



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Development

2006/0167(COD)

17.9.2010

DRAFT OPINION

of the Committee on Development

for the Committee on International Trade

on the proposal for a decision of the European Parliament and of the Council
on the application of certain guidelines in the field of officially supported export
credits

(COM(2006)0456 – C7-0050/2010 – 2006/0167(COD))

Rapporteur: Bart Staes

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SHORT JUSTIFICATION

The Commission and Council are currently reviewing the legislative framework (called the "Arrangement on officially supported export credits" and negotiated within the Export Credit Group of the OECD) to transfer it into EU law. The purpose is to provide additional legal certainty to the Export Credit Agencies (ECAs) of the Member States that their operations will not be challenged in front of the WTO Dispute Mechanism. This revision opens the opportunity to apply Article 208 of the Treaty on the Functioning of the European Union (TFEU), which states that the reduction and eradication of poverty is the primary objective of the Union's development cooperation policy. This goal must be respected when the Union implements policies likely to affect developing countries. In this context, ECAs are potentially well placed public policy instruments to contribute to the external goals of the Union (notably poverty alleviation and climate change) while adhering to the requirement of coherence for the entire field of external action of the EU. For that reason, these actors need to be judged against these objectives.

AMENDMENTS

The Committee on Development calls on the Committee on International Trade, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a decision Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) A set of social and environmental benchmarks has been progressively developed by multilateral financial institutes and the European Investment Bank, covering a wide range of areas, from the Equator Principles (2006), the leading voluntary standard for managing social and environmental risk in project, to World Bank safeguard policies, including sectoral activities such as the World Bank's Extractive Industries Review's recommendations and the recommendations of the World Commission on Dams. These social and environmental standards, that are reflected in the "Common Approaches" of the Arrangement, are part of a continuous review and update process.

Justification

The inclusion of social and environmental benchmarks helps promoting coherence between policies regarding officially supported export credits and policies for the protection of the environment, including relevant international agreements and conventions, thereby contributing towards sustainable development.

Amendment 2**Proposal for a decision****Recital 3 b (new)**

Text proposed by the Commission

Amendment

(3b) Export Credit Agencies (ECAs) have become the largest source of official financing for developing countries. Hence, ECA-related debt constitutes the largest component of developing-country official debt. A significant proportion of ECA project financing in developing countries is concentrated in sectors such as transport, oil, gas and mining and large-scale infrastructure, such as large dams.

Justification

ECAs have become the largest source of official financing for developing but their loans are still at higher interest rates than those from the World Bank or the IMF. ECAs have become, thus, these countries' largest official creditors, with ECA related debt constituting the largest component of developing-country official debt: according to some studies, between 30-40% of the total official public sector debt.

Amendment 3**Proposal for a decision****Recital 3 c (new)**

Text proposed by the Commission

Amendment

(3c) At the Pittsburgh Summit of 24 - 25 September 2009, the G-20 Leaders

committed to rationalising and phasing out inefficient fossil fuel subsidies over the medium term. Such commitment was reaffirmed by the G-20 Leaders at the Toronto Summit of 26 - 27 June 2010.

Or. en

Justification

The proposal must ensure that the OECD's guidelines reflect the EU's policies towards global climate change adopted in the context of G-20 and summits.

Amendment 4

Proposal for a decision
Recital 3 d (new)

Text proposed by the Commission

Amendment

(3d) The improvements in the Arrangement should ensure full coherence with Article 208 of the Treaty on the Functioning of the European Union (TFEU), in order to contribute to the realisation of the general objective of developing and consolidating democracy and the rule of law, and respecting human rights and fundamental freedoms. Additional measures should therefore be applied in the Union when transposing the OECD Arrangement into Union law to guarantee compatibility between the OECD Arrangement and Union law.

Or. en

Justification

The revision opens the opportunity to apply Article 208 TFEU, which states that the reduction and eradication of poverty is the primary objective of the Union's development cooperation policy. This goal must be respected when the Union implements policies likely to affect developing countries.

Amendment 5

Proposal for a decision Recital 3 e (new)

Text proposed by the Commission

Amendment

(3e) EU principles and standards, derived from EU policy and law, and supplemented by other examples of international good practice, should be the guide for all projects financed by ECAs, and include:

- the overarching environmental principle contained in the Treaty;

- the fundamental human rights referred to in the EU Charter;

the standards incorporated in the body of EU environmental and social legislation relevant to the sectors and projects financed by ECAs.

Or. en

Justification

These principles reflect the general objectives of the European Union as enshrined in the TFEU. Hence, they constitute the base of the European Investment Bank lending practise, as stipulated in the EIB Statement on Environmental and Social Principles and Standards (2009) and the Environmental and Social Practices handbook (2010). In this context, these overriding principles need to be reasserted in view of ensuring a level playing field among European financial institutions.

Amendment 6

Proposal for a decision Recital 3 f (new)

Text proposed by the Commission

Amendment

(3f) ECAs should apply a set of environmental and social requirements throughout the project cycle to ensure the sustainability of all the projects they finance. The notification of social and environmental risk calculation should be

mandatory.

Or. en

Justification

The Common Approaches should recommend that ECA-backed projects are assessed against international human rights standards, with a clear view to preventing projects from causing or contributing to human rights abuses. Each ECA should have in place a clear policy on prevention of harm to the environment and human rights and the exercise of due diligence to this end.

