



Room Document No. 1

**CONSULTATION BETWEEN CIVIL SOCIETY ORGANISATIONS AND MEMBERS OF THE
OECD WORKING PARTY ON EXPORT CREDITS AND CREDIT GUARANTEES
AND THE PARTICIPANTS TO THE ARRANGEMENT
ON OFFICIALLY SUPPORTED EXPORT CREDITS**

**DEVELOPMENTS IN THE ARRANGEMENT ON OFFICIALLY SUPPORTED EXPORT
CREDITS**

OECD SECRETARIAT

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DEVELOPMENTS IN THE ARRANGEMENT ON OFFICIALLY SUPPORTED EXPORT CREDITS

I. Introduction

1. The purpose of this paper is to identify the main developments in the work undertaken by the Participants to the Arrangement on Officially Supported Export Credits (the Participants)¹ over the last year with regard to the financial terms and conditions on which officially supported export credits are provided by the Participants and to suggest some issues which could prompt debate and on which Civil Society Organisations' (CSOs) views would be welcome. Developments related to other export credit accords, such as on the environment, anti-bribery measures and sustainable development, which are concluded by the OECD's Working Party on Export Credits and Credit Guarantees (ECG), are covered in Room Document No. 2. Information on all these issues is available on the OECD Web site². This document does not pre-empt other papers and/or issues being raised by CSOs.

II. Developments in the Arrangement on Officially Supported Export Credits

(a) 2005 Revision of the Arrangement

2. The *Arrangement on Officially Supported Export Credits* (the Arrangement) was established in 1978 to set out the financial terms and conditions on which officially supported export credits can be provided. Since then it has been revised several times to try and ensure that it responds to the needs of both the providers and recipients of export credits and to reflect more closely market developments and to take into account recent WTO developments. The link between the Arrangement and successive WTO agreements on subsidies and countervailing measures (the ASCM since 1995) has prevailed since 1979 through Item k) 2 thereof; these links have been brought more to the fore recently as a result of several dispute cases raised in the WTO involving the provision of officially supported export credits. Against this WTO background, the 2004 version of the Arrangement came into effect³.

3. The 2005 version of the Arrangement⁴ came into effect on 1 July 2005; the main modifications concerned the formal integration of the special rules for project finance transactions (which have been

¹ All OECD Members except Iceland, Mexico and Turkey.

² The link to the front page of the OECD export credit Web site is: <http://www.oecd.org/ech/xcred>

³ The 2004 version of the Arrangement, which the Secretariat presented to the CSOs in June 2004, was revised mainly in recognition of the WTO developments, *i.e.* the need for more legal clarity/predictability in the text and for greater transparency in the context of competitors outside OECD countries who are providing export credits.

⁴ [http://webdomino1.oecd.org/olis/2005doc.nsf/Linkto/td-pg\(2005\)22-final](http://webdomino1.oecd.org/olis/2005doc.nsf/Linkto/td-pg(2005)22-final)

available on a trial basis for several years) and of repayment profile flexibility for transactions that do not qualify for project finance terms and conditions. In keeping with the spirit of recent modifications of the Arrangement, the conditions under which support can be provided on other than “standard” terms (*i.e.* equal, semi-annual repayments of principal with the first repayment being made no later than six months after the starting point of credit) and the scope of possible flexibility are now clearly stated in Article 14 d).

4. It is expected that most officially supported export credits will continue to be provided on standard terms. Accordingly, the flexibility allowed under Article 14 d) is considered to be exceptional and remains subject to: (1) a number of criteria that serve to limit the scope of possible flexibility (*e.g.* limitations on the maximum weighted average life of the repayment period according to the type of buyer); as well as (2) the requirement to prior-notify the intention to provide support on other than standard terms. The intention of this clarification is to provide for a reasonable amount of flexibility in the structuring of export credits when it is needed in order to improve the creditworthiness of a transaction without promoting the use of non-standard repayment profiles to gain a competitive advantage through more attractive credit terms.

5. The other main substantive change to the Arrangement is the incorporation of special terms and conditions for financing renewable energies and water projects [see *(b)* below].

Issues

- Are the repayment terms and conditions stipulated in the revised Arrangement text sufficiently flexible to meet the basic needs of exporters and buyers who seek official export credit financing?
- Are there other rules in the Arrangement that are perceived as obstructing creditworthy transactions from being financed with officially supported export credits? If so, what are the specific problems and how might they be addressed?

(b) Renewable Energies and Water Projects

6. At their Meeting in April 2005, the Participants agreed special financial terms for renewable energy and water projects, starting on 1 July 2005 for a two-year trial basis⁵; the specificity of the agreement is set out in Annex IV of the Arrangement: the *Sector Understanding on Export Credits for Renewable Energies and Water Projects, in force for a Trial Period until 30 June 2007*. This agreement is in line with commitments made at the 2002 Johannesburg World Summit on Sustainable Development and to the Millennium Development Goals and will help promote the use of renewable energy resources and increase access to safe drinking water.

7. These special terms allow borrowers extended repayment terms of 15 years; this is comparable to the present credit terms available for nuclear power plants under the Arrangement and is more favourable than the 12-year terms previously available for conventional power projects or the 8.5/10-years terms for water projects. Special provisions for minimum interest rates have also been introduced for those providing official financing support for such projects with repayment terms in excess of 12 years.

