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REPORT

on the first annual report from the Commission to the European Parliament on the activities of Member States' Export Credit Agencies
(2012/2320(INI))

Committee on International Trade

Rapporteur: Yannick Jadot

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the first annual report from the Commission to the European Parliament on the activities of Member States' Export Credit Agencies

(2012/2320(INI))

The European Parliament,

- having regard to 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/EC¹,
- having regard to the proposal for a Commission delegated Regulation (EU) No .../.. of 14 March 2013 amending Annex II to Regulation (EU) No 1233/2011 of the European Parliament and of the Council on the application of certain guidelines in the field of officially supported export credits (C(2013)1378),
- having regard to its resolution of 11 December 2012 on financing EU SMEs' trade and investment: facilitated access to credit in support of internationalisation²,
- having regard to its resolution of 27 September 2011 on a new trade policy for Europe under the Europe 2020 Strategy³,
- having regard to its resolution of 6 April 2011 on European international investment policy⁴,
- having regard to its resolution of 25 November 2010 on trade policy in the context of climate change imperatives⁵,
- having regard its resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements⁶,
- having regard its resolution of 25 November 2010 on corporate social responsibility in international trade agreements⁷,
- having regard to the EU Charter of Fundamental Rights (2010/C 83/02),
- having regard to the Communication of the European Commission and the High Representative for Foreign and Security Policy of 12 December 2011 (COM(2011)0886),

¹ OJ L 236, 8.12.2011, p. 45.

² Texts adopted, P7_TA(2012)0469.

³ OJ C 56E, 26.2.2013, p. 87.

⁴ OJ C 296E, 2.10.2012, p. 34.

⁵ OJ C 99E, 3.4.2012, p. 94.

⁶ OJ C 99E, 3.4.2012, p. 31.

⁷ OJ C 99E, 3.4.2012, p. 101.

- having regard to the Commission’s communication of 19 October 2010 entitled ‘Strategy for the effective implementation of the Charter’ (COM(2010)0573),
 - having regard to the European Council’s statement of 26 June 2012 entitled ‘EU Strategic Framework and Action Plan on Human Rights and Democracy’ (11855/2012),
 - having regard to its Policy Department’s briefing paper entitled “Human Rights Benchmarks for EU’s external policy” (EXPO/B/DROI/2011/15),
 - having regard to the UN Guiding Principles on Business and Human Rights of 16 June 2011, (HR/PUB/11/04, 2011 United Nations),
 - having regard to the Commission’s proposal of 16 April 2013 for a Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups (COM(2013)0207),
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A7-0193/2013),
- A. whereas export credit programmes of the Member States constitute an important instrument to enhance trade and business opportunities for European companies;
 - B. whereas Regulation 1233/2011 of the European Parliament and the Council on the ‘Application of certain guidelines in the field of officially supported export credits’ specifies annual reporting requirements for the Member States vis-à-vis the Commission and, at the same time, provides for delegating powers to the Commission, achieving the swiftest possible transposition of changes in respective OECD Arrangements into EU law;
 - C. whereas, under Article 207 of the Treaty on the functioning of the European Union (TFEU), ‘the common commercial policy shall be conducted in the context of the principles and objectives of the Union’s external action’;
 - D. whereas the principles guiding how the Union is to organise its relations with the wider world, and the guiding principles of the Union’s action on the international scene, are contained in Articles 3 and 21 of the Treaty on the European Union (TEU), which is a binding agreement between the Member States;
 - E. whereas the communication of December 2011 of the Commission and the High Representative for Foreign and Security Policy affirms that ‘European businesses should be encouraged to undertake adequate due diligence to ensure that their operations respect human rights, wherever they are performed’;
 - F. whereas the ‘EU Strategic Framework and Action Plan on Human Rights and Democracy’ of the European Council affirms that ‘the EU will promote human rights in all areas of its external action without exception’;
 - G. whereas the EU Charter of Fundamental Rights is legally binding on the EU institutions and Member States, with the exception of those Member States that have an opt-out when

implementing EU law, and whereas the Commission's strategy for the effective implementation of the Charter explicitly acknowledges that the Charter applies to the EU's external action;

