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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Annual Report on negotiations undertaken by the Commission in the field of export credits, in the sense of Regulation (EU) No 1233/2011

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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 the European Commission "according to its competencies shall provide to the European Parliament an annual report on negotiations undertaken, where the Commission has negotiating authorisation in the various forms of international cooperation, to establish global standards in the field of officially supported export credits."

The present report covers the period July 2015 to August 2016.

2. Major developments in export credits during the reporting period:

Since the late 1970s, the Export Credit Committees of the Organisation for Economic Co-operation and Development (OECD) have been the main fora for negotiating specialised international rules on export credits. Over the last decades, the **OECD Arrangement on Officially Supported Export Credits** has effectively ensured a level playing field between the export credits programs of its 9 Participants[2]. In addition to general rules on export credit transactions, the Arrangement also contains so-called "**Sector Understandings**" covering special financing rules for specific industrial sectors (Ships, Nuclear Power Plants, Civil Aircraft, Renewable Energy :and Climate Change Mitigation, Rail Infrastructure). The Arrangement also contains distinct rules for specific categories of transactions (like project finance) and addresses the complementarity between export credits and trade-related aid.

As already mentioned in previous reporting, the only weakness in the generally very successful history of the OECD Arrangement is that it has not been possible to convince some of the big new players (notably China), which have emerged in the export credit field in recent years, of joining the Arrangement as well.

For this reason, the **International Working Group on Export Credits ("IWG")** was created in 2012 following a high level political initiative by the US and China. The IWG process has 18 Members (including the 9 Participants to the OECD Arrangement as well as major new export credit providers like China, Brazil, India and the Russian Federation). The official objective of the IWG is to agree on a new set of international disciplines on export credits among a wider set of participants than the OECD Arrangement.

[1]. OJ L 326, 8.12.2011, p. 45.
[2] The EU, the United States, Canada, Japan, Korea, Norway, Switzerland, New Zealand and Australia.

Like in previous years, the European Commission therefore had to represent the European Union in international export credits talks at two different levels. While the IWG process obviously has an immense strategic potential, it will still take time to achieve tangible results and in the meantime the relevance of the OECD based work on export credits remains very high. This has been illustrated in an impressive manner by the conclusion of the new **Sector Understanding on Export Credits for Coal-Fired Electricity Generation Projects** in November 2015 (for details see below). The high level of technical expertise and institutional memory on export credit matters developed in the OECD over the years also has to be considered a remarkable asset.

3. The International Working Group on Export Credits:

During the reporting period, the IWG has had **the following official meetings**: the 9th Official Meeting in October 2015 in Washington, the 10th Official Meeting in Beijing in February 2016 and the 11th Official Meeting in July 2016 in Berlin.

The **9th Official Meeting in Washington (14 to 16 October 2015)** marked the start of the talks on horizontal, general rules applicable to all export credit transactions, after an initial phase of more exploratory talks limited to export credits in two specific sectors (medical equipment and ships). The talks on medical equipment (de facto considered already before as a preparation for the talks on horizontal rules) have been phased out since, while discussions on the ship sector continue.

The talks on the horizontal rules – both in Washington and at the **10th Official Meeting (23 to 25 February 2016 in Beijing) -** have not been without difficulties, as there are considerable divergences of views on the way how overall provisions on the "scope" and "purpose" of a future set of horizontal disciplines could best be defined. Finding perfect theoretical definitions for these terms had not been possible in the OECD Arrangement either, but a good practical understanding has developed over the years among its Participants. At the level of the future IWG disciplines, it will also be important to develop a clear understanding which transactions and which financial institutions are to be covered, notably as the Participants to the IWG process come from a much broader range of diverse institutional traditions and business cultures.

Another big challenge – already noticed during the initial phase of sectorial talks, but becoming even more relevant in the phase of the more sophisticated and complex horizontal talks – are the inconsistencies between official meetings which are caused by the permanent rotation of chairs: While the US when hosting the Washington Meeting was very keen on starting talks on a horizontal text immediately, the Chinese Delegation when hosting the following meeting focused the agenda almost entirely on presentations on what they considered as cross-cutting issues of general interest.

When hosting the **11th Official Meeting (6 to 8 July 2016 in Berlin),** the EU opted for an approach based on "Building Blocks" for horizontal text, deliberately choosing less controversial topics (e.g. maximum repayment terms, maximum official support, treatment of local cost and repayment profiles). This allowed a rather constructive re-launching of the discussions on horizontal text. Parallel discussions on the current export credit practices of the various IWG Members – on the basis of a case study – proved to be rather fruitful as well. It was also possible to complete a Transparency Exercise, in which information on the respective export credit systems of the individual IWG Members was collected. As regards the logistics of the meeting, the European Commission (who chaired it on the behalf of the European Union) had accepted the generous offer of the German authorities to hold the meeting in Berlin, in the premises of the Federal Ministry for Economy. This new approach – all EU hosted IWG Meetings so far took place in Brussels – was a good opportunity to demonstrate the diversity of the European Union.

