This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►**B**

COUNCIL DIRECTIVE 98/29/EC

of 7 May 1998

on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover

(OJ L 148, 19.5.1998, p. 22)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Regulation (EC) No 806/2003 of 14 April 2003	L 122	1	16.5.2003

▼B

COUNCIL DIRECTIVE 98/29/EC

of 7 May 1998

on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

(1) Whereas medium and long-term export credit insurance plays a crucial role in international trade and constitutes a major commercial policy instrument;

(2) Whereas medium and long-term export credit insurance plays an important part in trade with developing countries and thus fosters their integration into the world economy, which is an objective of Community development policy;

(3) Whereas the differences between the official medium and long-term export credit insurance systems currently operating in the Member States with regard to the main constituents of cover, premiums and cover policy may result in distorsions of competition among enterprises within the Community;

(4) Whereas it seems appropriate that the measures provided for in this Directive should not go beyond what is necessary to achieve the objective of the harmonisation necessary to ensure that export policy is based on uniform principles and that competition between enterprises in the Community is not distorted;

(5) Whereas in order to lessen existing distorsions of competition, it is desirable that the different official export credit insurance systems be harmonised, as envisaged in Article 112 of the Treaty, on the basis of uniform principles and in such a way as to form an integral part of the common commercial policy;

(6) Whereas the provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes are classified as prohibited export subsidies in the Agreement on Subsidies and Countervailing Measures concluded in the framework of the Uruguay Round of multilateral trade negotiations (1986 to 1994) ([1]), in particular under Article 3(1)(a) and paragraph (j) of Annex I thereto;

(7) Whereas the premium charged by credit insurers should correspond to the risk insured;

(8) Whereas harmonisation would foster cooperation among the credit insurers acting on behalf of the State or with State support, and enhance cooperation among enterprises within the Community as envisaged by Article 130 of the Treaty;

(9) Whereas both harmonisation and cooperation are major and crucial factors in the competitiveness of Community exporters on non-Community markets;

(10) Whereas the Commission White Paper on completing the internal market adopted by the European Council in June 1985 stresses the importance of an environment conducive to cooperation among enterprises in the Community;

(11) Whereas, by a Decision ([2]) dated 27 September 1960, the Council set up a Policy Coordination Group for Credit Insurance, Credit Guarantees and Financial Credits;

([1]) OJ L 336, 23. 12. 1994, p. 156.
([2]) OJ 66, 27. 10. 1960, p. 1339/60.

▼B

(12) Whereas on 15 May 1991 the said Policy Coordination Group mandated experts from each of the Member States at that time who, as the Single Market 1992 Experts' Group, submitted reports containing a set of proposals on 27 March 1992, 11 June 1993 and 9 February 1994;

(13) Whereas by Decision 93/112/EEC [1], the Council implemented into Community law the OECD Arrangement on Guidelines for Officially Supported Export Credits;

(14) Whereas Council Directive 70/509/EEC of 27 October 1970 on the adoption of a common credit insurance policy for medium- and long-term transactions with public buyers [2] and Council Directive 70/510/EEC of 27 October 1970 on the adoption of a common credit insurance policy for medium and long-term transactions with private buyers [3], should be replaced by this Directive;

(15) Whereas this initial harmonisation of export credit insurance should be considered as a step towards convergence of the various systems of the Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Scope

This Directive applies to cover for transactions related to the export of goods and/or services originating in a Member State, in so far as this support is provided directly or indirectly for the account of, or with the support of, one or more Member States, involving a total risk period of two years or more, that is to say, the repayment period including the manufacturing period.

This Directive does not apply to cover for bid, advance payment, performance and retention bonds. Neither does it apply to cover for risks relating to construction equipment and material when locally used for the performance of the commercial contract.

Article 2

Obligations of the Member States

Member States shall ensure that any institution providing cover directly or indirectly in the form of export credit insurance, guarantees or refinancing for the account of the Member State or with the support of the Member State representing the government itself or controlled by and/or acting under the authority of the government providing cover, hereinafter referred to as 'insurers', covers transactions related to the export of goods and/or service in accordance with the provisions set out in the Annex, when destined for countries outside the Community and financed by buyer credit or supplier credit or paid on cash terms.

Article 3

Implementing decisions

The decisions referred to in point 46 of the Annex shall be taken by the Commission, in accordance with the procedure laid down in Article 4.