- H. whereas the Union and its Member States welcomed the UN Guiding Principles on Business and Human Rights, Principle 4 of which, on state-business relations, explicitly refers to export credit agencies;
- I. whereas export credit support is often granted to large projects experiencing difficulties in accessing commercial credit resulting from high commercial, political, economic or environmental risks, which export credit agencies (ECAs) need to assess and price accordingly;
- J. whereas on 14 March 2013 the Commission proposed a Delegated Regulation amending Annex II to Regulation 1233/2011;
1. Welcomes the Commission's efforts to establish a framework for annual reporting by Member States on their export credit activities in accordance with Regulation 1233/2011, in order to step up transparency at EU level; stresses that the key objective of this reporting is to monitor the compliance of Member State's ECAs with the international disciplines applicable to export credits and with EU Treaty obligations;
 2. Acknowledges informal receipt on 14 December 2012 of the Commission's first annual report on the export credit activities of Member States, evaluating the responses of 20 out of 27 Member States maintaining active export credit programmes, as well as receipt of these Member States' reports in the form of annexes; the Commission has since approved these documents for public release in order to fulfil the goal of the basic regulation to increase transparency;
 3. Commends the fact that the Commission report clearly indicates the scale and importance of the Member States' export credit activities during 2011, which amount to a total exposure of more than EUR 250 billion – including 260 transactions with reported high environmental implications – and which translate into significant trade and business opportunities for European companies;
 4. Recognises that the Member States, in their Annual Activity Reports, have made available to the Commission the financial and operational information on export credits requested in the first paragraph of Annexe I of Regulation 1233/2011;
 5. Underlines the importance – in the context of the scale of Member States' export credit activities – of Recital 4 of Regulation 1233/2011, calling for compliance with the Union's general provisions on external action, such as consolidating democracy, respect for human rights and policy coherence for development, and the fight against climate change; recalls, in this sense, the importance of the specific reporting requirements formulated in Annex I of the regulation to ensure that the Commission and Parliament are able to make an assessment of this compliance;
 6. Stresses that the annual reports of the Member States, and the Commission's evaluation of these reports, do not yet satisfy Parliament's intention to be able to make an assessment as

to whether the Member States' export credit activities' are in compliance with the Union's foreign policy goals, as enshrined in Articles 3 and 21 TEU, and the with the regulations in force for treatment of environmental risks in the calculation of ECA premiums;

7. Welcomes the 'clear general willingness' on the part of the Member States – cited by the Commission in the current annual report – to 'apply policies to their export credit programmes whose objectives are in line with the general language of Articles 3 and 21'; commends the efforts of some Member States, including Germany, Italy, Belgium and the Netherlands, to provide more meaningful reporting on compliance with some of the Union's external action goals;
8. Acknowledges that the Commission needs to be able to assess whether the export credit activities of the Member States are in compliance with the external action goals of the Union, and recommends, therefore, that the test of compliance should be on whether or not officially supported ECAs have policies in place that are effective in ensuring that their activities are in accordance with the foreign policy objectives of the Union;

Benchmarking ECA compliance with the Union's external action goals

9. Shares the Commission's observation in the annual report that 'it is difficult to define a precise benchmark for measuring compliance in EU law'; reiterates that Article 21 provisions remain the key benchmark against which the policies applied to export credit transactions are to be evaluated;
10. Stresses that the Union will only be a trustworthy and strong global actor if the Member States and the European institutions pursue a consistent external policy;
11. Recommends that the Council Working Group on Export Credits and the Commission consult with the European External Action Service (EEAS) on developing a methodology for meaningful reporting on Article 21 compliance, and on the application in the EU of certain OECD guidelines in the field of officially supported export credits, before the next annual report is due; insists that public consultation be part of this process;
12. Considers it of prime importance to call on the Member States to monitor and report on the existence, outcome and effectiveness of due diligence procedures in the screening of projects officially supported by export credits with regard to their potential impact on human rights;
13. Is aware of the fact that ECAs rely on the information provided by their project partners; is convinced that if a structured approach to due diligence procedures is required of ECAs in order for them to be eligible to receive project finance, project partners would appreciate carrying them out themselves, thereby mitigating additional administrative costs for the ECAs;
14. Considers progress in reporting on human rights compliance by ECAs to be a front-runner for better reporting on other European external action goals enshrined in Article 21, such as the eradication of poverty, and on the treatment of environmental risks;

Reporting on treatment of environmental risks in the calculation of ECA premiums

15. Calls on Member State ECAs to continue to report on their evaluation of environmental risks, and considers such reporting by all OECD and non-OECD ECAs to be essential for ensuring a level playing field;