Amendment 7

Proposal for a decision

Recital 3 g (new)

Text proposed by the Commission

Amendment

(3g) The environmental and social performance "standards" that ensure compliance with ECA requirements should be fully consistent with the principles of the EU Sustainable Development Strategy, the Cotonou Agreement and the European Consensus on Development and should reflect:

- the EU's commitment and obligations under the UN Framework Convention on Climate Change (UNFCCC), the UN Convention on Biological Diversity (CBD) as well as the attainment of the UN Millennium Development Goals (MDGs);***
- the social, labour and environmental standards as embodied in international agreements;***

Or. en

Justification

In full consistency and coherence with the provisions of Article 208 TFEU, Official support shall only be provided:

- when ECAs comply with human and social rights, based on international treaties and conventions, including the European Convention on Human Rights and the ILO Conventions;*

- *when the officially supported export credits contribute to the financing of international objectives to which the EU is committed to, especially regarding climate change and poverty alleviation;*
- *when Environmental and Social Impact Assessments are implemented, prior to the project approval, taking dully into account the interests of affected or interested communities;*
- *the officially supported export credits are consistent with and do not undermine development objectives, as identified through project appraisal;*
- *when ECAs do not contravene obligations under international treaties and agreements related to environmental protection, human rights and sustainable development.*

Amendment 8

Proposal for a decision

Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

The additional measures to be applied in the Union in order to contribute to the full realisation of Article 208 TFEU are attached as Annex II to this Decision.

Or. en

Justification

The annex tries to resolve the problem of ambiguity regarding the commitments of ECAs towards social and environmental standards by giving a clear framework of what is expected of ECAs in order to contribute to Article 208 TFEU.

Amendment 9

Proposal for a decision

Annex a (new)

Text proposed by the Commission

Amendment

Annex a

COHERENCE AND TRANSPARENCY

PART A) Consultation, Transparency, and Public Access to Information

The Commission undertakes to share information with the European Parliament on the implementation of the

OECD Arrangement on Officially Supported Export Credits. It shall therefore provide an annual report on all official support provided by or on behalf of a government for the export of goods and/or services within the scope of the Arrangement. The report shall provide the following information on each individual transaction:

- Name of export credit agency***
- Date of transaction***
- Country***
- Debtor***
- Exporter/Investor***
- Guarantor***
- Financier***
- Type of official support (classification as used in the OECD Arrangement)***
- Type of transaction***

Additional information shall be provided on the coherence with EU policies on development cooperation. The European Union provides a strong legal basis for development cooperation in the Treaty on the Functioning of the European Union. In accordance with Article 208(1) TFEU, the Union “shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.” The Union and the Member States, as laid down in Article 208(2) TFEU, “shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.” Additional information on each individual transaction shall include:

- In the case of unproductive expenditures in HIPC (generally refers to transactions that are not consistent with these countries' poverty reduction and debt sustainability strategies and do not contribute to their social and/or economic development): arguments that the official export credit does not contribute to the***

country's overall debt burden;

• In the case of tied aid credits: form of tied aid (classification as used in the OECD Arrangement) and overall concessionality level of the tied aid;

•Information on the client's compliance with the national human rights and environmental legislation of the host country. This will include a statement from the client that it will respect the national human rights and environmental legislation of the host country;

•Information on the client's compliance with the international environmental and human rights commitments of the host country. This will include a statement from the client that it will respect the international environmental and human rights commitments of the host country;

•Information on compliance with international and the home country's criminal law. This will include a statement from the client that it will respect international and the home country's criminal law;

•Identification of no clause in the client's agreement/ contract which gives legal immunity for violations of the law in the host or home country;

•In the case of dam projects: compliance with the Guidelines of the World Commission on Dams;

•In case of extractive Industries projects: compliance with the World Bank's extractive Industries Review's recommendations.

ECAs shall make project assessment information readily available to affected communities, NGOs and other interested parties at least 120 days in advance of an application being approved. This information shall include the sustainable development impact assessment for all projects, and the names of the companies

involved.

Furthermore, public disclosure of sustainable development impact assessments shall be done before ECA support is granted.

PART B) Climate change

ECA's will contribute to the EU's commitment and obligations under the UN Framework Convention on Climate Change (UNFCCC), in line with Article 208 TFEU.

The integration of European climate policies in its operations shall include:

- Annual detailed reporting regarding the full carbon footprint of ECA supported projects, or the localised and regional effects of individual projects;*
- An analysis of the carbon footprint to be included in the environmental assessment procedure to determine whether project proposals maximise energy-efficiency improvements;*
- The introduction of an exclusion list of types of projects/technologies they will not support, including the phasing out of financial transactions for fossil fuel projects;*
- The definition of clear CO2 emission reduction targets for both the long term and the short term and annual emissions cap;*
- The definition of appraisal procedures to take account of the needs of developing countries in relation to climate change and development, as identified in UNFCCC National Adaptation Programmes of Action (NAPAs), and EU Regional and Country Strategy Papers (RSPs/CSPs).*
- The definition of objectives on renewable energy, in line with the regional/country strategy plans.*

Justification

The annex includes a wide range of issues aimed at complying with Article 208 TFEU and plug important gaps such as the absence of any reference to human rights standards within the Common Approaches. The annex also seeks to establish an arrangement by which the EU should provide an annual report on transactions by or on behalf of a government for export of goods and/or services within the scope of the Arrangement. Also, the scope of the Common Approaches must be widened to ensure that all official support provided by ECAs is covered, not only transactions with a repayment term of two years or more. Finally, the part devoted to climate change highlights the EU's international commitments on climate change in order to phase out fossil fuel subsidies over the medium term and provide targeted support to enable the poorest countries adapt to climate change.