8. The renewable energies sectors covered by this agreement are wind energy, geothermal energy, tidal and tidal-stream power, wave power, solar photovoltaic power, solar thermal energy, ocean thermal energy and bio-energy. Water projects covered are those related to the supply of water for human use and wastewater treatment facilities. The scope of sectors covered by this agreement also includes hydro-power

⁵ [http://webdomino1.oecd.org/olis/2005doc.nsf/Linkto/td-pg\(2005\)19-final-corr](http://webdomino1.oecd.org/olis/2005doc.nsf/Linkto/td-pg(2005)19-final-corr)

projects; however, implementation of the special terms to this sector has been deferred pending further consideration by the Participants as to whether the extant guidelines for assessing the potential environmental impact of projects, as set out in the 2003 *OECD Recommendation on Environment and Export Credits* (OECD Recommendation), are sufficient to comply with the relevant standards for such projects. In particular, Participants' have been considering whether the guidelines need to be augmented by reference to other international criteria, such as those of the World Bank (*i.e.* other relevant Safeguard Policies), the World Commission on Dams or the International Hydropower Association. Discussions on this issue and on other aspects of this Agreement are likely to continue with the review of the OECD Recommendation, due to be completed next year, and the proposed review of the Agreement at the end of its trial period in June 2007.

9. The intention of the agreement is to enhance the economic and financial viability of such projects, to make renewable energy technologies competitive with conventional energy sources and furthermore to help improve access to water and sanitation for developing countries.

Issues

- Are there any other renewable energies sectors which merit consideration for the special terms and if so what are these⁶?
- Hydro-power projects are seen by some parties as bringing benefits to, and by others as having a negative impact on, recipient countries; can conditionality on financing alleviate the negative impacts and sustain the positive benefits? If so how?
- This Agreement is on a trial-basis for the next two years; what related issues might the Participants wish to consider during their reviews of either the OECD Recommendation in 2006 and/or the Agreement in 2007?

(c) Tied and Untied Aid

(i) Tied Aid

10. The tied aid disciplines of the Arrangement, agreed by the Participants at the end of 1991 and implemented from February 1992, are aimed at limiting trade distortions and directing tied aid to financially non-viable projects and to countries with little or no access to market financings. In 2004, very few tied aid notifications were for sectors generally considered financially-viable (*i.e.* Communication, Energy Generation and Supply, Industry and Mineral Resources and Mining) and most were for sectors involving community social well being, education, hospitals, housing, etc. These facts seem to evidence that the tied aid disciplines continue to function well and meet the Participants' aims.

11. The implementation of the tied aid disciplines are supported by the OECD publication "*Ex Ante Guidance for Tied Aid*", the purpose of which is to help project planners, aid donors and export credit agencies anticipate, at an early stage, whether or not a project is likely to be evaluated as financially non-viable. During their Meeting held in April 2005, the Participants agreed a revision of the *Ex Ante Guidance* to reflect the body of experience gained from a number of projects evaluated by the Participants

⁶ In which context, it should be noted that the Participants are due to discuss including waste fuel production and waste power generation/waste thermal generation within the scope of the Agreement at their meeting in September 2005.

since 1996-2004 where the previous version of the *Ex Ante* Guidance was published based on experience from 1992-1995. The *Ex Ante* Guidance is on the OECD Web site⁷.

Issues

- Whilst the Participants consider the tied aid disciplines to be successful, is the impact of these disciplines viewed as equally successful by other interested parties and if not, why not?

(ii) *Untied Aid*

12. During their Meeting held in November 2004, the Participants agreed a two-year pilot programme for greater transparency and efficiency in the use of untied Official Development Assistance (ODA) credits to developing countries by inviting public bidding from firms wishing to participate. This Agreement on Untied ODA Credits⁸, which was implemented from 1 January 2005, requires that the Participants, when extending untied ODA credits with the conditions specified therein, *e.g.* credits with a value of five million SDRs⁹ or more, (i) to make unclassified *ex ante* and *ex post* notifications pertaining to those untied ODA credits, (ii) to utilise, in principle, internationally recognised competitive bidding procedures and (iii) to secure, in principle, adequate periods before opening of bidding (normally 30 days) as defined in the Agreement. The Agreement and the individual untied ODA notifications are on the OECD Web site.

Issues

- Whilst it is early days in respect of this Agreement, has this transparency exercise proved to be useful, *e.g.* fairer, earlier and more transparent business opportunities for interested parties, and if not, why not?
- Has any party consulted the publicly available information on individual untied ODA credit notifications and found this useful?

XCREDSEC, August 2004

⁷ [http://webdomino1.oecd.org/olis/2005doc.nsf/Linkto/td-pg\(2005\)20](http://webdomino1.oecd.org/olis/2005doc.nsf/Linkto/td-pg(2005)20)

⁸ <http://www.oecd.org/dataoecd/14/39/34669230.pdf>

⁹ Special Drawing Rates; exchange rates available on the IMF Web site at the following address: http://www.imf.org/external/np/fin/rates/param_rms_mth.cfm