As regards the **ship sector**, the IWG has had quite constructive discussions at all the three meetings in question. Good progress has notably been made in agreeing on certain sector-specific aspects (categories of vessels to be subject to the new ship sector rules). It however also has to be kept in mind that only a part of the IWG Members has an active interest in ships. Besides, as regards financial conditions in the proper sense of the word, it will obviously be more prudent to give priority to agreeing on them in the horizontal rules in the first place and then decide which derogations from the general rules would be appropriate for the Ship Sector[3]

In parallel to the text discussions, there have been considerable efforts over the last year to achieve an **increase in the efficiency of the IWG's institutional structures**: The EU, the US and many other Delegations have for a long time felt that in particular the nomination of a permanent presiding officer (e.g. a Chairman or a Secretary General), who could facilitate consensus-finding among the IWG Delegations and ensure the necessary technical coherence of the work on the texts plus provide continuity of activities between the official Meetings. China initially reacted with extreme reluctance to such a proposal and argued that a permanent venue for the IWG would be more important. At the time of writing this report, intense discussions were ongoing on finding a compromise acceptable for everyone (most likely on the basis of a package solution addressing both elements). The objective remains to be in a position to agree on more efficient institutional structures for the IWG by the time of the 12th IWG Meeting in Brasilia in December 2016.

Generally speaking, there has been some movement in the IWG during the reporting period. The process still constantly requires initiatives notably form the US, EU and other OECD Participants, although other IWG Members are gradually getting more engaged. China is still often showing certain reserves and progress is not achieved easily. Regular support in the form of raising the IWG issue in appropriate bilateral meetings and multilateral channels (G7, G20 etc) remains a must.

4. Developments in the OECD during the reporting period:

The most important achievement in the OECD Export Credit Committees during the reporting period was the adoption of the **Sector Understanding on Export Credits for Coal-Fired Electricity Generation Projects** on 18 November 2015. The conclusion of this Sector Understanding – accomplished in time for the 21st Conference of the Parties of the UN Framework Convention on Climate Change (Paris, 30 November to 12 December 2015) – marked the end of a process of two years of highly complex and controversial discussions,

[3] For historical reasons, the OECD Ship Sector Understanding is in its substance not very coherent with the general OECD Arrangement – an example which should not be followed when designing the relationship between general and sectorial rules in the future IWG disciplines.

arguably the most political negotiation that took place in the OECD Export Credit Committees in recent years.

Prior to the entry into force of this new Sector Understanding, the OECD Arrangement did not have a regime on the financing of coal-fired plants[4]. The Arrangement's general rules for the financing of non-nuclear power plants applied to them as well, which meant in practice that even the most polluting coal plant could benefit from better financing conditions than a standard export credit transaction.

Under the new Sector Understanding, the situation has completely changed: Granting export credits for coal-fired power plants will now only be possible, if it is clearly demonstrated that no less carbon-intensive energy alternative can be used for the project in question and that it is compatible with the host country's national energy policy and climate mitigation policy and strategy. As a general rule, only the export of the most efficient technology ("ultrasupercritical") may be financed. The support of plants built in less advanced technologies will only be possible under very specific circumstances (mainly in the case of exports of smaller sized plants to IDA-eligible countries) and more rigid financing conditions apply.

While this new regime clearly means a big step forward when compared to the previous status quo, it is regrettable that it is not as ambitious as the text proposed by the EU and attached to the Commission's proposal for a Council Decision under Article 218(9) TFEU. It however also has to be taken into account that – due to the highly controversial nature of the topic – achieving an agreement in the OECD at all and within a reasonable period of time must already in itself be considered a major success[5].

Besides, the new Sector Understanding (which enters into force on 1 January 2017), contains a strong and mandatory review clause. This will provide a platform for aiming for even more ambitious limits on the financing of coal plants in the near future.

Among the other activities in the OECD during the reporting period, the negotiations on the **rules for minimum premium to be charged for transactions in High Income Countries** deserve to be mentioned in particular. This very complex and technical subject had been the topic of long discussions between technical experts in recent years. Although a final compromise proposal had been elaborated for the OECD meetings of November 2016, it turned out – rather unexpectedly - that the US Treasury eventually could not accept it. While this created some disappointment among delegates in the first place, the EU - after a long series of technical exchanges – in mid-May 2016 managed to bilaterally agree on a compromise formula with the US Delegation. This compromise was presented to the OECD Participants in June 2016. By the time of writing this report, no opposition to it has been expressed by any Participant and will form the basis for an attempt at achieving a final agreement in the OECD in November 2016.

The Commission will keep the European Parliament and the Council duly informed of new developments.

[4] Leaving aside the possibility under the Climate Change Sector Understanding to grant a special maximum repayment term of 18 years for specific Carbon Capture and Storage projects.

[5] This also goes for the EU level, as Member States had very different positions on this topic.