---

(1) OJ L 44, 22. 2. 1993, p. 1. Decision as last amended by Decision 97/530/EC (OJ L 216, 8. 8. 1997, p. 77).

(2) OJ L 254, 23. 11. 1970, p. 1. Directive as last amended by the 1994 Act of Accession.

(3) OJ L 254, 23. 11. 1970, p. 26. Directive as last amended by the 1994 Act of Accession.

▼M1

Article 4

Committee

1. The Commission shall be assisted by a committee.

2. Where reference is made to this Article, Articles 4 and 7 of Decision 1999/468/EC ([1]) shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

▼B

Article 5

Report and review

The Commission shall submit a report to the Council by 31 December 2001 on the experience gained and the convergence achieved in applying the provisions laid down in this Directive.

Article 6

Relationship to other procedures

The procedures laid down by this Directive supplement those established by Decision 73/391/EEC ([2]).

Article 7

Repeal

Directive 70/509/EEC and Directive 70/510/EEC are hereby repealed.

Article 8

Transposition

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 April 1999. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 9

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 10

Addressees

This Directive is addressed to the Member States.

([1]) OJ L 184, 17.7.1999, p. 23.
([2]) OJ L 346, 17. 12. 1973, p. 1. Decision as amended by Decision 76/641/EEC (OJ L 223, 16. 8. 1976, p. 25).

▼B

ANNEX

COMMON PRINCIPLES FOR EXPORT CREDIT INSURANCE

CHAPTER I: CONSTITUENTS OF COVER

Section 1: **General principles and definitions**

1. *Scope of the common principles*

(a) The common principles laid down in this Annex shall apply to cover for supplier credit transactions with public or private buyers and to cover for buyer credit transactions with public or private borrowers.

(b) The common principles shall apply to cover for all risks as defined in point 4. Nevertheless, the insurer may decide in each individual case to limit its cover to certain risks only.

(c) When all the obligations of a private debtor are wholly and unconditionally guaranteed by an entity which is considered public in accordance with point 5 of this Annex, the common principles for public debtors shall apply.

When used in this Annex, the term 'debtor' means either the buyer or borrower as referred to in point 1(a), or their guarantor with regard to the insured transaction.

2. *Characteristics of supplier credit*

(a) The term 'supplier credit' shall apply to a commercial contract providing for an export of goods and/or services originating in a Member State between one or more suppliers and one or more buyers, whereby the buyer(s) undertake to pay the supplier(s) on cash terms or on credit terms.

(b) Cover provisions for supplier credit shall apply where cover is given to enterprises established in a Member State in accordance with Article 58 of the Treaty.

(c) If a commercial contract is being financed by means of a buyer credit or any other financing arrangement, cover given to the exporter for the commercial contract itself shall follow the provisions for cover for supplier credits.

3. *Characteristics of buyer credit*

(a) The term 'buyer credit' shall apply to a loan agreement between one or more financial institutions and one or more borrowers financing a commercial contract providing for an export of goods and/or services originating in a Member State, whereby the lending institution(s) undertake to pay the supplier(s) under the underlying transaction on cash terms on behalf of the buyer(s)/borrower(s), while the buyer(s)/borrower(s) will reimburse the lending institution(s) on credit terms.

(b) Cover provisions for buyer credit shall apply where cover is given to financial institutions, irrespective of their place of establishment or registration, provided that the buyer credit constitutes an unconditional obligation of the borrower to repay its debt, irrespective of the performance of the commercial contract to be financed.

(c) Cover provisions for buyer credit shall apply to cover given to a financial institution in respect of negotiable instruments properly held by that financial institution and payable by a buyer pursuant to any arrangement for the financing of a commercial contract.

4. *Definition of the risks involved*

(a) The commercial risk for private debtors is determined by points 14, 15 and 16.

(b) The political risk for private debtors is determined by points 17 to 22, and for public debtors by points 15 to 22.

(c) The manufacturing risk is determined by point 6(b).

(d) The credit risk is determined by point 6(c).

▼B

5. *Status of the debtor*

(a) Any entity which, in whatever form, represents the public authority itself and which cannot, either judicially or administratively, be declared insolvent, shall be considered as a public debtor. This may either be a sovereign debtor, i.e. an entity which represents the full faith and credit of the State, e.g. the Ministry of Finance or the Central Bank, or any other subordinate public entity, such as regional, municipal or parastatal authorities or other public institutions.

