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►B 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/EC

(OJ L 326, 8.12.2011, p. 45)

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REGULATION (EU) No 1233/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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on the application of certain guidelines in the field of officially supported export credits and repealing Council Decisions 2001/76/EC and 2001/77/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

Acting in accordance with the ordinary legislative procedure [1],

Whereas:

(1) Export Credit Agencies ('ECAs') contribute to the development of world trade by supporting export and investments by companies in a manner that complements the provision of private sector finance and insurance. The Union is party to the Arrangement on Officially Supported Export Credits ('the Arrangement') of the Organisation for Economic Cooperation and Development ('OECD'). The Arrangement, as concluded by the Participants thereof, regulates the financial terms and conditions that ECAs may offer in order to foster a level playing field for officially supported export credits.

(2) By virtue of Council Decision 2001/76/EC of 22 December 2000 replacing the Decision of 4 April 1978 on the application of certain guidelines in the field of officially supported export credits [2] and Council Decision 2001/77/EC of 22 December 2000 on the application of principles of a framework agreement on project finance in the field of officially supported export credits [3], the guidelines contained in the Arrangement and the specific rules for project finance apply in the Union.

(3) The Arrangement indirectly contributes, through the activity of the ECAs, to free and fair trade and investment by companies which would otherwise have less access to credit facilities provided by the private sector.

(4) 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.

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[1] Position of the European Parliament of 13 September 2011 (not yet published in the Official Journal) and decision of the Council of 8 November 2011.
[2] OJ L 32, 2.2.2001, p. 1.
[3] OJ L 32, 2.2.2001, p. 55.

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(5) The Participants to the Arrangement are involved in a continuous process intended to minimise market distortion and to establish a level playing field in which the premiums charged by the ECAs are risk based and should be adequate to cover long-term operating costs and losses and in accordance with World Trade Organization obligations. In order to achieve this goal, the export credit systems operate in a transparent way and agencies report accordingly to the OECD.

(6) Well-targeted export credits provided by ECAs can contribute to market access opportunities for Union companies, including for small and medium-sized enterprises (SMEs).

(7) The Participants to the Arrangement and the Member States of the Union agreed to disclose certain information on export credits according to the transparency rules of the OECD and of the Union in order to facilitate a level playing field for the Participants to the Arrangement and Member States.

(8) The Union applies transparency and reporting measures as set out in Annex I.

(9) In view of the intensified competitive situation on world markets and in order to avoid competitive disadvantages for Union companies, the Commission, with regard to the negotiating authorisation from the Member States, should support the efforts by the OECD in reaching out to non-Participants to the Arrangement. The Commission should use bilateral and multilateral negotiations in order to establish global standards for officially supported export credits. Global standards in this field are a prerequisite for a level playing field in world trade.

(10) Although OECD countries are guided by the Arrangement, non-OECD countries are not Participants to the Arrangement and this could lead to a competitive advantage for exporters of the latter countries. Those countries, therefore, are being encouraged to apply the Arrangement in order to ensure a level playing field also at the global level.

(11) In view of the Union's Better Regulation policy, aimed at simplifying and improving existing regulation, the Commission and Member States, in future reviews of the Arrangement, will focus, where appropriate, on reducing administrative burdens on businesses and national administrations, including ECAs.

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(12) The Participants to the Arrangement decided to amend and rationalise the Arrangement. Changes agreed upon by them cover enhanced user-friendliness, improving consistency among the relevant international obligations and the achievement of greater transparency, in particular with regard to non-Participants to the Arrangement. Moreover, the Participants to the Arrangement also agreed to incorporate in the text of the Arrangement the rules on project finance which were introduced by Decision 2001/77/EC, and the rules for export credits for ships, which were introduced by Council Decision 2002/634/EC ([1]) amending Decision 2001/76/EC.

(13) Decision 2001/76/EC, as amended, should be repealed and replaced by this Regulation and the consolidated and revised text of the Arrangement annexed thereto, and Decision 2001/77/EC should be repealed.

(14) In order to smoothly and promptly incorporate into Union legislation the amendments to the guidelines set out in the Arrangement as agreed upon by the Participants to the Arrangement, the Commission should adopt delegated acts to amend Annex II where this is necessary. Therefore the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendments to the guidelines as agreed upon by the Participants to the Arrangement. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council,

HAVE ADOPTED THIS REGULATION:

Article 1

Application of the Arrangement

The guidelines contained in the Arrangement on Officially Supported Export Credits ('the Arrangement') shall apply in the Union. The text of the Arrangement is annexed to this Regulation.

Article 2

Delegation of power

The Commission shall adopt delegated acts in accordance with Article 3 to amend Annex II as a result of amendments to the guidelines agreed upon by the Participants to the Arrangement.

([1]) OJ L 206, 3.8.2002, p. 16.

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Where, in the case of amendments to Annex II as a result of amendments to the guidelines agreed upon by the Participants to the Arrangement, imperative grounds of urgency so require, the procedure provided for in Article 4 shall apply to delegated acts adopted pursuant to this Article.

Article 3

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 2 shall be conferred on the Commission for an indeterminate period of time from 9 December 2011.

3. The delegation of power referred to in Article 2 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 2 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 2 months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 4

Urgency procedure

1. Delegated acts adopted pursuant to this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 3(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or by the Council.

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Article 5

Transparency and reporting

The transparency and reporting measures to be applied in the Union are set out in Annex I.

Article 6

Repeal

Decisions 2001/76/EC and 2001/77/EC are hereby repealed.

Article 7

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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ANNEX I

1. Without prejudice to the prerogatives of the Member States' institutions exercising the supervision of the national export credit programs, each Member State shall make available to the Commission an Annual Activity Report in order to step up transparency at Union level. Member States shall report, in accordance with their national legislative framework, on assets and liabilities, claims paid and recoveries, new commitments, exposures and premium charges. Where contingent liabilities might arise from officially supported export credit activities, those activities shall be reported as part of the Annual Activity Report.

2. In the Annual Activity Report, Member States shall describe how environmental risks, which can carry other relevant risks, are taken into account in the officially supported export credit activities of their ECAs.

3. The Commission shall produce an annual review for the European Parliament based on this information, including an evaluation regarding the compliance of ECAs with Union objectives and obligations.

4. The Commission, according to its competencies shall provide to the European Parliament an annual report on negotiations undertaken, where the Commission has negotiating authorisation in the various forums of international cooperation, to establish global standards in the field of officially supported export credits.

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

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CHAPTER I

GENERAL PROVISIONS

1. PURPOSE

a) The main purpose of the Arrangement on Officially Supported Export Credits, referred to throughout this document as the Arrangement, is to provide a framework for the orderly use of officially supported export credits.

b) The Arrangement seeks to foster a level playing field for official support, as defined in Article 5 a), in order to encourage competition among exporters based on quality and price of goods and services exported rather than on the most favourable officially supported financial terms and conditions.

2. STATUS

he Arrangement, developed within the OECD framework, initially came into effect in April 1978 and is of indefinite duration. The Arrangement is a Gentlemen's Agreement among the Participants; it is not an OECD Act ([1]), although it receives the administrative support of the OECD Secretariat (hereafter: 'the Secretariat').

3. PARTICIPATION

The Participants to the Arrangement currently are: Australia, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland and the United States. Other OECD Members and non-members may be invited to become Participants by the current Participants.

4. INFORMATION AVAILABLE TO NON-PARTICIPANTS

a) The Participants undertake to share information with non-Participants on notifications related to official support as set out in Article 5 a).

b) A Participant shall, on the basis of reciprocity, reply to a request from a non-Participant in a competitive situation on the financial terms and conditions offered for its official support, as it would reply to a request from a Participant.

5. SCOPE OF APPLICATION

The Arrangement shall apply to all official support provided by or on behalf of a government for export of goods and/or services, including financial leases, which have a repayment term of two years or more.

a) Official support may be provided in different forms:

1) Export credit guarantee or insurance (pure cover).

2) Official financing support:

— direct credit/financing and refinancing, or

— interest rate support.

3) Any combination of the above.

([1]) As defined in Article 5 of the OECD Convention.

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b) The Arrangement shall apply to tied aid; the procedures set out in Chapter IV shall also apply to trade-related untied aid.

c) The Arrangement does not apply to exports of Military Equipment and Agricultural Commodities.

d) Official support shall not be provided if there is clear evidence that the contract has been structured with a purchaser in a country which is not the final destination of the goods, primarily with the aim of obtaining more favourable repayment terms.

6. SECTOR UNDERSTANDINGS

a) The following Sector Understandings are part of the Arrangement:

— Ships (Annex I)

— Nuclear Power Plants (Annex II)

— Civil Aircraft (Annex III)

— Renewable Energies and Water Projects (Annex IV)

b) A Participant to a Sector Understanding may apply its provisions for official support for export of goods and/or services covered by that Sector Understanding. Where a Sector Understanding does not include a corresponding provision to that of the Arrangement, a Participant to the Sector Understanding shall apply the provision of the Arrangement.

7. PROJECT FINANCE

a) The Participants may apply the terms and conditions set out in Annex X to the export of goods and/or services for transactions that meet the criteria set out in Appendix 1 of Annex X.

b) Paragraph a) applies to the export of goods and services covered by the Sector Understanding on Export Credits for Nuclear Power Plants and the Sector Understanding on Export Credits for Renewable Energies and Water Projects.

c) Paragraph a) does not apply to the export of goods and services covered by the Sector Understanding on Export Credits for Civil Aircraft or the Sector Understanding on Export Credits for Ships.

8. WITHDRAWAL

A Participant may withdraw by notifying the Secretariat in writing by means of instant communication, *e.g.* the OECD On-Line Information System (OLIS). The withdrawal takes effect 180 calendar days after receipt of the notification by the Secretariat.

9. MONITORING

The Secretariat shall monitor the implementation of the Arrangement.

CHAPTER II

FINANCIAL TERMS AND CONDITIONS FOR EXPORT CREDITS

Financial terms and conditions for export credits encompass all the provisions set out in this Chapter which shall be read in conjunction one with the other.

