



Briefing note

Brussels, June 2015

Review-process of Member States' export credit programmes is not fit for purpose

On behalf of national governments, export credit agencies (ECAs) provide loans, guarantees and insurance to companies seeking to do business abroad. They provide support for exports to markets that are considered too risky (politically or commercially) for commercial export credit support. Export credits are often used for large-scale projects in the most volatile, controversial and damaging industries, such as energy and infrastructure.

Member States of the European Union (EU) are required to send an Annual Activity Report to the European Commission outlining ECA activities over the year.¹ The Commission uses the report to assess whether Member States' export credit systems comply with the EU's general provisions on external action,² such as consolidating democracy, respecting human rights, policy coherence for development and the fight against climate change. Member States should, for example, describe how environmental risks are taken into account in assessing the projects for support. The Commission in turn compiles an Annual Review on ECAs compliance with these objectives.

ECA Watch welcomed the European Parliament resolution of 2 July 2013, following the first Annual Review since adoption of the Regulation on ECAs, which underlines the importance of ECAs compliance with the EU's external action provisions and in this light stressed the need to strengthen the reporting process and 'test of compliance'.

The 2015 Annual Review stated that 'the European Commission considers that Member States that have provided relevant information on the matter have overall complied with Articles 3 and 21 TEU [Treaty of the European Union].'³ Although none of the Member States may have provided 'relevant information' in the context of this claim, ECA Watch disputes that such conclusions can be drawn from the information provided either in the Annual Review or in Member States' Annual Activity Reports, for a number of reasons. The most important shortcomings are that:

¹ The requirement is outlined as part of EU Regulation No 1233/2011 on the application of certain guidelines in the field of officially supported export credits. Guidelines which must be applied include the Organisation for Economic Cooperation and Development (OECD) Recommendation on Bribery and Officially Supported Export Credits, the OECD Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence and the Principles and Guidelines to Promote Sustainable Lending Practices in the provision of Official Export Credits to Low-Income Countries.

² As described in Articles 2 and 21 of the Treaty of the European Union,

³ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:130:FIN>

- The Commission's review process is too focused on assessing whether Member States comply with the Organisation for Economic Cooperation and Development (OECD) Common Approaches. The Commission does not recognise the existing gaps between the Common Approaches and the EU objectives and obligations.
- The Annual Review does not provide a full 'evaluation' as required by Regulation 1233/2011; there is a lack of a systematic determination and a comprehensive overview of practices and policies of *all* Member States' export credit programmes. Instead, the review process is of an anecdotal nature.
- There is a strong lack of an in-depth analysis of policies and practices, i.e. little information is provided on *how* policies are being applied.
- In several cases the financial data provided to the Commission appear to differ substantially from the figures provided by the same ECAs in the annual statements in reports to the OECD.
- From the information provided and the intelligence gathered by ECA Watch, it can be concluded that at least some Member States do not comply with the Common Approaches. There also seem to be some strong inconsistencies between the Annual Reviews, the Annual Activity reports and actual practices, e.g. with regards to transparency policies or lending programmes.

Key reasons identified for these shortcomings:

- There is a lack of clear standards that can serve as benchmarks for assessing whether Member States' export credit programmes comply with EU objectives and obligations, notably on human rights.
- The reporting template used by the Commission to collect information from Member States on their export credit programmes is superficial. Therefore, drafting a comprehensive overview or conducting an in-depth analysis on the basis of the current annual reports is an impossible task.
- The Commission does not systematically analyse the data when preparing the annual review, but quite randomly lists Member States' practices. This gives little assurance of the EU's overall performance.

Key recommendations

Firstly, the Commission should **strengthen the reporting template** in order to better substantiate its assessment of ECAs' practices and the effectiveness of their policies. In particular, Member States should annually report in detail on applied policies, standards and methodologies, including information about *how* policies are being implemented. Evidence and examples should be provided to substantiate claims as well as more detailed information about transparency policies.

Secondly, the Commission should adopt a **more rigorous procedure for assessing and evaluating** information provided by Member States. An improved Annual Review process should contain clear benchmarks against which such effectiveness can be measured. Most importantly, the Commission should acknowledge the existing gaps between the Common Approaches and the EU objectives and obligations that the Commission should assess export credit activities against and adopt a compliance test that covers the full scope of issues outlined in Articles 3 and 21 of the TEU. In this context, it is most vital to adopt a standard to assess compliance with human rights principles, taking

into account the EU's commitments, e.g. under the EU Charter of Fundamental Rights and the UN Guiding Principles on Business and Human Rights.

Thirdly, we call upon the Commission to annually **report a systemic analysis and comparison** of policies and activities of all EU export credit agencies in the light of compliance with EU external action provisions; and provide every three year a more comprehensive assessment of ECAs' portfolios to assess their impact and improvement towards EU external action provisions.

About ECA Watch: ECA Watch is a network of fifteen non-governmental organisations, most of which are based in Member States of the European Union. These organisations monitor the activities of national export credit agencies and are working for an improvement in the environmental and human rights standards for public financing mechanisms.

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