(b) When assessing the status of a debtor, the insurer shall take into account:

— the legal status of the debtor,

— the real effectiveness of any legal action against the debtor,

— the debtor's sources of finance and revenue; this shall take account of the fact that a public debtor may also discharge his debts by using sources which are not related to central government funds, for example through revenues raised by local taxation, or by providing public services,

— the degree of influence or control over the debtor that can be exercised by the host country government.

(c) Any debtor which is not public, according to the aforementioned criteria, shall be, in principle, considered as private.

Section 2: **Scope of cover**

6. *Covered risk*

(a) The covered risks shall be the risk of loss arising from the manufacturing and the credit risk.

(b) Loss arising from manufacturing risk materialises when the performance of the contractual obligations of the policyholder, or the manufacture of the goods ordered, has been suspended for a period of six consecutive months, provided that such suspension is caused directly and exclusively by the occurrence of one or more of the covered causes of loss listed in points 14 to 22.

(c) Loss arising from credit risk materialises when the policyholder has been unable to obtain payment of any amount due to it under the relevant commercial contract or loan agreement during a period of three months after the due date, provided that such non-payment is caused directly and exclusively by the occurrence of one or more of the covered causes of loss listed in points 14 to 22.

(d) Where the risk related to a buyer credit is guaranteed unconditionally the insurer shall follow the principles and procedures laid down in points 32, 33, and 47(a).

7. *Extent of cover*

(a) Cover for manufacturing risk shall include, within the limit of the contract amount, the costs incurred by the policyholder either in performing its contractual obligations or in manufacturing the goods subject to the contract, provided that such costs are properly attributable to the performance of the contract.

Cover for the manufacturing risk shall not include:

— costs incurred in respect of goods and/or services for which cover of the credit risk has already taken effect,

— amounts paid by the policyholder following the calling of a bond issued in respect of the covered contract; however, this does not prevent the insurer from covering such risks outside the scope of this Directive, and

— amounts corresponding to penalties and damages paid by the policyholder to the debtor.

(b) Cover for credit risk shall include the amount (principal and interest) owed by the buyer under the commercial contract or by the borrower under the loan agreement, including interest accruing after the due date (post-maturity interest).

Cover for credit risk shall exclude amounts corresponding to penalties and damages paid by the policyholder to the debtor.

8. *Percentage of cover*

(a) The percentage of cover and the basis for determining the maximum amount of the indemnity for which the insurer may be liable shall be expressly laid down in the credit insurance policy issued by the insurer.

▼B

(b) If an insurer gives a cover percentage higher than 95 %, it shall follow the principles and procedures laid down in points 32, 33 and 47(a).

9. *Uninsured percentage*

Without prejudice to the provisions of point 8(b), the policyholder shall retain for its own account any uninsured percentage. The insurer may decide to allow the policyholder to wholly or partially lay off such uninsured percentage.

10. *Cover for transactions in foreign currency*

If transactions provide for payment or financing in one or more foreign currencies, cover may be given in any such currency.

11. *Foreign supplies*

Subcontracts with parties in one or more Member States are automatically included in the cover in accordance with Council Decision 82/854/EEC of 10 December 1982 on the rules applicable, in the fields of export guarantees and finance for export, to certain subcontracts with parties in other Member States or in non-member countries ([1]).

12. *Effective date of cover*

(a) In case of a buyer credit, cover shall take effect on the date of entry into force of the loan agreement, provided that the conditions precedent stipulated in the credit insurance policy and the loan agreement have been met.

(b) In case of a supplier credit, cover of the manufacturing risk shall take effect on the date of entry into force of the commercial contract, provided that the conditions precedent stipulated in the credit insurance policy and the commercial contract have been met.

Cover of the credit risk shall take effect on the date on which full completion of the contractual obligations of the policyholder entitles the latter to payment, provided that the conditions precedent stipulated in the credit insurance policy and the commercial contract have been met. However, cover of the credit risk may take effect on the date of each partial delivery or partial dispatch, provided that the policyholder, under the terms of the contract, is entitled to payment of a fixed and definitive amount corresponding to the value of the goods and/or services delivered or dispatched.

Section 3: **Causes of loss and exclusions of liability**

13. *Liability of the insurer*

The insurer shall be liable if the loss is directly and exclusively attributable to one or more of the covered causes of loss laid down in points 14 to 22.

14. *Insolvency*

Insolvency of the private debtor and, if any, its guarantor, either *de jure* or *de facto*.