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The Arrangement sets out limitations on terms and conditions that may be officially supported. The Participants recognise that more restrictive financial terms and conditions than those provided for by the Arrangement traditionally apply to certain trade or industrial sectors. The Participants shall continue to respect such customary financial terms and conditions, in particular the principle by which repayment terms do not exceed the useful life of the goods.

10. DOWN PAYMENT, MAXIMUM OFFICIAL SUPPORT AND LOCAL COSTS

a) The Participants shall require purchasers of goods and services which are the subject of official support to make down payments of a minimum of 15 % of the export contract value at or before the starting point of credit as defined in Annex XI. For the assessment of down payments, the export contract value may be reduced proportionally if the transaction includes goods and services from a third country which are not officially supported. Financing/insurance of 100 % of the premium is permissible. Premium may or may not be included in the export contract value. Retention payments made after the starting point of credit are not regarded as down payment in this context.

b) Official support for such down payments shall only take the form of insurance or guarantee against the usual pre-credit risks.

c) Except as provided for in paragraphs b) and d), the Participants shall not provide official support in excess of 85 % of the export contract value, including third country supply but excluding local costs.

d) The Participants may provide official support for local costs, provided that:

1) Official support provided for local costs shall not exceed 30 % of the export contract value.

2) It shall not be provided on terms more favourable/less restrictive than those agreed for the related exports.

3) Where official support for local cost exceeds 15 % of the export contract value, such official support shall be subject to prior notification, pursuant to Article 48, specifying the nature of the local costs being supported.

11. CLASSIFICATION OF COUNTRIES FOR MAXIMUM REPAYMENT TERMS

a) Category I countries are High Income [2] OECD countries. All other countries are in Category II.

b) The following operational criteria and procedures apply when classifying countries:

1) Classification for Arrangement purposes is determined by *per capita* GNI as calculated by the World Bank for the purposes of the World Bank classification of borrowing countries.

[2] Defined by the World Bank on an annual basis according to *per capita* GNI.

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2) In cases where the World Bank does not have enough information to publish per capita GNI data, the World Bank shall be asked to estimate whether the country in question has per capita GNI above or below the current threshold. The country shall be classified according to the estimate unless the Participants decide to act otherwise.

3) If a country is reclassified in accordance with Article 11 a), the reclassification will take effect two weeks after the conclusions drawn from the above-mentioned data from the World Bank have been communicated to all Participants by the Secretariat.

4) In cases where the World Bank revises figures, such revisions shall be disregarded in relation to the Arrangement. Nevertheless, the classification of a country may be changed by way of a Common Line and Participants would favourably consider a change due to errors and omissions in the figures subsequently recognised in the same calendar year in which the figures were first distributed by the Secretariat.

c) A country will change category only after its World Bank category has remained unchanged for two consecutive years.

12. MAXIMUM REPAYMENT TERMS

Without prejudice to Article 13, the maximum repayment term varies according to the classification of the country of destination determined by the criteria in Article 11.

a) For Category I countries, the maximum repayment term is five years, with the possibility of agreeing up to eight-and-a-half years when the procedures for prior notification set out in Article 48 are followed.

b) For Category II countries, the maximum repayment term is ten years.

c) In the event of a contract involving more than one country of destination the Participants should seek to establish a Common Line in accordance with the procedures in Articles 58 to 63 to reach agreement on appropriate terms.

13. REPAYMENT TERMS FOR NON-NUCLEAR POWER PLANTS

a) For non-nuclear power plants, the maximum repayment term shall be 12 years. If a Participant intends to support a repayment term longer than that provided for in Article 12, the Participant shall give prior notification in accordance with the procedure in Article 48.

b) Non-nuclear power plants are complete power stations, or parts thereof, not fuelled by nuclear power; they include all components, equipment, materials and services (including the training of personnel) directly required for the construction and commissioning of such non-nuclear power stations. This does not include items for which the buyer is usually responsible, in particular costs associated with land development, roads, construction villages, power lines, and switchyard and water supply located outside the power plant site boundary, as well as costs arising in the buyer's country from official approval procedures (*e.g.* site permits, construction permit, fuel loading permits), except:

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1) in cases where the buyer of the switchyard is the same as the buyer of the power plant, the maximum repayment term for the original switchyard shall be the same as that for the non-nuclear power plant (*i.e.* 12 years); and

2) the maximum repayment term for sub-stations, transformers and transmission lines with a minimum voltage threshold of 100 kV shall be the same as that for the non-nuclear power plant.

14. REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST

a) The principal sum of an export credit shall be repaid in equal instalments.

b) Principal shall be repaid and interest shall be paid no less frequently than every six months and the first instalment of principal and interest shall be made no later than six months after the starting point of credit.

c) For export credits provided in support of lease transactions, equal repayments of principal and interest combined may be applied in lieu of equal repayments of principal as set out in paragraph a).

d) On an exceptional and duly justified basis, export credits may be provided on terms other than those set out in a) through c) above. The provision of such support shall be explained by an imbalance in the timing of the funds available to the obligor and the debt service profile available under an equal, semi-annual repayment schedule, and shall comply with the following criteria:

1) No single repayment of principal or series of principal payments within a six-month period shall exceed 25 % of the principal sum of the credit.

2) Principal shall be repaid no less frequently than every 12 months. The first repayment of principal shall be made no later than 12 months after the starting point of credit and no less than 2 % of the principal sum of the credit shall have been repaid 12 months after the starting point of credit.

3) Interest shall be paid no less frequently than every 12 months and the first interest payment shall be made no later than six months after the starting point of credit.

4) The maximum weighted average life of the repayment period shall not exceed:

— For transactions with sovereign buyers (or with a sovereign repayment guarantee), four-and-a-half years for transactions in Category I Countries and five-and-a-quarter years for Category II Countries.

— For transactions with non-sovereign buyers (and with no sovereign repayment guarantee), five years for Category I Countries and six years for Category II Countries.

— Notwithstanding the provisions set out in the two previous *tirets*, for transactions involving support for non-nuclear power plants according to Article 13, six-and-a-quarter years.

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5) The Participant shall give prior notification in accordance with Article 48 that explains the reason for not providing support according to paragraphs a) through c).

e) Interest due after the starting point of credit shall not be capitalised

15. INTEREST RATES, PREMIUM RATES AND OTHER FEES

a) Interest excludes:

1) any payment by way of premium or other charge for insuring or guaranteeing supplier credits or financial credits;

2) any payment by way of banking fees or commissions relating to the export credit other than annual or semi-annual bank charges that are payable throughout the repayment period; and

3) withholding taxes imposed by the importing country.

b) Where official support is provided by means of direct credits/financing or refinancing, the premium either may be added to the face value of the interest rate or may be a separate charge; both components are to be specified separately to the Participants.

16. VALIDITY PERIOD FOR EXPORT CREDITS

Financial terms and conditions for an individual export credit or line of credit, other than the validity period for the Commercial Interest Reference Rates (CIRRs) set out in Article 21, shall not be fixed for a period exceeding six months prior to final commitment.

17. ACTION TO AVOID OR MINIMISE LOSSES

The Arrangement does not prevent export credit authorities or financing institutions from agreeing to less restrictive financial terms and conditions than those provided for by the Arrangement, if such action is taken after the contract award (when the export credit agreement and ancillary documents have already become effective) and is intended solely to avoid or minimise losses from events which could give rise to non-payment or claims.

18. ALIGNEMENT

Taking into account a Participant's international obligations and consistent with the purpose of the Arrangement, a Participant may match, according to the procedures set out in Article 45, financial terms and conditions offered by a Participant or a non-Participant. Financial terms and conditions provided in accordance with this Article are considered to be in conformity with the provisions of Chapters I, II and, when applicable, Annexes I, II, III, IV and X.

19. MINIMUM FIXED INTEREST RATES UNDER OFFICIAL FINANCING SUPPORT

a) The Participants providing official financing support for fixed rate loans shall apply the relevant CIRRs as minimum interest rates. CIRRs are interest rates established according to the following principles:

1) CIRRs should represent final commercial lending interest rates in the domestic market of the currency concerned;

2) CIRRs should closely correspond to the rate for first class domestic borrowers;

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3) CIRRs should be based on the funding cost of fixed interest rate finance;

4) CIRRs should not distort domestic competitive conditions; and

5) CIRRs should closely correspond to a rate available to first class foreign borrowers.

b) The provision of official financing support shall not offset or compensate, in part or in full, for the appropriate credit risk premium to be charged for the risk of non-repayment pursuant to the provisions of Article 23.

20. CONSTRUCTION OF CIRRs

a) Each Participant wishing to establish a CIRR shall initially select one of the following two base rate systems for its national currency:

1) three-year government bond yields for a repayment term of up to and including five years; five-year government bond yields for over five and up to and including eight-and-a-half years; and seven-year government bond yields for over eight-and-a-half years; or

2) five-year government bond yields for all maturities.

Exceptions to the base rate system shall be agreed by the Participants.

b) CIRRs shall be set at a fixed margin of 100 basis points above each Participant's base rate unless Participants have agreed otherwise.

c) Other Participants shall use the CIRR set for a particular currency should they decide to finance in that currency.

d) A Participant may change its base-rate system after giving six months' advance notice and with the counsel of the Participants.

e) A Participant or a non-Participant may request that a CIRR be established for the currency of a non-Participant. In consultation with the interested non-Participant, a Participant or the Secretariat on behalf of that non-Participant may make a proposal for the construction of the CIRR in that currency using Common Line procedures in accordance with Articles 58 to 63.

21. VALIDITY OF CIRRs

The interest rate applying to a transaction shall not be fixed for a period longer than 120 days. A margin of 20 basis points shall be added to the relevant CIRR if the terms and conditions of the official financing support are fixed before the contract date.

22. APPLICATION OF CIRRs

a) Where official financing support is provided for floating rate loans, banks and other financing institutions shall not be allowed to offer the option of the lower of either the CIRR (at time of the original contract) or the short-term market rate throughout the life of the loan.