Reporting on contingent liabilities

16. Notes that Member State ECAs currently report on exposure to contingent liabilities in different modes; asks the Commission to provide for a common definition which reflects the wish of Parliament to be informed about off-balance sheet exposures;

Guidance and evaluation by the Commission

17. Calls on the Commission to provide guidance to the Member States for the next reporting period, inter alia on how to report on the existence and effectiveness of due diligence procedures with regard to their human rights policies, and on how to report on the treatment of environmental risks;

18. Expects the next Annual Report of the Commission to contain a statement on whether it has been able to evaluate Member State compliance with Union objectives and obligations and, if the answer is negative, recommendations on how to improve reporting to this end;

Commission report on outreach to non-OECD countries

19. Applauds the efforts undertaken in 2012 by the Commission, together with the USA, to engage China, Brazil, Russia and other major emerging economies in the setting up of the International Working Group of Major Providers of Export Finance (IWG);

20. Suggests that the relevance of a sectoral approach in developing the IWG be explored in order to build the base for horizontal provisions in a second phase that will ensure the common adoption of effective and high standards, and of new international rules on ECAs, by all OECD and non-OECD countries, with a view to ensuring a level playing field;

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21. Instructs its President to forward this resolution to the President of the European Council, the Council, the Commission, the governments and parliaments of the Member States, and the OECD Secretariat.

EXPLANATORY STATEMENT

In 2011, Parliament and Council agreed to transpose the OECD Arrangement of 2005 on Export Credit Activities into EU law. In this process, it was agreed to grant Delegated Act to the Commission for the transposition of future versions of the OECD Arrangements in exchange for increased transparency of export credit activities of Member States at the EU level. The resulting Regulation 1233/2011 contains in its Annex I the elements of an annual reporting requirement by the Member States to the Commission:

- on assets and liabilities, claims paid and recoveries, new commitments, exposures and premium charges, as well as on contingent liabilities that might arise from officially supported export credit activities;
- how environmental risks, which can carry other relevant risks, are taken into account in the officially supported export credit activities;
- an evaluation regarding the compliance of Export Credit Agencies with EU objectives and obligations.

The last point of the reporting requirement to Member States is introduced in the main text of the Regulation through Recital 3, which gives it a particular weight and direction:

(3) The Member States should comply with the Union's general provisions on External Action, such as consolidating democracy, respect for human rights and policy coherence for development, and the fight against climate change, when establishing, developing and implementing their national export credit systems and when carrying out their supervision of officially supported export credit activities.

The Union's general provisions on External Action are enshrined in Articles 3 and 21 TEU.

Moreover, the Annex I contains an annual reporting requirement for the Commission to Parliament on negotiations undertaken to establish global standards in the field of officially supported export credits.

The first reporting period, under the scope of Regulation 1233/2011 covers the year 2011.

On December 14, 2012, the Chair of Parliament's INTA Committee received informally the draft of the Commissions Annual Report of Member State export credit activities in 2011. The draft evaluates the reports of the 20 out of the 27 Member States which maintain active export credit programs. All 20 Member State reports were transmitted at the same date.

On March 4, 2013, Parliament's INTA Committee and the Council's Trade Policy Committee (TPC) received the same set of documents without changes under the category of 'limited documents', that is, 'containing sensitive information intended for persons who need to know for professional reasons and for internal circulation only to the Members of our committee.'

On March 21, 2013, Parliament received from the Commission also the Report on negotiations undertaken by the Commission in the field of export credits for the period 2011-2012, in the sense of Regulation 1233/2011. Also this document was transmitted under the category of ‘limited documents’.

In the meantime, work on this report started with a decision of INTA Coordinators in December 2012 and a first and second exchange of views in the INTA Committee on 21 February and 21 March, 2013, respectively in order for Parliament to timely contribute to the redaction of the second annual report of Member States. On occasion of both exchanges of views in Committee, the documents could not be made available to the interested public through the INTA internet website. Until the very day of writing this Explanatory Statement, the base documents to which this report refers are not available to the general public.

Your Rapporteur is deeply concerned and is contesting this confidentiality approach by the Commission which runs entirely counter to the very purpose of Regulation 1233/2011 to increase transparency at the EU level of Member States’ export credit activities. His demands are expressed in the first paragraphs of the report.

