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## COVER NOTE

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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**

## **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<sup>1</sup> foresees in its Annex I that Member States shall make available to the Commission an Annual Activity Report of their national Export Credit Agencies (ECAs) programmes, and that the Commission shall produce an annual review for the European Parliament based on an examination of the reports provided by the Member States.

The present annual review covers the calendar year 2014. 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 two years or more. Transactions omitted in the review are short term export credit transactions<sup>2</sup> and transactions carried out by certain 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 (ECA) 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 within in the scope of the present review).

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<sup>1</sup> OJ L 326, 8.12.2011, p. 45.

<sup>2</sup> 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 (OJ C 281, 17.9.1997, p. 4), applies.

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 1233/2011<sup>3</sup>.

As mentioned in previous reports, bearing in mind 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 – the Commission has also drawn the attention of Member States to that Resolution in view of subsequent reporting exercises.

## **2. Annual Activity Reports received for the calendar year 2014**

The Annual Review of 2014 is based on updated Annual Activity Reports from 21 Member States. The Commission has received reports from Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Luxemburg, the Netherlands, Poland, Portugal, Croatia, Romania, Slovenia, Slovakia, 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 programs in the sense of Regulation (EU) No 1233/2011 during the reporting year.

## **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 programs. Although most European governments have set up an ECA, the scope and type of export credit programs provided, as well as the organizational structures of the ECAs, differ among Member States.

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<sup>3</sup> 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 (OJ C 75, 26.2.2016, p. 7).

The ECA is either a government department or agency or an insurance company performing this function under a public mandate and under government supervision. In some Member States, where in addition to guarantees, official support in the form of interest rate style support is offered, two separate organisations have been set up. In other Member States the two strands of export credit support is run by the same organisation.

In 2014, 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 governmental departments.

In general terms, Member States have expanded their toolkit of export credit programs in recent years. The most common type of export credit support offered by European ECAs is what falls under the category "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.

A majority of Member States also offer other forms of support covered by Regulation (EU) No 1233/2011 and under the OECD Arrangement on Officially Supported Export Credits<sup>4</sup>, such as direct credit or financing (in which the financing is directly provided by the ECA, not by a commercial bank)<sup>5</sup>, re-financing<sup>6</sup> or interest rate support schemes<sup>7</sup>. Several Annual Activity Reports also explicitly mention project finance<sup>8</sup> and tied aid<sup>9</sup>.

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<sup>4</sup> The text of the OECD Arrangement on Officially Supported Export Credits is annexed to the Regulation.

<sup>5</sup> Czech Republic, Denmark, Finland, Hungary, Poland, Slovakia, Spain and United Kingdom

<sup>6</sup> Slovakia and Sweden

<sup>7</sup> Finland, France, Poland, Slovakia and Spain

<sup>8</sup> Denmark, Germany and Netherlands

<sup>9</sup> Austria, Denmark, Hungary, Poland and Spain

It is possible to make a broad comparison of the provisions and the use of export credits programs by Member States, outlining the main differences and similarities. To make a fully-fledged comparison reflecting all aspects is however much more difficult. The terms and conditions of export credit programs, even those belonging to the same category of programs and run by ECAs complying with the same regulatory framework, may vary among Member States. Generally a higher degree of convergence has evolved during recent years as the OECD Arrangement on Officially Supported Export Credits has come to encompass a wide range of issues.

Subject to this caveat, a comparison of the aggregate nominal risk exposure at the end of 2014 provides at least a general idea of the size of the biggest “pure cover” type export credit schemes:

<b>Official support in the form of “pure cover” in 2014 (in billion Euro)</b>	
<b>The biggest in EU ranked according to aggregate nominal risk exposure</b>	
Germany	88.5
France	65.3
Sweden	31.6
Italy	26.7
Netherlands	20.2

Through their ECAs, Member States are active in a broad range of areas beyond the scope of the reports required under Regulation (EU) No 1233/2011. 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. The latter essentially cover 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 Member States' 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 2014. However, it 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 Reports<sup>10</sup>.

