make available to the Commission an annual activity report in order to increase transparency at Union level. The Commission, in turn, is obliged to produce an annual review for the European Parliament based on this information.

The present annual review covers the 2018 calendar year. 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 covers neither short-term export credit transactions[2] nor activities carried out by certain Export Credit Agencies (ECAs) outside the field of export credits (such as investment insurance). It must also be noted that in the case of some Member States, the function of export credit agency is performed by an insurance company or a financial institution operating under a public mandate. Only the public sector activities of such companies are covered by this review.

The Commission has taken note of the Resolution adopted on 2 July 2013 by the European Parliament on the first reporting exercise under Regulation (EU) No 1233/2011[3] and has drawn the particular attention of Member States to the recommendations contained in that 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. At the time of writing, an update to the reporting methodology is under review by Member States.

2. Annual Activity Reports received for the 2018 calendar year:

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 and the United Kingdom.

The remaining seven Member States (Cyprus, Estonia, Greece, Ireland, Latvia, Lithuania and Malta), did not provide export credit programmes in the sense of Regulation (EU) No 1233/2011 during the reporting year.

[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) sets the general rules for export credit transactions and programmes. Although most EU governments have set up an ECA, the scope and type of export credit programmes provided, as well as the organisational structure of the agency, differ between Member States.

In some Member States, the ECA is a government department or agency. In others, as noted above, an insurance company or a financial institution perform 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 which provides official support in the form of guarantees or insurance for commercial loans and another which, for example lends directly or provides interest make-up schemes).

In 2018, 21 EU Member States provided export credit programmes in the sense of Regulation (EU) No 1233/2011. These programmes were managed by a total of 29 different agencies and government departments.

Most Member States are offering an increasingly wide range of export credit programmes. As regards the types of export credit support offered by EU ECAs, the most common form remains "pure cover" (i.e. the export transaction in question is financed by 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 offered this kind of support during the reporting period. The vast majority of Member States also offered other forms of support covered by Regulation (EU) No 1233/2011 and within the scope of application of the OECD Arrangement on Officially Supported Export Credits,[4] such as direct lending or financing (where funding is directly provided by the ECA and not by a commercial bank) or re-financing[5]. Many Member States also provide project financing and different forms of tied aid. Almost all Member States offer programmes designed to accommodate the specific needs of SMEs.

Generally, practices and underwriting standards are becoming increasingly alike among Member States, as the Arrangement on Officially Supported Export Credits has come to encompass a growing number of issues. Nonetheless, the following differences should be borne in mind as they make it difficult to provide a fully-fledged comparison. Firstly, Member States have – within the general forms of export credit support mentioned in the previous paragraph – developed a wide variety of export credit programmes. Moreover, while a particular product may be common to multiple ECAs, the terms and conditions attached to it may not be the same. Secondly, the impact of an export credit programme obviously also depends on the characteristics of the national economy and on the capacity of the private financial markets.

[4] The Arrangement on Officially Supported Export Credits, as incorporated into Union law, is reproduced in Annex II to the Regulation.

[5] Belgium, Czech Republic, Denmark, Hungary, Italy, Poland, Slovak Republic, Spain, Sweden and United Kingdom.

With these reservations in mind, the table below that lists the aggregate nominal risk exposure as of 31 December 2018 provides at least a general idea of the size of the biggest "pure cover" type export credit schemes.[6]

Official support in the form of "pure cover" in 2018 (€ billions) **Largest in EU according to aggregate nominal risk exposure**	
Germany	86,5
France	65,1
Sweden	28,1
Italy	26,4
Netherlands	24,4

As already mentioned above, EU ECAs are active in a broad range of areas beyond the scope of the reporting obligation under EU Regulation (EU) No 1233/2011. The latter essentially covers medium and long-term export credit activities (as defined by the Arrangement on Officially Supported Export Credits). However, many EU ECAs also offer products such as short-term export credits, letter of credit guarantees, manufacturing risk guarantees and investment insurance products. It should also be noted that several Member States have developed sector-specific export credit products for example for aircraft manufacturing, shipbuilding and rail infrastructure. This may reflect the separate sector understandings in the Arrangement on Officially Supported Export Credits where some terms, in particular regarding the maximum repayment term, are adapted to the specific needs of particular industries.