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b) In the event of a voluntary, early repayment of a loan of or any portion thereof, the borrower shall compensate the government institution providing official financing support for all costs and losses incurred as a result of such early repayment, including the cost to the government institution of replacing the part of the fixed rate cash inflow interrupted by the early repayment.

23. PREMIUM FOR CREDIT RISK

The Participants shall charge premium, in addition to interest charges, to cover the risk of non-repayment of export credits. The premium rates charged by the Participants shall be risk-based, shall converge and shall not be inadequate to cover long-term operating costs and losses.

24. MINIMUM PREMIUM RATES FOR CREDIT RISK

The Participants shall charge no less than the applicable Minimum Premium Rate (MPR) for Credit Risk.

a) The applicable MPR is determined according to the following factors:

— the applicable country risk classification;

— the time at risk (*i.e.* the Horizon of Risk or HOR);

— the selected buyer risk category of the obligor;

— the percentage of political and commercial risk cover and quality of official export credit product provided;

— any country risk mitigation technique applied; and

— any buyer risk credit enhancements that have been applied.

b) MPRs are expressed in percentages of the principal value of the credit as if premium were collected in full at the date of the first drawdown of the credit. An explanation of how to calculate the MPRs, including the mathematical formula, is provided in Annex VI.

c) There are no MPRs for transactions involving obligors in Category 0 countries and the premium rates charged by Participants for such transactions shall be determined on a case-by-case basis. In order to ensure that the premium rates charged for transactions involving obligors in Category 0 countries do not undercut private market pricing, the Participants shall adhere to the following procedure:

— Taking into consideration the availability of market information and the characteristics of the underlying transaction, Participants shall determine the premium rate to be applied by benchmarking against one or more of the market benchmarks set forth in Annex XIII, choosing the benchmark(s) deemed most appropriate for the specific transaction.

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— Notwithstanding the preceding paragraph, if the relevance of the market information is limited for liquidity or other reasons, or if the transaction is small (credit value below 10 million SDRs), the Participants shall charge no less than the MPR corresponding to the appropriate buyer risk category in Country Risk Category 1.

— On a temporary basis ([3]), the Participants shall give prior notification according to Article 48 a) for any transaction with obligor/guarantor in a Category 0 country having a credit value of greater than 10 million SDRs.

d) The 'highest risk' countries in Category 7 shall, in principle, be subject to premium rates in excess of the MPRs established for that Category; these premium rates shall be determined by the Participant providing official support.

e) In calculating the MPR for a transaction, the applicable country risk classification shall be the classification of the obligor's country and the applicable buyer risk classification shall be the classification of the obligor, unless:

— security in the form of an irrevocable, unconditional, on-demand, legally valid and enforceable guarantee of the total debt repayment obligation for the entire duration of the credit is provided by a third party that is creditworthy in relation to the size of the guaranteed debt. In the case of a third party guarantee, a Participant may choose to apply the country risk classification of the country in which the guarantor is located and the buyer risk category of the guarantor ([4]); ou

— a Multilateral or Regional Institution as set out in Article 28 is acting either as borrower or guarantor for the transaction, in which case the applicable Country Risk Classification and buyer risk category may be that of the specific Multilateral or Regional Institution involved.

f) The criteria and conditions relating to the application of a third party guarantee according to the situations described in the first and second tirets of Article 24 e) are set out in Annex VII.

g) The HOR convention used in the calculation of an MPR is one-half of the disbursement period plus the entire repayment period and assumes a regular export credit repayment profile, *i.e.* repayment in equal semi-annual instalments of principal plus accrued interest beginning six months after the starting point of credit. For export credits with non-standard repayment profiles, the equivalent repayment period (expressed in terms of equal, semi-annual instalments) is calculated using the following formula: equivalent repayment period = (average weighted life of the repayment period – 0,25)/0,5.

([3]) The requirement for prior notification set out in the third tiret of Article 24 c) shall be discontinued on 31 December 2012.

([4]) In the case of a third party guarantee, the applicable country risk classification and buyer risk category must be related to the same entity, *i.e.* either the obligor or the guarantor.

▼**M1**

h) The Participant choosing to apply an MPR associated with a third party guarantor located in a country other than that of the obligor shall give prior notification according to Article 47 a). The Participant choosing to apply a MPR associated with a Multilateral or Regional Institution acting as a guarantor shall give prior notification in accordance with Article 48 a).

25. COUNTRY RISK CLASSIFICATION

Countries shall be classified according to the likelihood of whether they will service their external debts (*i.e.* country credit risk).

a) The five elements of country credit risk are:

— general moratorium on repayments decreed by the obligor's/guarantor's government or by that agency of a country through which repayment is effected;

— political events and/or economic difficulties arising outside the country of the notifying Participant or legislative/administrative measures taken outside the country of the notifying Participant which prevent or delay the transfer of funds paid in respect of the credit;

— legal provisions adopted in the obligor's/guarantor's country declaring repayments made in local currency to be a valid discharge of the debt, notwithstanding that, as a result of fluctuations in exchange rates, such repayments, when converted into the currency of the credit, no longer cover the amount of the debt at the date of the transfer of funds;

— any other measure or decision of the government of a foreign country which prevents repayment under a credit; and

— cases of force majeure occurring outside the country of the notifying Participant, *i.e.* war (including civil war), expropriation, revolution, riot, civil disturbances, cyclones, floods, earthquakes, eruptions, tidal waves and nuclear accidents.

b) Countries are classified into one of eight Country Risk Categories (0-7). MPRs have been established for Categories 1 through 7, but not for Category 0, as the level of country risk is considered to be negligible for countries in this Category. The credit risk associated with transactions in Category 0 countries is predominantly related to the risk of the obligor/guarantor.

c) High Income [5] OECD and Euro Area countries are classified in Category 0.

— For the purposes of the MPRs, any OECD or Euro Area country classified in Category 0 by virtue of its High Income status shall remain classified in Category 0 until it falls below the High Income GNI threshold for two consecutive years, at which time the country's classification should be reviewed according to Articles 25 d) to f).

[5] As defined in Footnote 2.

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— Any OECD or Euro Area country above the High Income threshold for two consecutive years shall be classified, by definition, in Category 0. Such classification shall take effect immediately after the Secretariat has communicated a country's status as determined by the World Bank.

— Other countries deemed to be of a similar risk level may also be classified in Category 0.

d) All countries [6], not classified in Category 0 in accordance with paragraph c) above, are classified through the Country Risk Classification Methodology, which is comprised of:

— The Country Risk Assessment Model (the Model), which produces a quantitative assessment of country credit risk which is based, for each country, on three groups of risk indicators: the payment experience of the Participants, the financial situation and the economic situation. The methodology of the Model consists of different steps including the assessment of the three groups of risk indicators, and the combination and flexible weighting of the risk indicator groups.

— The qualitative assessment of the Model results, considered country-by-country to integrate the political risk and/or other risk factors not taken into account in full or in part by the Model. If appropriate, this may lead to an adjustment to the quantitative Model assessment to reflect the final assessment of the country credit risk.

e) Country Risk Classifications shall be monitored on an ongoing basis and reviewed at least annually and changes resulting from the Country Risk Classification Methodology shall be immediately communicated by the Secretariat. When a country is re-classified in a lower or higher Country Risk Category, the Participants shall, no later than five working days after the re-classification has been communicated by the Secretariat, charge premium rates at or above the MPRs associated with the new Country Risk Category.

f) The country risk classifications shall be made public by the Secretariat.

26. SOVEREIGN RISK ASSESSMENT

a) For all countries classified through the Country Risk Classification Methodology according to Article 25 d), the risk of the sovereign shall be assessed in order to identify, on an exceptional basis, those sovereigns:

— that are not the lowest-risk obligor in the country and;

— whose credit risk is significantly higher than country risk.

b) The identification of sovereigns meeting the criteria listed in 26 a) above shall be undertaken according to the Sovereign Risk Assessment Methodology that has been developed and agreed by the Participants.

[6] For administrative purposes, some countries that do not generally receive officially supported export credits may not be classified. For non-classified countries, Participants are free to apply the country risk classification which they deem appropriate.

▼M1

c) The list of sovereigns identified as meeting the criteria listed in 26 a) above shall be monitored on an ongoing basis and reviewed at least annually and changes resulting from the Sovereign Risk Assessment Methodology shall be immediately communicated by the Secretariat.

d) The list of sovereigns identified under 26 b) above shall be made public by the Secretariat.

27. BUYER RISK CLASSIFICATION

Obligors and, as appropriate, guarantors in countries classified in Country Risk Categories 1-7 shall be classified into one of the buyer risk categories that have been established in relation to the country of the obligor/guarantor ([7]). The matrix of buyer risk categories into which obligors and guarantors shall be classified is provided in Annex VI. Qualitative descriptions of the buyer risk categories are provided in Annex XII.

a) Buyer-risk classifications shall be based on the senior unsecured credit rating of the obligor/guarantor as determined by the Participant.

b) Notwithstanding paragraph 27 a) above, transactions supported according to the terms and conditions of Annex X to the Arrangement (Project Finance) and transactions having a credit value of five million SDRs or less may be classified on a transaction basis, *i.e.* after the application of any buyer risk credit enhancements, however, such transactions, regardless of how they are classified, are not eligible for any discounts for the application of buyer risk credit enhancements.

c) Sovereign obligors and guarantors are classified in buyer risk category SOV/CC0.

d) On an exceptional basis, non-sovereign obligors and guarantors may be classified in the 'Better than Sovereign' (SOV+) buyer risk category ([8]) si:

— the obligor/guarantor has a foreign currency rating from an accredited credit rating agency (CRA) ([9]) that is better than the foreign currency rating (from the same CRA) of their respective sovereign, or

— the obligor/guarantor's is located in a country in which sovereign risk has been identified as being significantly higher than country risk.

e) The Participants shall give prior notification according to Article 48 a) for transactions:

— with a non-sovereign obligor/guarantor where the premium charged is below that set by Buyer Risk Category CC1, *i.e.* CC0 or SOV+;

([7]) Rules related to the classification of buyers should be understood to stipulate the most favourable classification that can be applied, *e.g.* a sovereign buyer may be classified in a less favourable buyer risk classification.