The Annual Activity Reports of the Czech Republic, Slovakia and the United Kingdom specify contingent liabilities as provided for in paragraph 1, last phrase, of Annex 1 to Regulation (EU) No 1233/2011.

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<sup>10</sup> 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.

## **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.*”

All Member States explicitly refer to this provision. While paragraph 2 of Annex I only mentions environmental risks, most Member States also refer to risks linked to social and human rights issues. Almost all Member States state that they comply with the OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (Common Approaches) concerning environmental and human rights risks. The same goes for the OECD Recommendation on Bribery.

In line with the Common Approaches, the ECAs are gradually establishing a group of dedicated experts on environmental, social and human rights issues. Transactions are being screened in accordance with the Common Approaches for their environmental, social and human rights risks and potential impacts. The screening process has increasingly become a standard assessment procedure among ECAs.

Several ECAs also mention that the risk assessment on aspects related to environmental and human rights is often pursued in close collaboration with exporters and banks. Exporters and banks are requested to give additional information, when needed, in order to ensure that a thorough risk assessment is undertaken.

The process of evaluating the risks in question typically aims at a clear decision on 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 subject to specific conditions, usually aiming at the enforcement of mitigation measures and compliance with relevant standards.



Bulgaria is not a member of the OECD and its ECA has not implemented the Common Approaches in respect of the environment, nor the human rights related aspects. However, Bulgaria applies the OECD Recommendation on Bribery and Officially Supported Export Credits.

### **c) Other information contained in the Annual Activity Reports**

In addition to the information mentioned in sections 3a) and b) above, the Annual Activity Reports 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 Recommendations<sup>11</sup> play a major – but not exclusive – role. Even Member States which are not OECD Members apply these instruments or intend in principle to do so<sup>12</sup>. Overall, the reports from Member States show that Member States are adopting the same approach in order to address issues related to the environment, human rights and bribery. Some Member States give more detailed information in their reports and stress the importance of these issues.

In many cases, Member States are increasingly applying rules and practices that go beyond the scope defined by the OECD Arrangement and apply the same approach also to transactions that do not fall under the scope of the Common Approaches. In several cases, the ECAs in question have developed relevant instruments themselves (e.g. a Corporate Social Responsibility policy or an ethics code).

Several Member States<sup>13</sup> address the importance of adopting measures to promote openness and transparency by providing information to all stakeholders on transactions, finances and on environmental and social issues. As a means to increase awareness and promote openness and transparency, dialogues with stakeholders are initiated and take place on a regular basis.

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<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> Denmark, France, Germany, the Netherlands and Sweden.

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 development of a human rights' dimension under the new Common Approaches. For several Member States, human rights considerations have a distinct status within their project assessment. In some cases, the topic is directly linked with labour rights/rights of employees.

All Member States also attach high importance to anti-bribery and anti-corruption policies. In several Member States exporters and banks are obliged to sign an anti-bribery declaration as part of the application for cover. A broad range of other instruments (e.g. national legislation, domestic good practices) are in use.

#### **d) Compliance of ECAs with Union objectives and obligations**

In order to step up transparency at the EU level, Member States shall 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 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.

The Commission takes note, on the basis of information provided, that Member States with export credit activities in the sense of Regulation (EU) No 1233/2011 have established policies to accompany the management of their export credit programs that are in line with the Union'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.

As mentioned in previous Annual Reviews, in response to a recommendation contained in the above-mentioned Resolution by the European Parliament of July 2013 on guidance for future reporting exercises, the Commission services have recommended to notably using the work of international monitoring institutions (including the UN) as guidance in further policy development. 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 in respect of 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 has performed its annual review in accordance with Annex I. Based on the information contained in Annual Activity Reports submitted by Member States, the Commission considers that they are consistent with the Union's objective set out in Articles 3 and 21 TEU. Of course, the European institutions may in the future set jointly more precise political targets. The Commission stands ready to facilitate and promote a relevant 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 programs during the reporting period. No complaints concerning potential infringements of EU law involving export credit agencies were received by the European Commission in 2014.