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 many Member States explicitly refer.

Overall, the Annual Activity Reports provide relevant financial information on the export credit programmes. It should be stressed, however, 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. The Commission has no specific observations on the financial aspects of the Annual Activity Reports[7].

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*

[6] Note that the United Kingdom does not provide a figure on aggregate nominal risk exposure per 31 December 2018.

[7] 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 programmes.

relevant risks, are taken into account in the officially supported export credit activities of their ECAs."

Member States report that they are, on a continuous basis, refining their internal processes in order to capture and evaluate the environmental risks at hand. Where the risks involved are deemed to be unacceptable or disproportionate, cover is not provided. Where the risks are deemed acceptable, export credit support is typically conditional and contingent on mitigation measures and compliance with certain standards.[8] In addition, Member State policies are informed by international standards and the broader EU acquis. References to EU objectives, standards and guidelines in the reports demonstrate that soft as well as hard law instruments are taken into account and that the spirit is as important as the letter of the law.

Convergence in practices is demonstrated, for example, by the application of different assessment procedures depending on the type and category of the transactions explicitly described by some Member States.[9]

Paragraph 2 of Annex I in Regulation (EU) No 1233/2011 mentions both environmental risks and "other relevant risks". In general, and as in previous years, Member States have continued to interpret environmental and associated risks broadly. Many Member States also, when deemed warranted, report that they follow up the assessment of the risk during the lifetime of the transaction according to specific guidelines.

Transactions are assessed with not only environmental but many other considerations in mind. For instance, several Member States explicitly refer to social impacts[10] as well as human rights[11]. These risks may be assessed by external independent experts[12] or, increasingly, by dedicated specialists within each ECA[13].

Member States also refer in particular to the procedures outlined in the OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the "Common Approaches"), which is an accepted and well established assessment tool within the OECD and a normative impact outside the OECD.

The reporting indicates that Many Member States go beyond the scope of the Common Approaches in order to give enhanced scrutiny to an even greater share of transactions.[14] Member States also benchmark against other international standards in addition to the Common Approaches. These standards include the World Bank Safeguard Policies,[15] the United Nations Guiding Principles on Business and Human Rights,[16] the Principles of the United Nations Global Compact,[17] the International Labour Organisation Declaration on

[8] E.g. Belgium, Denmark, France, Hungary. Luxembourg, Poland, Portugal, Romania, Slovak Republic, Slovenia and Sweden.
[9] E.g. Belgium, Denmark, Germany, Slovak Republic and Sweden.
[10] Belgium, Czech Republic, Denmark, Finland, France, Germany, Netherlands, Poland, Slovak Republic, Spain, Slovenia and Sweden.
[11] Austria, Germany, Sweden and United Kingdom.
[12] E.g. Czech Republic and Slovak Republic.
[13] E.g. Belgium
[14] E.g. Italy, Germany, Netherlands and Sweden.
[15] Slovak Republic
[16] E.g. Denmark, Finland, Germany and Sweden.
[17] Sweden

Fundamental Principles and Rights at Work,[18] the Equator Principles,[19] the International Finance Corporation's Environmental and Social Performance Standards[20] and the OECD Guidelines for Multinational Enterprises.[21] Some Member States also make reference to climate change initiatives, including reference to the UN Framework Convention on Climate Change.[22] Finally, some Member States also mention their ongoing commitment to improving and developing existing disciplines.

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 have developed export credit policies more generally relating to the environment, anti-bribery and sustainable lending to low income countries. The three OECD Recommendations[23] play a major – but not exclusive – role. The three Member States, Bulgaria, Croatia and Romania, that are not OECD Members apply these instruments or intend to do so. Romania and Croatia apply the Common Approaches and the OECD Recommendation on Bribery, while Bulgaria has implemented the OECD Recommendation on Bribery.

Many Member States state that the "Common Approaches" are applied beyond the scope defined by the OECD.[24] In general, Member States seem to have stepped up their ambitions in combatting bribery and corruption by introducing new compliance measures in order to tighten the anti-bribery and corruption policy. Many Member States require an anti-bribery statement from the insured before issuing support, which states explicitly that coverage is automatically invalidated by a finding of bribery. An increasing number of Member States also mention the importance of monitoring and engaging in dialogues with banks and financial institutions on best practice policies regarding anti-bribery measures.