([8]) The MPRs associated with the Better than Sovereign (SOV+) buyer risk category are 10 % lower than the MPRs associated with the Sovereign (CC0) buyer risk category.

([9]) The Secretariat shall compile and maintain a list of such accredited CRAs.

▼M1

— with a non-sovereign obligor/guarantor having a credit value of greater than 5 million SDRs where a Participant assesses a buyer risk rating for a non-sovereign obligor/guarantor that is rated by an Accredited CRA, and the buyer risk rating assessed is better than the Accredited CRA rating ([10]).

f) In the event of competition for a specific transaction, whereby the obligor/guarantor has been classified by competing Participants in different buyer risk categories, the competing Participants shall seek to arrive at a common buyer risk classification. If agreement on a common classification is not reached, the Participant(s) having classified the obligor/guarantor in a higher buyer risk classification are not prohibited from applying the lower buyer risk classification.

28. CLASSIFICATION OF MULTILATERAL AND REGIONAL INSTITUTIONS

Multilateral and Regional Institutions shall be classified into one of eight Country Risk Categories (0-7) ([11]) and reviewed as appropriate; such applicable classifications shall be made public by the Secretariat.

29. PERCENTAGE AND QUALITY OF OFFICIAL EXPORT CREDIT COVER

The MPRs are differentiated to take account of the differing quality of export credit products and percentage of cover provided by the Participants as set out in Annex VI. The differentiation is based on the exporter's perspective (*i.e.* to neutralise the competitive effect arising from the differing qualities of product provided to the exporter/financial institution).

a) The quality of an export credit product is a function of whether the product is insurance, guarantee or direct credit/financing, and for insurance products whether cover of interest during the claims waiting period (*i.e.* the period between the due date of payment by the obligor and the date that the insurer is liable to reimburse the exporter/financial institution) is provided without a surcharge.

b) All existing export credit products offered by the Participants shall be classified into one of the three product categories which are:

— Below standard product, *i.e.* insurance without cover of interest during the claims waiting period and insurance with cover of interest during the claims waiting period with an appropriate premium surcharge;

— Standard product, *i.e.* insurance with cover of interest during the claims waiting period without an appropriate premium surcharge and direct credit/financing; and

— Above standard product, *i.e.* guarantees.

30. COUNTRY RISK MITIGATION TECHNIQUES

a) The Participants may apply the following country risk mitigation techniques, the specific application of which is set out in Annex VIII:

([10]) Where the non-sovereign borrower is rated by more than one accredited CRA, notification is only required where the buyer risk rating is more favourable than the most favourable of the CRA ratings.

([11]) With respect to buyer risk, classified multilateral and regional institutions shall be classified in Buyer Risk Category SOV/CC0.

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— Offshore Future Flow Structure Combined with Offshore Escrow Account

— Local Currency Financing

b) The Participant applying an MPR reflecting the use of country risk mitigation shall give prior notification according to Article 47 a).

31. BUYER RISK CREDIT ENHANCEMENTS

a) The Participants may apply the following buyer risk credit enhancements (BRCE) which allow for the application of a Credit Enhancement Factor (CEF) of greater than 0:

— Assignment of Contract Proceeds or Receivables

— Asset Base Security

— Fixed Asset Security

— Escrow Account

b) Definitions of the BRCE and maximum CEF values are set out in Annex VIII.

c) BRCEs may be used alone or in combination with the following restrictions:

— The maximum CEF that can be achieved through the use of the BRCEs is 0,35.

— 'Asset Based Security' and 'Fixed Asset Security' cannot be used together in one transaction.

— In the event that applicable country risk classification has been improved through the use of 'Offshore Future Flow Structure Combined with Offshore Escrow Account', no BRCEs may be applied.

d) The Participants shall give prior notification according to Article 48 a) for transactions with a non-sovereign obligor/guarantor having a credit of greater than 5 million SDRs where BRCEs result in the application of a CEF of greater than 0.

32. REVIEW OF THE VALIDITY OF THE MINIMUM PREMIUM RATES FOR CREDIT RISK

a) To assess the adequacy of MPRs and to allow, if necessary, for adjustments, either upwards or downwards, Premium Feedback Tools (PFTs), shall be used in parallel to monitor and adjust the MPRs on a regular basis.

b) The PFTs shall assess the adequacy of the MPRs in terms of both the actual experience of institutions providing official export credits as well as private market information on the pricing of credit risk.

c) A comprehensive review of all aspects of the premium rules of the Arrangement shall take place no later than 31 December 2015.

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CHAPTER III

PROVISIONS FOR TIED AID

33. GENERAL PRINCIPLES

a) The Participants have agreed to have complementary policies for export credits and tied aid. Export credit policies should be based on open competition and the free play of market forces. Tied aid policies should provide needed external resources to countries, sectors or projects with little or no access to market financing. Tied aid policies should ensure best value for money, minimise trade distortion, and contribute to developmentally effective use of these resources.

b) The tied aid provisions of the Arrangement do not apply to the aid programmes of multilateral or regional institutions.

c) These principles do not prejudge the views of the Development Assistance Committee (DAC) on the quality of tied and untied aid.

d) A Participant may request additional information relevant to the tying status of any form of aid. If there is uncertainty as to whether a certain financing practice falls within the scope of the definition of tied aid set out in Annex XI, the donor country shall furnish evidence in support of any claim to the effect that the aid is in fact 'untied' in accordance with the definition in Annex XI.

34. FORMS OF TIED AID

Tied aid can take the form of:

a) Official Development Assistance (ODA) loans as defined in the 'DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance (1987)';

b) ODA grants as defined in the 'DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance (1987)'; and

c) Other Official Flows (OOF), which includes grants and loans but excludes officially supported export credits that are in conformity with the Arrangement; or

d) Any association, *e.g.* mixture, in law or in fact, within the control of the donor, the lender or the borrower involving two or more of the preceding, and/or the following financing components:

1) an export credit that is officially supported by way of direct credit/financing, refinancing, interest rate support, guarantee or insurance to which the Arrangement applies; and

2) other funds at or near market terms, or down payment from the purchaser.

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35. ASSOCIATED FINANCING

a) Associated financing may take various forms including mixed credits, mixed financing, joint financing, parallel financing or single integrated transactions. The main characteristics are that they all feature:

— a concessional component that is linked in law or in fact to the non-concessional component;

— either a single part or all of the financing package that is, in effect, tied aid; and

— concessional funds those are available only if the linked non-concessional component is accepted by the recipient.

b) Association or linkage 'in fact' is determined by such factors as:

— the existence of informal understandings between the recipient and the donor authorities;

— the intention by the donor to facilitate the acceptability of a financing package through the use of ODA;

— the effective tying of the whole financing package to procurement in the donor country;

— the tying status of ODA and the means of tendering for or contracting of each financing transaction; or

— any other practice, identified by the DAC or the Participants in which a *de facto* liaison exists between two or more financing components.

c) The following practices shall not prevent the determination of an association or linkage 'in fact':

— contract splitting through the separate notification of the component parts of one contract;

— splitting of contracts financed in several stages;

— non-notification of interdependent parts of a contract; and/or

— non-notification because part of the financing package is untied.

36. COUNTRY ELIGIBILITY FOR TIED AID

a) There shall be no tied aid to countries whose *per capita* GNI, according to the World Bank data, is above the upper limit for lower middle income countries. The World Bank recalculates this threshold on an annual basis ([12]). A country will be reclassified only after its World Bank category has been unchanged for two consecutive years.

([12]) Based on the annual review by the World Bank of its country classification, a *per capita* Gross National Income (GNI) threshold will be used for the purpose of tied aid eligibility; such threshold is available on the OECD website (www.oecd.org/echanges/xcred).

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b) The following operational criteria and procedures apply when classifying countries:

1) Classification for Arrangement purposes is determined by *per capita* GNI as calculated by the World Bank for the purposes of the World Bank classification of borrowing countries; this classification shall be made public by the Secretariat.

2) In cases where the World Bank does not have enough information to publish per capita GNI data, the World Bank shall be asked to estimate whether the country in question has per capita GNI above or below the current threshold. The country shall be classified according to the estimate unless the Participants decide to act otherwise.

3) If a country's eligibility for tied aid does change in accordance with Article 36 a), the reclassification shall take effect two weeks after the conclusions drawn from the above mentioned World Bank data have been communicated to all Participants by the Secretariat. Before the effective date of reclassification, no tied aid financing for a newly eligible country may be notified; after that date, no tied aid financing for a newly promoted country may be notified, except that individual transactions covered under a prior committed credit line may be notified until the expiry of the credit line (which shall be no more than one year from the effective date).

4) In cases where the World Bank revises figures such revisions shall be disregarded in relation to the Arrangement. Nevertheless, the classification of a country may be changed by way of a Common Line, in accordance with the appropriate procedures in Articles 58 to 63, and the Participants would favourably consider a change due to errors and omissions in the figures subsequently recognised in the same calendar year as the figures that were first distributed by the Secretariat.

37. PROJECT ELIGIBILITY

a) Tied aid shall not be extended to public or private projects that normally should be commercially viable if financed on market or Arrangement terms.

b) The key tests for such aid eligibility are:

— whether the project is financially non-viable, *i.e.* does the project lack capacity with appropriate pricing determined on market principles, to generate cash flow sufficient to cover the project's operating costs and to service the capital employed, *i.e.* the first key test; or

— whether it is reasonable to conclude, based on communication with other Participants, that it is unlikely that the project can be financed on market or Arrangement terms, *i.e.* the second key test. In respect of projects larger than SDR 50 million special weight shall be given to the expected availability of financing at market or Arrangement terms when considering the appropriateness of such aid.

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c) The key tests under sub-paragraph b) above are intended to describe how a project should be evaluated to determine whether it should be financed with such aid or with export credits on market or Arrangement terms. Through the consultation process described in Articles 54 to 56, a body of experience is expected to develop over time that will more precisely define, for both export credit and aid agencies, *ex ante* guidance as to the line between the two categories of projects.