On March 27, 2013, Parliament received the first Commission Delegated Regulation (EU) No .../..of 14.3.2013 amending Annex II to Regulation (EU) No 1233/2011 of the European Parliament and of the Council on the application of certain guidelines in the field of officially supported export credits. The goal of the Delegated Regulation is to update basic Regulation 1233/2011 with the new OECD Arrangements on a modification to the premia system of the OECD Arrangement, the 2011 Sector Understanding on Export Credits for Civil Aircraft, and the Sector Understanding on Export Credits for Renewable Energies, Climate Change Mitigation and Water Projects.

While your Rapporteur would not have objections with regard to the contents of the proposed amendments, it is difficult to conceive for your Rapporteur that Delegated Act is granted, while the balancing transparency requirements of the base Regulation 1233/2011 remain unfulfilled.

This imbalance is exacerbated by the poor quality of the reporting of the Member States for their export credit activities in 2011, as well as of the evaluation of these reports by the Commission.

On the one hand, the Commission report clearly indicates the scale and importance of ECAs. The reported exposure of the Member States ECA activities during 2011 amounted to more than 250 billion euros, including 260 transactions with reported high environmental implications. As your Rapporteur already expressed during the legislative procedure on Regulation 1233/2011, he appreciates that Member States have a tool like this at their disposal contributing to trade and business opportunities for European companies.

To put the figures in proportion: they represent almost twice the Union’s annual budget. In comparison, the Union’s budget under the heading ‘Union as a global player’ amounts to less than 10 billion Euros. So the ECAs are supporting projects at least 25 times the annual appropriations reserved in the Union’s budget for its external action.

The scale of ECA activities thoroughly confirm the importance of Recital 4 of Regulation 1233/2011, stating that compliance with the Union's external action, such as consolidating democracy, respect for human rights and policy coherence for development, and the fight against climate change, should be a leading guide when this tool is used by our Member States. Equally important are hence the reporting requirements as formulated in the Annex I of the Regulation, so that Parliament is able to make an assessment of this compliance.

On the other hand, the annual reports of the Member States as well as the evaluation of the Commission of these reports hardly satisfy the intention of Parliament to be able to make such an assessment. This is especially the case with regard to the reporting on the non-financial items of the Annex I, such as the treatment of environmental risks in the calculation of ECA premiums and the compliance with the Union's foreign policy goals.

This failure is to a certain extent not surprising. Some Member States make laudable efforts to report on these more difficult subjects, for example Germany, Italy, Belgium, the Netherlands, and Denmark. However, we have to acknowledge that there is not yet any established methodology on the reporting of non-financial issues, and Member States and also European Institutions, such as the European Investment Bank, have yet to live up to the requirements of the Lisbon Treaty to show their compliance with the Union's external action goals.

Therefore, in order to contribute to better reporting, the remnant of the report sets out to give recommendations to Member States and Commission on how to produce a next annual report which better fulfils our expectations to monitor the work of ECAs. This regards especially reporting on compliance of Member State export credit activities with the external action goals as contained in Articles 3 and 21 of the Lisbon Treaty.

Some further recommendations regard also the reporting on the calculation of environmental risk premium setting and on contingent liabilities by ECAs, as well as on the outreach activities of the Commission to non OECD countries.

The report concludes with the call on the Commission to provide guidance to Member States so that in next annual reports the Commission is actually able to provide Parliament with an assessment of whether in its opinion compliance of Member State export credit activities with the EU's external action goals can be asserted.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	28.5.2013
Result of final vote	+: 28 -: 1 0: 0
Members present for the final vote	William (The Earl of) Dartmouth, Maria Badia i Cutchet, David Campbell Bannerman, Daniel Caspary, María Auxiliadora Correa Zamora, Andrea Cozzolino, George Sabin Cutaş, Metin Kazak, Franziska Keller, Bernd Lange, David Martin, Vital Moreira, Paul Murphy, Cristiana Muscardini, Franck Proust, Godelieve Quisthoudt-Rowohl, Niccolò Rinaldi, Peter Šťastný, Robert Sturdy, Henri Weber, Iuliu Winkler, Jan Zahradil, Paweł Zalewski
Substitute(s) present for the final vote	Catherine Bearder, Albert Deß, Elisabeth Köstinger, Mario Pirillo, Marietje Schaake, Jarosław Leszek Wałęsa
Substitute(s) under Rule 187(2) present for the final vote	Marie-Christine Vergiat