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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 2017 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 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 2017 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 have active 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 European 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 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 which provides official support in the form of guarantees or insurance for commercial loans and another which, for example lends directly or provides interest-rate support).

In 2017, 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.

In general, Member States are expanding their toolkit of export credit programmes. 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 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)[5] or re-financing[6]. Several Annual Activity Reports also explicitly mention project finance[7], tied aid[8] and/or lending to SMEs[9].

Generally, a higher degree of conformity has evolved during recent years as the OECD Arrangement on Officially Supported Export Credits has come to encompass a wide range 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 capacities of the private financial sector.

[4] The OECD 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 and United Kingdom.
[6] Hungary, Slovak Republic and Sweden.
[7] Denmark, Germany, Italy and Netherlands.
[8] Austria, Denmark, Hungary, Poland and Spain.
[9] Bulgaria, Denmark and Romania.

With these reservations in mind, the table below listing aggregate nominal risk exposure as of 31 December 2017 provides at least a general idea of the size of the biggest "pure cover" type export credit schemes.[10]

Official support in the form of "pure cover" in 2017 (€ billions) **Largest in EU according to aggregate nominal risk exposure**	
Germany	85,8
France	69,2
Sweden	34,8
Italy	25,6
Netherlands	24,4

As already mentioned above, European 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 OECD Arrangement on Officially Supported Export Credits). However, many European 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. 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.

Overall, the Annual Activity Reports provide relevant financial information on the export credit programmes in 2017. 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[11].

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

According to paragraph 2 of Annex I to 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."*

[10] Note that the United Kingdom also listed aggregate nominal risk exposure of £23.1bn as of 31 March 2018.

[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 programmes.

ECAs continue to assess environmental risks and Member States have further developed internal processes to evaluate the risks at hand. Where the risks involved are deemed to be unacceptable or disproportionate, cover is not provided.[12] Where the risks are deemed to be acceptable, export credit support is typically conditional and contingent on mitigation measures and compliance with certain standards.[13] 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.[14]

Paragraph 2 of Annex I mentions both environmental risks and "other relevant risks". In general, as in previous years, Member States have continued to interpret environmental and associated risks broadly.

Transactions are assessed with not only environmental but many other considerations in mind. For instance, several Member States explicitly refer to social impacts[15] as well as human rights[16]. These risks may be assessed by external independent experts[17] or, increasingly, by dedicated specialists within each ECA[18].

In addition, almost all Member States 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 have gained acceptance and normative impact even beyond OECD membership.

Many Member States report that they apply the Common Approaches beyond the recommended scope in order to give enhanced scrutiny to an even greater share of transactions.[19] Member States also go beyond the Common Approaches and benchmark against other international standards in addition to the Common Approaches. These standards include the World Bank Safeguard Policies,[20] the United Nations Guiding Principles on Business and Human Rights[21], the Principles of the United Nations Global Compact,[22] the International Labour Organisation Declaration on Fundamental Principles and Rights at Work,[23] the Equator Principles[24], the International Finance Corporation's Environmental and Social Performance Standards[25] and the OECD Guidelines for Multinational Enterprises.[26] Another recent trend is the inclusion of climate change initiatives in this context, including reference to the UN Framework Convention on Climate Change.[27] Finally, some Member

[12] E.g. Belgium, Austria, Germany, Hungary, Luxembourg and Portugal
[13] E.g. Belgium, Denmark, France, Hungary, Luxembourg, Poland, Portugal, Romania, Slovak Republic and Slovenia.
[14] E.g. Belgium, Denmark, Germany and Slovak Republic.
[15] Belgium, Czech Republic, Denmark, Finland, France, Germany, the Netherlands, Poland, Slovak Republic, Spain, Slovenia and Sweden.
[16] Austria, Germany, Sweden and United Kingdom.
[17] E.g. Czech Republic, Slovak Republic.
[18] E.g. Belgium
[19] Italy, Germany, the Netherlands and Spain.
[20] Slovak Republic.
[21] Denmark, Finland, Germany and Sweden.
[22] Sweden.
[23] Finland and Netherlands.
[24] United Kingdom.
[25] Netherlands and Slovak Republic.
[26] Sweden.
[27] Finland.

States also mentioned their ongoing commitment to improving and developing existing disciplines. Finland, for example, noted its participation in inter-ECA working groups seeking common approaches to environmental and social issues, as well as wider international efforts to create common rules to ensure a level playing field.

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[28] play a major – but not exclusive – role. Also Member States that are not OECD Members apply these instruments or intend to do so. Bulgaria, for example, applies the OECD Recommendation on Bribery. Many Member States state in particular that the "Common Approaches" are applied beyond the scope defined by the OECD.[29] In addition, Member State policies are informed by international standards[30] and the broader EU *acquis*. References to EU "objectives", "standards" and "guidelines" 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.

Moreover, Member States increasingly cite additional policy objectives or considerations, which complement those enshrined in the Common Approaches. Examples include social sustainability[31] and preventing tax evasion.[32] In several cases, the ECAs in question have developed relevant instruments themselves. An example of this would be a Corporate Social Responsibility policy,[33] which typically involves not only internal efforts but also close dialogue with the ECA's clients.[34]

As regards protection of the environment, new trends include an emphasis on sustainability[35] and emissions reduction[36]. 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.

In general, Member States policies regarding ECAs have tended to converge. An example of this is in anti-bribery measures. Many Member States require a signed non-bribery declaration from the parties involved and state explicitly that coverage is automatically invalidated by a finding of bribery.[37] An increasing number of Member States also mention the importance of

[28] 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
[29] France, Germany, Italy, Netherlands, Slovak Republic and Sweden.
[30] For details, see list above, section 3b).
[31] Denmark, Germany, Romania, Slovak Republic and Spain.
[32] Sweden.
[33] Italy, Netherlands, Slovenia and Sweden.
[34] E.g. Belgium.
[35] E.g. Czech Republic, Italy, Poland, Romania and Spain.
[36] Belgium and Denmark.
[37] E.g. Bulgaria, Denmark, France, Germany, Luxembourg, Portugal and Romania.

monitoring[38] and are active in encouraging banks and exporters to develop anti-bribery measures of their own.[39]

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.[40] Anti-money laundering measures continues to be cited as a priority,[41] along with the prevention of terrorism financing.[42]

Similarly, convergence 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.[43]

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. Several Member States give particular attention to this issue in the Annual Activity Reports in respect of 2017.[44]

Based on their reporting, Member States seem to have integrated the OECD Common Approaches into their export credit policies. Moreover, as the variety of considerations included above demonstrates, the Common Approaches are frequently 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[45] and the principles and objectives of the Union's external action in its Article 21.

[38] Belgium, Italy and United Kingdom.
[39] Belgium, Denmark and Germany.
[40] Slovak Republic and Sweden.
[41] Sweden.
[42] Sweden.
[43] E.g. Hungary, Italy and Netherlands.
[44] Austria, Belgium, Denmark, Slovak Republic and Sweden.
[45] 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".

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. 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 1. 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 2017.