38. MINIMUM CONCESSIONALITY LEVEL

The Participants shall not provide tied aid that has a concessionality level of less than 35 %, or 50 % if the beneficiary country is a Least Developed Country (LDC), except for the cases set out below, which are also exempt from the notification procedures set out in Article 50 a):

a) Technical assistance: tied aid where the official development aid component consists solely of technical co-operation that is less than either 3 % of the total value of the transaction or one million Special Drawing Rights (SDRs), whichever is lower; and

b) Small projects: capital projects of less than SDR 1 million that are funded entirely by development assistance grants.

39. EXEMPTIONS FROM COUNTRY OR PROJECT ELIGIBILITY FOR TIED AID

a) The provisions of Articles 36 and 37 do not apply to tied aid where the concessionality level is 80 % or more except for tied aid that forms part of an associated financing package, described in Article 35.

b) The provisions of Article 37 do not apply to tied aid with a value of less than SDR 2 million except for tied aid that forms part of an associated financing package, described in Article 35.

c) Tied aid for LDCs as defined by the United Nations is not subject to the provisions of Articles 36 and 37.

d) The Participants shall give favourable consideration to an acceleration of tied aid procedures in line with the specific circumstances:

— a nuclear or major industrial accident that causes serious transfrontier pollution, where any affected Participant wishes to provide tied aid to eliminate or mitigate its effects, or

— existence of a significant risk that such an accident may occur, where any potentially affected Participant wishes to provide tied aid to prevent its occurrence.

e) Notwithstanding Articles 36 and 37, a Participant may, exceptionally, provide support by one of the following means:

— the Common Line procedure as defined in Annex XI and described in Articles 58 to 63; or

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— justification on aid grounds through support by a substantial body of the Participants as described in Articles 51 and 52; or

— a letter to the OECD Secretary-General, in accordance with the procedures in Article 53, which the Participants expect will be unusual and infrequent.

40. CALCULATION OF CONCESSIONALITY LEVEL OF TIED AID

The concessionality level of tied aid is calculated using the same method as for the grant element used by the DAC, except that:

a) The discount rate used to calculate the concessionality level of a loan in a given currency, *i.e.* the Differentiated Discount Rate (DDR), is subject to annual change on 15 January and is calculated as follows:

— The average of the CIRR + Margin

Margin (M) depends on the repayment term (R) as follows:

R	M
less than 15 years	0,75
from 15 years up to, but not including 20 years	1,00
from 20 years up to but not including 30 years	1,15
from 30 years and above	1,25

— For all currencies the average of the CIRR is calculated taking an average of the monthly CIRRs valid during the six-month period between 15 August of the previous year and 14 February of the current year. The calculated rate, including the Margin, is rounded to the nearest ten basis points. If there is more than one CIRR for the currency, the CIRR for the longest maturity as set out in Article 20 a), shall be used for this calculation.

b) The base date for the calculation of the concessionality level is the starting point of credit as set out in Annex XI.

c) For the purpose of calculating the overall concessionality level of an associated financing package, the concessionality levels of the following credits, funds and payments are considered to be zero:

— export credits that are in conformity with the Arrangement;

— other funds at or near market rates;

— other official funds with a concessionality level of less than the minimum permitted under Article 38 except in cases of matching; and

— down payment from the purchaser.

Payments on or before the starting point of credit that are not considered down payment shall be included in the calculation of the concessionality level.

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d) The discount rate in matching: in matching aid, identical matching means matching with an identical concessionality level that is recalculated with the discount rate in force at the time of matching.

e) Local costs and third country procurement shall be included in the calculation of concessionality level only if they are financed by the donor country.

f) The overall concessionality level of a package is determined by multiplying the nominal value of each component of the package by the respective concessionality level of each component, adding the results, and dividing this total by the aggregate nominal value of the components.

g) The discount rate for a given aid loan is the rate in effect at the time of notification. However, in cases of prompt notification, the discount rate is the one in effect at the time when the terms and conditions of the aid loan were fixed. A change in the discount rate during the life of a loan does not change its concessionality level.

h) If a change of currency is made before the contract is concluded, the notification shall be revised. The discount rate used to calculate the concessionality level will be the one applicable at the date of revision. A revision is not necessary if the alternative currency and all the necessary information for calculation of the concessionality level are indicated in the original notification.

i) Notwithstanding sub-paragraph g), the discount rate used to calculate the concessionality level of individual transactions initiated under an aid credit line shall be the rate that was originally notified for the credit line.

41. VALIDITY PERIOD FOR TIED AID

a) The Participants shall not fix terms and conditions for tied aid, whether this relates to the financing of individual transactions or to an aid protocol, an aid credit line or to a similar agreement, for more than two years. In the case of an aid protocol, an aid credit line or similar agreement, the validity period shall commence at the date of its signature, to be notified in accordance with Article 50; the extension of a credit line shall be notified as if it were a new transaction with a note explaining that it is an extension and that it is renewed at terms allowed at the time of the notification of the extension. In the case of individual transactions, including those notified under an aid protocol, an aid credit line or similar agreement, the validity period shall commence at the date of notification of the commitment in accordance with Article 49 or 50, as appropriate.

b) When a country has become ineligible for 17-year World Bank Loans for the first time, the validity period of existing and new tied aid protocols and credit lines notified shall be restricted to one year after the date of the potential reclassification in accordance with procedures in Article 36 b).

c) Renewal of such protocols and credit lines is possible only on terms which are in accordance with the provisions of Articles 36 and 37 of the Arrangement following:

— reclassification of countries; and

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— a change in the provisions of the Arrangement.

In these circumstances, the existing terms and conditions can be maintained notwithstanding a change in the discount rate set out in Article 40.

42. MATCHING

Taking into account a Participant's international obligations and consistent with the purpose of the Arrangement, a Participant may match, according to the procedures set out in Article 45, financial terms and conditions offered by a Participant or a non-Participant.

CHAPTER IV

PROCEDURES

SECTION 1

Common procedures for export credits and trade-related aid

43. NOTIFICATIONS

The notifications set out by the procedures in the Arrangement shall be made in accordance with, and include the information contained in Annex V, and shall be copied to the Secretariat.

44. INFORMATION ON OFFICIAL SUPPORT

a) As soon as a Participant commits the official support which it has notified in accordance with the procedures in Articles 47 to 50, it shall inform all other Participants accordingly by including the notification reference number on the relevant Creditor Reporting System (CRS) Form 1C.

b) In an exchange of information in accordance with Articles 55 to 57, a Participant shall inform the other Participants of the credit terms and conditions that it envisages supporting for a particular transaction and may request similar information from the other Participants.

45. PROCEDURES FOR MATCHING

a) Before matching financial terms and conditions assumed to be offered by a Participant or a non-Participant pursuant to Articles 18 and 42, a Participant shall make every reasonable effort, including as appropriate by use of the face-to-face consultations described in Article 57, to verify that these terms and conditions are officially supported and shall comply with the following:

1) The Participant shall notify all other Participants of the terms and conditions it intends to support following the same notification procedures required for the matched terms and conditions. In the case of matching a non-Participant, the matching Participant shall follow the same notification procedures that would have been required had the matched terms been offered by a Participant.

2) Notwithstanding 1) above, if the applicable notification procedure would require the matching Participant to withhold its commitment beyond the final bid closing date, then the matching Participant shall give notice of its intention to match as early as possible.

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3) If the initiating Participant moderates or withdraws its intention to support the notified terms and conditions, it shall immediately inform all other Participants accordingly.

b) A Participant intending to offer identical financial terms and conditions to those notified according to Articles 47 and 48 may do so once the waiting period stipulated therein has expired. This Participant shall give notification of its intention as early as possible.

46. SPECIAL CONSULTATIONS

a) A Participant that has reasonable grounds to believe that financial terms and conditions offered by another Participant (the initiating Participant) are more generous than those provided for in the Arrangement shall inform the Secretariat; the Secretariat shall immediately make available such information.

b) The initiating Participant shall clarify the financial terms and conditions of its offer within two working days following the issue of the information from the Secretariat.

c) Following clarification by the initiating Participant, any Participant may request that a special consultation meeting of the Participants be organised by the Secretariat within five working days to discuss the issue.

d) Pending the outcome of the special consultation meeting of the Participants, financial terms and conditions benefiting from official support shall not become effective.

SECTION 2

Procedures for export credits

47. PRIOR NOTIFICATION WITH DISCUSSION

a) A Participant shall notify all other Participants at least ten calendar days before issuing any commitment in accordance with Annex V of the Arrangement if:

— the applicable country risk classification and buyer risk category used to calculate the MPR is that of a third party guarantor located outside of the obligor's country [*i.e.* determined according to the first tiret of Article 24 e)]; or

— the applicable MPR has been decreased through the application of a country risk mitigation technique listed in Article 30.

b) If any other Participant requests a discussion during this period, the initiating Participant shall wait an additional ten calendar days.

c) A Participant shall inform all other Participants of its final decision following a discussion to facilitate the review of the body of experience in accordance with Article 69. The Participants shall maintain records of their experience with regard to premium rates notified in accordance with paragraph a) above.

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48. PRIOR NOTIFICATION

a) A Participant shall, in accordance with Annex V of the Arrangement, notify all other Participants at least ten calendar days before issuing any commitment if it intends to:

1) Support a repayment term of more than five years to a Category I Country.

2) Provide support in accordance with Article 10 d) 3).

3) Provide support in accordance with Article 13 a).

4) Provide support in accordance with Article 14 d).

5) Provide support for a transaction with obligor/guarantor in a Category 0 country having a credit value of greater than 10 million SDRs ([13]).

6) To apply a premium rate in accordance with the second tiret of Article 24 e), whereby the applicable country risk classification and buyer risk category used to calculate the MPR have been determined by the involvement as obligor or guarantor of a classified multilateral or regional institution.

7) To apply a premium rate in accordance with Article 27 e) whereby the selected buyer risk category used to calculate the MPR for a transaction:

— with a non-sovereign obligor/guarantor is lower than CC1 (*i.e.* CC0 or SOV+);

— with a non-sovereign obligor/guarantor having a credit of greater than 5 million SDRs is better than the Accredited CRA rating.