15. *Default*

Default of the debtor and, if any, its guarantor.

16. *Arbitrary repudiation or refusal*

Decision of the buyer under a supplier credit to interrupt or cancel the commercial contract, or to refuse to accept the goods and/or services, without being entitled to do so.

17. *Decision of a third country*

Any measure or decision of the government of a country other than the country of the insurer, or the country of the policyholder, including measures and decisions of public authorities which are deemed to constitute government interventions, which prevents performance of the loan agreement or the commercial contract, respectively.

([1]) OJ L 357, 18. 12. 1982, p. 20.

▼B

18. *Moratorium*

General moratorium decreed either by the government of the country of the debtor, or by that of a third country through which payment in respect of the loan agreement or the commercial contract is to be effected.

19. *Prevention or delay in the transfer of funds*

Political events, economic difficulties, or legislative or administrative measures which occur or are taken outside the country of the insurer, and which prevent or delay the transfer of funds paid in respect of the loan agreement or the commercial contract.

20. *Legal provisions in the debtor's country*

Legal provisions adopted in the country of the debtor declaring payments made by the debtor in local currency to be valid discharge of the debt, notwithstanding that, as a result of fluctuations in exchange rates, such payments, when converted into the currency of the commercial contract or of the loan agreement, no longer cover the amount of the debt at the date of transfer of funds.

21. *Decision of the country of the insurer or of the policyholder*

Any measure or decision of the government of the country of the insurer or of the policyholder, including measures and decisions of the European Community, relating to trade between a Member State and third countries, such as a ban on exports, in so far as its effects are not covered otherwise by the government concerned.

22. *Force majeure*

Cases of *force majeure* occurring outside the country of the insurer, which could include war including civil war, revolution, riot, civil disturbance, cyclone, flood, earthquake, volcanic eruption, tidal wave, and nuclear accident, in so far as its effects are not insured otherwise.

23. *General exclusion from liability*

The insurer should be entitled to decline liability for any loss that is directly or indirectly attributable to the following:

(a) any action or omission by the policyholder, or by any person acting on its behalf;

(b) any provision restricting the policyholder's rights, which is included in the loan agreement, the commercial contract, or any associated document including any document relating to the guarantee or security arrangements involved;

(c) any further agreement between the policyholder and the debtor after conclusion of the loan agreement or the commercial contract, which prevents or delays the payment of the debt;

(d) in the case of a supplier credit, any failure of subcontractors, co-contractors, or other suppliers to perform their obligations, provided that such failure is not a consequence of political events as described in causes of loss listed in points 17 to 22.

Section 4: **Provisions for the indemnification of claims**

24. *Claim waiting period*

(a) The claim waiting period shall correspond to the period of time set for the covered risk to materialise, as laid down in point 6(b) and (c).

(b) No claim waiting period need apply:

— when, in the case of a private debtor, the non-payment is due to the debtor's insolvency, either *de jure* or *de facto,*

— in case of a bilateral intergovernmental debt restructuring agreement.

25. *Indemnification and assignment*

(a) The policyholder is entitled to indemnification at the end of the claim waiting period as defined in point 24, provided that the conditions precedent to the insurance and the indemnification have been fulfilled, the claim is legally valid, and the policyholder has managed the risk with due diligence.

▼B

(b) The insurer is entitled to assignment of the policyholder's rights under, respectively, the loan agreement or the commercial contract.

26. *Secured obligations*

If the debtor's obligations to the policyholder have been secured by means of a guarantee or other security, the policyholder must have taken all necessary measures as required in the policy to ensure not only that the guarantee or other security is valid and enforceable, but also to actually enforce the security.

27. *Calculation of the claim*

Without prejudice to the provisions of point 31, the insurer shall, in calculating the payment of a claim, not pay the policyholder an amount exceeding the actual amount of its total loss, and/or exceeding the amount which the policyholder was actually entitled to receive from the borrower under the loan agreement or from the buyer under the commercial contract, respectively.

28. *Payment of the claim*

The claim shall be paid without delay, at the latest, however, within one month of the end of the claim waiting period, provided that the insurer has been notified promptly of the occurence of the claim and received all necessary information, documents, and evidence in order to establish the validity of the claim in good time.

In the case of cover for maufacturing risk, the claim shall be paid within one month either of the end of the claim waiting period, or of the date of receipt of an expert's report, where relevant, or of the date of agreement by the policyholder and the insurer on the amount of the claim, whichever is later.