Moreover, Member States increasingly cite additional policy objectives or considerations, which complement those enshrined in the Common Approaches. Examples include social sustainability[25] and preventing tax evasion.[26] In several cases, the ECAs in question have developed relevant instruments themselves. An example of this would be a Corporate Social Responsibility policy,[27] which typically involves not only internal efforts but also close dialogue with the clients of the ECA.

As regards protection of the environment, new trends include an emphasis on sustainability and emissions reduction. Like in the previous reporting exercises, many Member States stress the particular importance of human rights. Practically all reports continue to reflect support for the development of a human rights' dimension under the new Common Approaches.

[18] E.g. Finland and Netherlands
[19] United Kingdom
[20] E.g. Netherlands and Slovak Republic.
[21] Sweden
[22] Finland
[23] 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
[24] France, Germany, Italy, Netherlands, Slovak Republic and Sweden.
[25] Denmark, Germany, Romania, Slovak Republic and Spain.
[26] Sweden.
[27] Italy, Netherlands, Slovenia and Sweden.

Many Member States have developed their own specific anti-bribery and anti-corruption tools in addition to compliance with the Common Approaches, such as whistle-blowing measures.[28] Anti-money laundering measures continues to be cited as a priority,[29] along with the prevention of terrorism financing.[30]

Member States' policies seem to be converging, which, as one example, is demonstrated by the close adherence to the requirements of the World Bank and the International Monetary Fund cited by many Member States as regards sustainable lending practices to low income countries.

Member States are also careful to ensure that ECAs operate as transparently as possible while respecting the confidentiality that may be necessary for commercial transactions. As in previous years, Member States give particular attention to this issue in their Annual Activity Reports in respect of 2018.[31]

Based on their reporting, Member States seem to have integrated the OECD Common Approaches into their export credit policies. Moreover, Member States seem to go beyond the Common Approaches exchanging best practices and assessment methodologies between themselves. The Common Approaches are more and more being seen as a minimum standard. In many areas, Member States apply their own additional measures in order to ensure that export credit support is only available to transactions that meet a strict set of standards ranging from environmental to social aspects.

d) Compliance of ECAs with Union objectives and obligations:

In order to step up transparency at the EU level, Member States are obliged under Regulation (EU) No 1233/2011 to make available to the Commission an Annual Activity Report, reporting in line with its national legislative framework certain financial and operational information on their export credit activities, which also includes information on how environmental risks are addressed.

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[32] 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.

All reporting Member States provide evidence of having established policies to accompany the management of their export credit programmes that are in line with the EU's objectives.

[28] Slovak Republic and Sweden.
[29] Sweden.
[30] Sweden.
[31] Austria, Belgium, Denmark, Slovak Republic and Sweden.
[32] Inter alia according to Article 3 paragraph 5 TEU, in its relations with the wider world the Union "shall contribute to […] the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter".

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, and in most cases the activities of Member States go beyond this level.

In order to deepen the ability of the Commission to further assess Member States' activities the Commission has, in collaboration with the European External Action Service and in consultations with several stakeholders, proposed to Member States to extend the scope and the level of detail of the information to be included in the Annual Activity Reports. A revised and extended template for the reporting exercise is currently under discussion with Member States.

The European Parliament has called upon the Commission to issue a statement on whether Member States comply with Union objectives and obligations; the European Commission has performed its annual review in accordance with Annex I. As such the Commission's review is based on the Annual Activity Reports submitted by Member States, and cannot be considered definitive. Nonetheless, the Commission considers that the information contained in the Annual Activity Reports provides strong evidence that ECAs are in compliance with Articles 3 and 21 TEU and does not provide evidence of non-compliance by any Member State. Of course, the European institutions may wish to set themselves jointly more ambitious political targets. The Commission stands ready to facilitate and promote an inter-institutional dialogue in this regard but must in the meantime perform its evaluation in accordance with paragraph 3 of Annex I.

As regards compliance with international obligations and obligations under EU competition law, there have been no disputes at WTO level involving European export credit programmes during the reporting period. No complaints concerning potential infringements of EU law involving export credit agencies were received by the European Commission in 2018.