8) To apply a premium rate in accordance with Article 31 a) whereby the use of buyer risk credit enhancements results in the application of a CEF of greater than 0.

b) If the initiating Participant moderates or withdraws its intention to provide support for such transaction, it shall immediately inform all other Participants.

SECTION 3

Procedures for trade-related aid

49. PRIOR NOTIFICATION

a) A Participant shall give prior notification if it intends to provide official support for:

— Trade-related untied aid with a value of SDR 2 million or more, and a concessionality level of less than 80 %;

— Trade-related untied aid with a value of less than SDR 2 million and a grant element (as defined by the DAC) of less than 50 %;

([13]) The requirement for prior notification set out in the third tiret of Article 24 c) shall be discontinued on 31 December 2012.

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— Trade-related tied aid with a value of SDR 2 million or more and a concessionality level of less than 80 %; or

— Trade-related tied aid with a value of less than SDR 2 million and a concessionality level of less than 50 %, except for the cases set out in Articles 38 a) and b).

— Tied aid in accordance with Article 39 d).

b) Prior notification shall be made at the latest 30 working days before the bid closing or commitment date, whichever is the earlier.

c) If the initiating Participant moderates or withdraws its intention to support the notified terms and conditions, it shall immediately inform all other Participants accordingly.

d) The provision of this Article shall apply to tied aid that forms part of an associated financing package, as described in Article 35.

50. PROMPT NOTIFICATION

a) A Participant shall promptly notify all other Participants, *i.e.* within two working days of the commitment, if it provides official support for tied aid with a value of either:

— SDR 2 million or more and a concessionality level of 80 % or more; or

— less than SDR 2 million and a concessionality level of 50 % or more except for the cases set out in Articles 38 a) and b).

b) A Participant shall also promptly notify all other Participants when an aid protocol, credit line or similar agreement is signed.

c) Prior notification need not be given if a Participant intends to match financial terms and conditions that were subject to a prompt notification.

SECTION 4

Consultation procedures for tied aid

51. PURPOSE OF CONSULTATIONS

a) A Participant seeking clarification about possible trade motivation for tied aid may request that a full Aid Quality Assessment (detailed in Annex IX) be supplied.

b) Furthermore, a Participant may request consultations with other Participants, in accordance with Article 52. These include face-to-face consultations as outlined in Article 57 in order to discuss:

— first, whether an aid offer meets the requirements of Articles 36 and 37; and

— if necessary, whether an aid offer is justified even if the requirements of Articles 36 and 37 are not met.

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52. SCOPE AND TIMING OF CONSULTATIONS

a) During consultations, a Participant may request, among other items, the following information:

— the assessment of a detailed feasibility study/project appraisal;

— whether there is a competing offer with non-concessional or aid financing;

— the expectation of the project generating or saving foreign currency;

— whether there is co-operation with multilateral organisations such as the World Bank;

— the presence of International Competitive Bidding (ICB), in particular if the donor country's supplier is the lowest evaluated bid;

— the environmental implications;

— any private sector participation; and

— the timing of the notifications (*e.g.* six months prior to bid closing or commitment date) of concessional or aid credits.

b) The consultation shall be completed and the findings on both questions in Article 51 notified by the Secretariat to all Participants at least ten working days before the bid closing date or commitment date, whichever comes first. If there is disagreement among the consulting parties, the Secretariat shall invite other Participants to express their views within five working days. It shall report these views to the notifying Participant, which should reconsider going forward if there appears to be no substantial support for an aid offer.

53. OUTCOME OF CONSULTATIONS

a) A donor which wishes to proceed with a project despite the lack of substantial support shall provide prior notification of its intentions to other Participants, no later than 60 calendar days after the completion of the Consultation, *i.e.* acceptance of the Chairman's conclusion. The donor shall also write a letter to the Secretary-General of the OECD outlining the results of the consultations and explaining the overriding non-trade related national interest that forces this action. The Participants expect that such an occurrence will be unusual and infrequent.

b) The donor shall immediately notify the Participants that it has sent a letter to the Secretary-General of the OECD, a copy of which shall be included with the notification. Neither the donor nor any other Participant shall make a tied aid commitment until ten working days after this notification to Participants has been issued. For projects for which competing commercial offers were identified during the consultation process, the aforementioned ten-working-day period shall be extended to 15 days.

c) The Secretariat shall monitor the progress and results of consultations.

▼**M1**

SECTION 5

Information exchange for export credits and trade-related aid

54. CONTACT POINTS

All communications shall be made between the designated contact points in each country by means of instant communication, *e.g.* OLIS, and shall be treated in confidence.

55. SCOPE OF ENQUIRIES

a) A Participant may ask another Participant about the attitude it takes with respect to a third country, an institution in a third country or a particular method of doing business.

b) A Participant which has received an application for official support may address an enquiry to another Participant, giving the most favourable credit terms and conditions that the enquiring Participant would be willing to support.

c) If an enquiry is made to more than one Participant, it shall contain a list of addressees.

d) A copy of all enquiries shall be sent to the Secretariat.

56. SCOPE OF RESPONSES

a) The Participant to which an enquiry is addressed shall respond within seven calendar days and provide as much information as possible. The reply shall include the best indication that the Participant can give of the decision it is likely to take. If necessary, the full reply shall follow as soon as possible. Copies shall be sent to the other addressees of the enquiry and to the Secretariat.

b) If an answer to an enquiry subsequently becomes invalid for any reason, because for example:

— an application has been made, changed or withdrawn, or

— other terms are being considered,

a reply shall be made without delay and copied to all other addressees of the enquiry and to the Secretariat.

57. FACE-TO-FACE CONSULTATIONS

a) A Participant shall agree within ten working days to requests for face-to-face consultations.

b) A request for face-to-face consultations shall be made available to Participants and non-Participants. The consultations shall take place as soon as possible after the expiry of the ten-working-day period.

c) The Chairman of the Participants shall co-ordinate with the Secretariat on any necessary follow-up action, *e.g.* a Common Line. The Secretariat shall promptly make available the outcome of the consultation.

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58. PROCEDURES AND FORMAT OF COMMON LINES

a) Common Line proposals are addressed only to the Secretariat. A proposal for a Common Line shall be sent to all Participants and, where tied aid is involved, all DAC contact points by the Secretariat. The identity of the initiator is not revealed on the Common Line Register on the Bulletin Board of the OLIS. However, the Secretariat may orally reveal the identity of the initiator to a Participant or DAC member on demand. The Secretariat shall keep a record of such requests.

b) The Common Line proposal shall be dated and shall be in the following format:

— Reference number, followed by 'Common Line'.

— Name of the importing country and buyer.

— Name or description of the project as precise as possible to clearly identify the project.

— Terms and conditions foreseen by the initiating country.

— Common Line proposal.

— Nationality and names of known competing bidders.

— Commercial and financial bid closing date and tender number to the extent it is known.

— Other relevant information, including reasons for proposing the Common Line, availability of studies of the project and/or special circumstances.

c) A Common Line proposal put forward in accordance with Article 36 b) 4) shall be addressed to the Secretariat and copied to other Participants. The Participant making the Common Line proposal shall provide a full explanation of the reasons why it considers that the classification of a country should differ from the procedure set out in Article 36 b).

d) The Secretariat shall make publicly available the agreed Common Lines.

59. RESPONSES TO COMMON LINE PROPOSALS

a) Responses shall be made within 20 calendar days, although the Participants are encouraged to respond to a Common Line proposal as quickly as possible.

b) A response may be a request for additional information, acceptance, and rejection, a proposal for modification of the Common Line or an alternative Common Line proposal.

c) A Participant which advises that it has no position because it has not been approached by an exporter, or by the authorities in the recipient country in case of aid for the project, shall be deemed to have accepted the Common Line proposal.

60. ACCEPTANCE OF COMMON LINES

a) After a period of 20 calendar days, the Secretariat shall inform all Participants of the status of the Common Line proposal. If not all Participants have accepted the Common Line, but no Participant has rejected it, the proposal shall be left open for a further period of eight calendar days.

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b) After this further period, a Participant which has not explicitly rejected the Common Line proposal shall be deemed to have accepted the Common Line. Nevertheless, a Participant, including the initiating Participant, may make its acceptance of the Common Line conditional on the explicit acceptance by one or more Participants.

c) If a Participant does not accept one or more elements of a Common Line it implicitly accepts all other elements of the Common Line. It is understood that such a partial acceptance may lead other Participants to change their attitude towards a proposed Common Line. All Participants are free to offer or match terms and conditions not covered by a Common Line.

d) A Common Line which has not been accepted may be reconsidered using the procedures in Articles 58 and 59. In these circumstances, the Participants are not bound by their original decision.

61. DISAGREEMENT ON COMMON LINES

If the initiating Participant and a Participant which has proposed a modification or alternative cannot agree on a Common Line within the additional eight-calendar day period, this period can be extended by their mutual consent. The Secretariat shall inform all Participants of any such extension.

62. EFFECTIVE DATE OF COMMON LINE

The Secretariat shall inform all Participants either that the Common Line will go into effect or that it has been rejected; the Common Line will take effect three calendar days after this announcement. The Secretariat shall make available on OLIS a permanently updated record of all Common Lines which have been agreed or are undecided.

63. VALIDITY OF COMMON LINES

a) A Common Line, once agreed, shall be valid for a period of two years from its effective date, unless the Secretariat is informed that it is no longer of interest, and that this is accepted by all Participants. A Common Line shall remain valid for a further two-year period if a Participant seeks an extension within 14 calendar days of the original date of expiry. Subsequent extensions may be agreed through the same procedure. A Common Line agreed in accordance with Article 36 b) 4) shall be valid until World Bank data for the following year is available.

b) The Secretariat shall monitor the status of Common Lines and shall keep the Participants informed accordingly, through the maintenance of the listing ‘The Status of Valid Common Lines’ on OLIS. Accordingly, the Secretariat, inter alia, shall:

— Add new Common Lines when these have been accepted by the Participants.