29. *Disputes relating to the claim*

If losses subject to an application for indemnification by the policyholder relate to rights which are in dispute, the insurer may defer the payment of the claim until the dispute is settled in favour of the policyholder by the court or arbitration body provided for in the loan agreement or the commercial contract, respectively.

30. *Bilateral intergovernmental debt restructuring agreement*

(a) If the covered loan agreement or commercial contract is subject to a bilateral intergovernmental debt restructuring agreement, the policyholder shall follow the conditions of the restructuring agreement in respect of both the insured and the uninsured portions of that loan agreement or commercial contract, respectively. The policyholder shall give any necessary assistance to the insurer for the performance of the restructuring agreement.

(b) If the insured amount is included in a bilateral intergovernmental debt restructuring agreement, the insurer may waive the one-month period provided for in point 28, once the bilateral agreement is effective.

31. *Additional costs*

Additional costs resulting from action to minimise or avoid loss shall be covered proportionally to the percentage of cover under the credit insurance policy, provided that they have been approved by the insurer. Additional costs include costs of court action and other legal expenses to minimise or avoid loss but exclude costs of establishing the validity of a claim.

However, if such costs also relate to amounts or maturities not covered by the insurer, they shall be attributed proportionally to the insured and uninsured amounts or maturities.

CHAPTER II: PREMIUM

32. *General principles for setting the premium*

Premiums shall converge. To this end the premium charged for export credit insurance shall:

— correspond to the risk (country, sovereign, public and/or private risk) covered,

— adequately reflect the scope and the quality of the cover granted,

▼B

— not be inadequate to cover long-term operating costs and losses.

33. *Quality of cover*

When determining the quality of cover as mentioned in point 32, the insurer shall duly take into account the percentage of cover, the conditionality of cover, and any other condition affecting the quality of cover.

34. *Country risk assessment*

The level of premium charged for each country or each country category shall be based on an appropriate country risk assessment.

35. *Creditworthiness of the debtor*

When setting premium rates, the insurer shall appropriately take the creditworthiness of the debtor including its status as set out in point 5 into account.

36. *Risk period*

When calculating the premium, the insurer shall take account of the total risk period as well as the repayment profile and interest.

37. *Chargeable amount*

(a) Premium shall be paid on the chargeable amount and shall be based, as far as possible, on minimum premium benchmarks. The benchmarks shall be expressed in percentages of a reference value as if the premium were collected in full at the date of the insurance or guarantee; for credit risk this reference value shall at least be, respectively, the amount of the principal of the loan or the (re-)financed portion of the commercial contract, and for manufacturing risk the total contract value minus the downpayment.

(b) In the case of manufacturing risk, the chargeable amount may be reduced to the expected maximum loss.

38. *Payment of premium*

(a) The total premium amount shall be due on the date of the credit insurance policy or guarantee or when the contract or loan agreement becomes fully effective.

(b) The premium may be paid in instalments or by adding a spread to the interest rate, provided that this corresponds, in net present value terms, to the premium amount referred to in point 38(a) above.

CHAPTER III: COUNTRY COVER POLICY

39. *Determination of the country cover policy*

(a) The insurer shall, in the light of its size and the structural economic constraints, base its country cover policy on its assessment of the risk by country, its total outstanding exposure for each country, and the composition of its country risk portfolio.

(b) In setting its country cover policy, the insurer shall take into account each debtor country's classification.

(c) Nevertheless, the insurer shall be free to stop or limit insuring business for a particular country, regardless of the country classification.

40. *Definition of total outstanding exposure*

The total outstanding exposure shall, within the limits of the percentage of cover, be determined on the basis of the amounts for medium and long-term business, as defined in Article 1 of the Directive.

41. *Country risk*

(a) As regards the group of countries which constitute the best risk, the insurer shall, in principle, set no restrictions on its cover policy.

(b) For other countries, the insurer may set restrictions on its cover policy.

(c) An insurer which, in principle, does not offer cover for a country or a particular group of countries, may, however, exceptionally cover certain transactions for reasons of bilateral policy or national interest, or where

▼B

sufficient freely convertible foreign exchange is available for the transaction in question.

(d) Concerning the countries referred to in point (b) above, insurers may set risk limits, in cumulative or alternative manner, for example:

— the total outstanding exposure for that country,

— the total value of offers of cover,

— the value of new contracts to be covered,

— the maximum amount covered per transaction.