— Update the expiry date when a Participant requests an extension.

— Delete Common Lines which have expired.

— Issue, on a quarterly basis, a list of Common Lines due to expire in the following quarter.

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SECTION 6

Operational provisions for the communication of minimum interest rates (CIRRs)

64. COMMUNICATION OF MINIMUM INTEREST RATES

a) CIRRs for currencies that are determined according to the provisions of Article 20 shall be sent by means of instant communication at least monthly to the Secretariat for circulation to all Participants.

b) Such notification shall reach the Secretariat no later than five days after the end of each month covered by this information. The Secretariat shall then inform immediately all Participants of the applicable rates and make them publicly available.

65. EFFECTIVE DATE FOR APPLICATION OF INTEREST RATES

Any changes in the CIRRs shall enter into effect on the fifteenth day after the end of each month.

66. IMMEDIATE CHANGES IN INTEREST RATES

When market developments require the notification of an amendment to a CIRR during the course of a month, the amended rate shall be implemented ten days after notification of this amendment has been received by the Secretariat.

SECTION 7

Reviews

67. REGULAR REVIEW OF THE ARRANGEMENT

a) The Participants shall review regularly the functioning of the Arrangement. In the review, the Participants shall examine, inter alia, notification procedures, implementation and operation of the DDR system, rules and procedures on tied aid, questions of matching, prior commitments and possibilities of wider participation in the Arrangement.

b) This review shall be based on information of the Participants' experience and on their suggestions for improving the operation and efficacy of the Arrangement. The Participants shall take into account the objectives of the Arrangement and the prevailing economic and monetary situation. The information and suggestions that Participants wish to put forward for this review shall reach the Secretariat no later than 45 calendar days before the date of review.

68. REVIEW OF MINIMUM INTEREST RATES

a) The Participants shall periodically review the system for setting CIRRs in order to ensure that the notified rates reflect current market conditions and meet the aims underlying the establishment of the rates in operation. Such reviews shall also cover the margin to be added when these rates are applied.

b) A Participant may submit to the Chairman of the Participants a substantiated request for an extraordinary review in case this Participant considers that the CIRR for one or more than one currency no longer reflect current market conditions.

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69. REVIEW OF MINIMUM PREMIUM RATES AND RELATED ISSUES

The Participants shall regularly monitor and review all aspects of the premium rules and procedures. This shall include:

a) The Country Risk Classification and Sovereign Risk Assessment Methodologies to review their validity in the light of experience;

b) The level of the MPRs to ensure that they remain an accurate measure of credit risk, taking into account both the actual experience of institutions providing official export credits as well as private market information on the pricing of credit risk;

c) The differentiations in the MPRs which take account of the differing quality of export credit products and percentage of cover provided; and

d) The body of experience related to the use of country risk mitigation and buyer risk credit enhancements and the continued validity and appropriateness of their specific impact on the MPRs.

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ANNEX I

SECTOR UNDERSTANDING ON EXPORT CREDITS FOR SHIPS

CHAPTER I

Scope of the Sector Understanding

1. PARTICIPATION

The Participants to the Sector Understanding are: Australia, the European Union, Japan, Korea, New Zealand and Norway.

2. SCOPE OF APPLICATION

This Sector Understanding, which complements the Arrangement, sets out specific guidelines for officially supported export credits relating to export contracts of:

a) Any new sea-going vessel of 100 gt and above used for the transportation of goods or persons, or for the performance of a specialised service (for example, fishing vessels, fish factory ships, ice breakers and as dredgers, that present in a permanent way by their means of propulsion and direction (steering) all the characteristics of self-navigability in the high sea), tugs of 365 kw and over and to unfinished shells of ships that are afloat and mobile. The Sector Understanding does not cover military vessels. Floating docks and mobile offshore units are not covered by the Sector Understanding, but should problems arise in connection with export credits for such structures, the Participants to the Sector Understanding (hereinafter the Participants), after consideration of substantiated requests by any Participant, may decide that they shall be covered.

b) Any conversion of a ship. Ship conversion means any conversion of sea-going vessels of more than 1 000 gt on condition that conversion operations entail radical alterations to the cargo plan, the hull or the propulsion system.

c) 1) Although hovercraft-type vessels are not included in the Sector Understanding, Participants are allowed to grant export credits for hovercraft vessels on equivalent conditions to those prevailing in the Sector Understanding. They commit themselves to apply this possibility moderately and not to grant such credit conditions to hovercraft vessels in cases where it is established that no competition is offered under the conditions of the Sector Understanding.

2) In the Sector Understanding, the term "hovercraft" is defined as follows: an amphibious vehicle of at least 100 tons designed to be supported wholly by air expelled from the vehicle forming a plenum contained within a flexible skirt around the periphery of the vehicle and the ground or water surface beneath the vehicle, and capable of being propelled and controlled by airscrews or ducted air from fans or similar devices.

3) It is understood that the granting of export credits at conditions equivalent to those prevailing in this Sector Understanding should be limited to those hovercraft vessels used on maritime routes and non-land routes, except for reaching terminal facilities standing at a maximum distance of one kilometre from the water.

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CHAPTER II

Provisions for export credits and tied aid

3. MAXIMUM REPAYMENT TERM

The maximum repayment term, irrespective of country classification, is 12 years after delivery.

4. CASH PAYMENT

The Participants shall require a minimum cash payment of 20 % of the contract price by delivery.

5. REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST

a) The principal sum of an export credit shall be repaid in equal instalments at regular intervals of normally six months and a maximum of 12 months.

b) Interest shall be paid no less frequently than every six months and the first payment of interest shall be made no later than six months after the starting point of credit.

c) For export credits provided in support of lease transactions, equal repayments of principal and interest combined may be applied in lieu of equal repayments of principal as set out in paragraph a).

d) Interest due after the starting point of credit shall not be capitalised.

e) A Participant to this Sector Understanding intending to support a payment of interest on different terms than those set out in paragraph b) shall give prior notification at least ten calendar days before issuing any commitment, in accordance with Annex V of the Arrangement.

6. MINIMUM PREMIUM

The provisions of the Arrangement in relation to minimum premium benchmarks shall not be applied until such provisions have been further reviewed by the Participants to this Sector Understanding.

7. PROJECT FINANCE

The provisions of Article 7 and of Annex X to the Arrangement shall not be applied until such provisions have been further reviewed by the Participants to this Sector Understanding.

8. AID

Any Participant desiring to provide aid must, in addition to the provisions of the Arrangement, confirm that the ship is not operated under an open registry during the repayment term and that appropriate assurance has been obtained that the ultimate owner resides in the receiving country, is not a non-operational subsidiary of a foreign interest and has undertaken not to sell the ship without his government's approval.

CHAPTER III

Procedures

9. NOTIFICATION

For the purpose of transparency each Participant shall, in addition to the provisions of the Arrangement and the IBRD/Berne Union/OECD Creditor Reporting System, provide annually information on its system for the provision of official support and of the means of implementation of this Sector Understanding, including the schemes in force.

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10. REVIEW

a) The Sector Understanding shall be reviewed annually or upon request by any Participant within the context of the OECD Working Party on Shipbuilding, and a report made to the Participants to the Arrangement.

b) To facilitate coherence and consistency between the Arrangement and this Sector Understanding and taking into account the nature of the shipbuilding industry, the Participants to this Sector Understanding and to the Arrangement will consult and co-ordinate as appropriate.

c) Upon a decision by the Participants to the Arrangement to change the Arrangement, the Participants to this Sector Understanding (the Participants) will examine such a decision and consider its relevance to this Sector Understanding. Pending such consideration the amendments to the Arrangement will not apply to this Sector Understanding. In case the Participants can accept the amendments to the Arrangement they shall report this in writing to the Participants to the Arrangement. In case the Participants cannot accept the amendments to the Arrangement as far as their application to shipbuilding is concerned they shall inform the Participants to the Arrangement of their objections and enter into consultations with them with a view to seeking a resolution of the issues. In case no agreement can be reached between the two groups, the views of the Participants as regards the application of the amendments to shipbuilding shall prevail.

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Attachment

Commitments for future work

In addition to the Future Work of the Arrangement, the Participants to this Sector Understanding agree:

a) To develop an illustrative list of types of ships which are generally considered non-commercially viable, taking into account the disciplines on tied aid set out in the Arrangement.

b) To review the provisions of the Arrangement in relation to minimum premium benchmarks with a view to incorporating them into this Sector Understanding.

c) To discuss, subject to the developments in relevant international negotiations, the inclusion of other disciplines on minimum interest rates including a special CIRR and floating rates.

d) To review the applicability to this Sector Understanding of provisions of the Arrangement in relation to Project Finance.

e) To discuss whether:

— the date of the first instalment of principal;

— the Weighted Average Life concept

may be used in relation to the repayment profile contained in Article 5 of this Sector Understanding.

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ANNEX II

SECTOR UNDERSTANDING ON EXPORT CREDITS FOR NUCLEAR POWER PLANTS

CHAPTER I

Scope of the Sector Understanding

1. SCOPE OF APPLICATION

a) This Sector Understanding sets out the provisions which apply to officially supported export credits relating to contracts for:

1) The export of complete nuclear power stations or parts thereof, comprising all components, equipment, materials and services, including the training of personnel directly required for the construction and commissioning of such nuclear power stations.

2) The modernisation of existing nuclear power plants in cases where both the overall value of the modernisation is at or above SDR 80 million and the economic life of the plant is likely to be extended by at least the repayment period to be awarded. If either of these criteria is not met, the terms of the Arrangement apply.

3) The supply of nuclear fuel and enrichment.

4) The provision of spent fuel management.

b) This Sector Understanding does not apply to:

1) Items located outside the nuclear power plant site boundary for which the buyer is usually responsible, in particular costs associated with land development, roads, construction village, power lines, switchyard [1] and water supply, as well as costs arising in the buyer's country from official approval procedures (*e.g.* site permit, construction permit, fuel loading permit).