Insurers may also increase the applicable premium.

Below the risk limits for a particular country, there shall in principle be no limit on cover policy.

42. *Specific conditions for country cover*

In any case, the insurer may routinely apply to a particular country, irrespective of the corresponding country category, certain cover conditions such as:

— payment and/or transfer guarantee by the Central Bank or the Finance Ministry of the relevant country,

— irrevocable letter of credit or bank guarantee,

— extension of the claim waiting period,

— reduction in the cover percentage,

— restriction of the cover for certain sectors of activity or for certain types of projects.

CHAPTER IV: NOTIFICATION PROCEDURES

43. *Scope of the notification procedures*

(a) Insurers shall apply the following procedures to the common principles set out in Chapters I, II and III.

(b) These procedures shall supplement those established under Council Decision 73/391/EEC of 3 December 1973 on consultation and information procedures in matters of credit insurance, credit guarantees and financial credits ([1]).

44. *Types of notification procedures*

There shall be four types of notification procedures, destined to the Commission and the other insurers:

— annual notification for information,

— notification for decision,

— ex-ante notification for information, and

— ex-post notification for information.

The data provided shall not be disclosed to third parties.

45. *Annual notification for information*

(a) At the end of each year, at the latest however by 30 April of the following year, each insurer shall report to the other insurers and to the Commission on its activity over the previous year on a retrospective basis. This report shall cover all debtor countries and shall contain, for each of these countries:

— the total amount of cover the insurer has offered,

— the total outstanding exposure as defined in point 40,

— the premium earned,

— the amount of recoveries made, and

— the amount of claims paid.

(b) At the beginning of each year, at the latest by 31 January, each insurer shall report to the other insurers and to the Commission on its cover policy, including the type and level of ceilings as well as the conditions the insurer intends to routinely impose on cover, as envisaged or applicable for the year to come.

([1]) OJ L 346, 17. 12. 1973, p. 1. Decision as last amended by the 1994 Act of Accession.

▼B

46. *Notification for decision*

(a) In case of competing offers from Community exporters or banks, an insurer involved shall respond promptly to any request for information from another insurer involved on the status of the debtor of the transaction in question — as defined in point 5.

(b) In case of disagreement on the status of the debtor, the insurers involved shall make the information available to the other insurers in a bid to settle on a mutually agreed status.

(c) If insurers cannot agree on the status of the debtor within 10 working days from the request for information, the insurers involved shall bring the matter with the relevant information to the attention of the Commission, which shall take a decision in accordance with the procedure laid down in Article 4 of this Directive.

47. *Ex-ante notification for information*

(a) An insurer which intends to derogate from the provisions of this Annex by giving more favourable cover conditions either for a particular transaction or a set of transactions, or for a certain sector or sectors, or for a certain country or countries, or for its overall system, shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective, stating the reasons for the intended derogation, for example the need to match international competition, and the corresponding premium rate to be charged.

(b) An insurer which intends to charge a lower premium than that set out in its annual notification in accordance with point 45(b), shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective.

(c) An insurer which, following another insurer's notification in accordance with point (a) or (b) above, intends to give more favourable conditions than the initiating notifier, shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective, stating the premium rate it intends to charge.

(d) An insurer which, in accordance with point 41(c), intends to cover transactions with debtors in countries, for which it normally does not offer cover, shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective, stating the premium rate it intends to charge.

48. *Ex-post notification for information*

(a) An insurer which decides to derogate from the provisions of this Annex by giving less favourable cover conditions either for a particular transaction or a set of transactions, or for a certain sector or sectors, or for a certain country or countries, or for its overall system, should at the latest by 31 January notify the other insurers and the Commission accordingly for the preceding calendar year.

(b) An insurer which decides to adjust one or more elements of its country cover policy set out in its annual notification in accordance with point 45(b), shall promptly notify the other insurers and the Commission accordingly.

(c) An insurer which, following a notification in accordance with points 47(a) and/or (b), decides to give the same conditions as the initiating notifier, shall promptly notify the other insurers and the Commission accordingly.

(d) Each insurer shall promptly give detailed replies to any request from other insurers or the Commission for clarification or information on its activity.

49. *Use of an electronic mail system*

All notifications shall normally be made via an electronic mail system, or, if necessary, by other appropriate means of instant written communication.