2) Sub-stations, transformers and transmission lines located outside the nuclear power plant site boundary.

3) Official support provided for the decommissioning of a nuclear power plant.

CHAPTER II

Provisions for export credits and trade-related aid

2. MAXIMUM REPAYMENT TERMS

a) The maximum repayment term for goods and services included in the provisions of Articles 1 a) 1) and 2) is 18 years.

[1] However, in cases where the buyer of the switchyard is the same as the buyer of the power plant and the contract is concluded in relation to the original switchyard for that power plant, the terms and conditions for the original switchyard shall not be more generous than those for the nuclear power plant.

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b) The maximum repayment term for the initial fuel load is four years from delivery. The maximum repayment term for subsequent reloads of nuclear fuel is two years from delivery.

c) The maximum repayment term for spent fuel disposal is two years.

d) The maximum repayment term for enrichment and spent fuel management is five years.

3. REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST

a) The Participants shall apply a profile of repayment of principal and payment of interest as specified in sub-paragraphs 1) or 2) below:

1) Repayment of principal shall be made in equal instalments.

2) Repayment of principal and payment of interest combined shall be made in equal instalments.

b) Principal shall be repaid and interest shall be paid no less frequently than every six months and the first instalment of principal and interest shall be made no later than six months after the starting point of credit.

c) On an exceptional and duly justified basis, official support for goods and services mentioned in Articles 1) a) 1) and 2) of this Understanding may be provided on terms other than those set out in a) and b) above. The provision of such support shall be explained by an imbalance in the timing of the funds available to the obligor and the debt service profile available under an equal, semi annual repayment schedule, and shall comply with the following criteria:

1) The maximum repayment term shall be 15 years.

2) No single repayment of principal or series of principal payments within a six-month period shall exceed 25 % of the principal sum of the credit.

3) Principal shall be repaid no less frequently than every 12 months. The first repayment of principal shall be made no later than 12 months after the starting point of credit and no less than 2 % of the principal sum of the credit shall have been repaid 12 months after the starting point of credit.

4) Interest shall be paid no less frequently than every 12 months and the first interest payment shall be made no later than six months after the starting point of credit.

5) The maximum weighted average life of the repayment period shall not exceed nine years.

d) Interest due after the starting point of credit shall not be capitalised

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4. CONSTRUCTION OF CIRRs

The applicable CIRRs for official financing support provided in accordance with the provisions of this Sector Understanding are constructed using to the following base rates and margins:

Repayment Term (years)	New nuclear power stations ([1])		All other contracts ([2])	
	Base Rate (Government bonds)	Margin (bps)	Base Rate (Government bonds)	Margin (bps)
< 11	Relevant CIRR in accordance with Article 20 of the Arrangement			
11 to 12	7 years	100	7 years	100
13	8 years	120	7 years	120
14	9 years	120	8 years	120
15	9 years	120	8 years	120
16	10 years	125	9 years	120
17	10 years	130	9 years	120
18	10 years	130	10 years	120

([1]) Article 1 a) 1) refers.
([2]) Articles 1 a) 2) to 4) refers.

5. ELIGIBLE CURRENCIES

The currencies that are eligible for official financing support are those which are fully convertible and for which data are available to construct the minimum interest rates mentioned in Article 4 above, and Article 20 of the Arrangement for repayment terms less than 11 years.

6. OFFICIAL SUPPORT FOR NUCLEAR FUEL AND FOR NUCLEAR FUEL RELATED SERVICES

Without prejudice to the provisions of Article 7 below, the Participants shall not provide free nuclear fuel or services.

7. AID

The Participants shall not provide aid support.

CHAPTER III

Procedures

8. PRIOR NOTIFICATION

a) A Participant shall give prior notification in accordance with Article 48 of the Arrangement at least ten calendar days before issuing any commitment if it intends to provide support in accordance with the provisions of this Sector Understanding.

b) If the notifying Participant intends to provide support with a repayment term in excess of 15 years and/or in accordance with Article 3 c) above, it shall wait an additional ten calendar days if any other Participant requests a discussion during the initial ten calendar days.

c) A Participant shall inform all other Participants of its final decision following a discussion, to facilitate the review of the body of experience.

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CHAPTER IV

Review

9. FUTURE WORK

The Participants agree to examine the following issues before the end of 2009:

a) A minimum floating interest rate regime.

b) The maximum amount of official support for local costs.

10. REVIEW AND MONITORING

The Participants shall review regularly the provisions of the Sector Understanding and at the latest by the end of 2013, *i.e.* the fourth calendar year following the effective date of this Sector Understanding.

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ANNEX III

SECTOR UNDERSTANDING ON EXPORT CREDITS FOR CIVIL AIRCRAFT

PART 1

GENERAL PROVISIONS

1. PURPOSE

a) The purpose of this Sector Understanding is to provide a framework for the predictable, consistent and transparent use of officially supported export credits for the sale or lease of aircraft and other goods and services specified in Article 4 a) below. This Sector Understanding seeks to foster a level playing field for such export credits, in order to encourage competition among exporters based on quality and price of goods and services exported rather than on the most favourable officially supported financial terms and conditions.

b) This Sector Understanding sets out the most favourable terms and conditions on which officially supported export credits may be provided.

c) To this aim, this Sector Understanding seeks to establish a balanced equilibrium that, on all markets:

1) Equalises competitive financial conditions between the Participants,

2) Neutralises official support among the Participants as a factor in the choice among competing goods and services specified in Article 4 a) below, and

3) Avoids distortion of competition among the Participants to this Sector Understanding and any other sources of financing.

d) The Participants to this Sector Understanding (the Participants) acknowledge that the provisions included in this Sector Understanding have been developed for the sole purpose of this Sector Understanding and such provisions do not prejudice the other parts of the Arrangement on Officially Supported Export Credits (the Arrangement) and their evolution.

2. STATUS

This Sector Understanding is a Gentlemen's Agreement among its Participants and is Annex III to the Arrangement; it forms an integral part of the Arrangement and it succeeds the Sector Understanding which came into effect in July 2007.

3. PARTICIPATION

The Participants currently are: Australia, Brazil, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland and the United States. Any non-Participant may become a Participant in accordance with the procedures set out in Appendix I.

4. SCOPE OF APPLICATION

a) This Sector Understanding shall apply to all official support provided by or on behalf of a government, and which has a repayment term of two years or more, for the export of:

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1) New civil aircraft and engines installed thereon, including buyer furnished equipment.

2) Used, converted, and refurbished civil aircraft and engines installed thereon, including, in each case, buyer furnished equipment.

3) Spare engines.

4) Spare parts for civil aircraft and engines.

5) Maintenance and service contracts for civil aircraft and engines.

6) Cargo conversion, major modifications and refurbishment of civil aircraft.

7) Engine kits.

b) Official support may be provided in different forms:

1) Export credit guarantee or insurance (pure cover).

2) Official financing support:

— direct credit/financing and refinancing or

— interest rate support.

3) Any combination of the above.

c) This Sector Understanding shall not apply to official support for:

1) The exports of new or used military aircraft and related goods and services listed in paragraph 4 a) above, including when used for military purposes.

2) New or used flight simulators.

5. INFORMATION AVAILABLE TO NON-PARTICIPANTS

A Participant shall, on the basis of reciprocity, reply to a request from a non-Participant in a competitive situation on the financial terms and conditions offered for its official support as it would reply to a request from a Participant.

6. AID SUPPORT

The Participants shall not provide aid support, except for humanitarian purposes, through a Common Line procedure.

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7. ACTIONS TO AVOID OR MINIMISE LOSSES

This Sector Understanding does not prevent its Participants from agreeing to less restrictive financial terms and conditions than those provided for by this Sector Understanding, if such action is taken after the export credit agreement and ancillary documents have already become effective and is intended solely to avoid or minimise losses from events which could give rise to non-payment or claims. A Participant shall notify all other Participants and the OECD Secretariat (the Secretariat), within 20 working days following the Participant's agreement with the buyer/borrower, of the modified financial terms and conditions. The notification shall contain information, including the motivation, on the new financial terms and conditions, using the reporting form set out in Appendix IV.

PART 2

NEW AIRCRAFT

CHAPTER I

Coverage

8. NEW AIRCRAFT

a) For the purpose of this Sector Understanding, a new aircraft is:

1) An aircraft, including buyer furnished equipment, and the engines installed on such aircraft owned by the manufacturer and not delivered nor previously used for its intended purpose of carrying passengers and/or freight and

2) Spare engines and spare parts when contemplated as part of the original aircraft order in accordance with the provisions of Article 20 a) below.

b) Notwithstanding the provisions of paragraph a) above, a Participant may support terms appropriate to new aircraft for transactions where, with the prior knowledge of that Participant, interim financing arrangements had been put in place because the provision of official support had been delayed; such delay shall not be longer than 18 months. In such cases, the repayment term and the final repayment date shall be the same as if the sale or lease of the aircraft would have been officially supported from the date the aircraft was originally delivered.

CHAPTER II

Financial terms and conditions

Financial terms and conditions for export credits encompass all the provisions set out in this Chapter, which shall be read in conjunction one with the other.

9. ELIGIBLE CURRENCIES

The currencies which are eligible for official financing support are euro, Japanese yen, UK pound sterling, US dollar, and other fully convertible currencies for which data are available to construct the minimum interest rates mentioned in Appendix III.

▼**M1**

10. DOWN PAYMENT AND MAXIMUM OFFICIAL SUPPORT

a) For transactions with buyers/borrowers classified in Risk Category 1 (as per Table 1 of Appendix II), the Participants shall:

1) Require a minimum down payment of 20 % of the net price of the aircraft at or before the starting point of credit;

2) Not provide official support in excess of 80 % of the net price of the aircraft.

b) For transactions with buyers/borrowers classified in Risk Categories 2 to 8 (as per Table 1 of Appendix II), the Participants shall:

1) Require a minimum down payment of 15 % of the net price of the aircraft at or before the starting point of credit;

2) Not provide official support in excess of 85 % of the net price of the aircraft.

c) A Participant which applies Article 8 b) above shall reduce the maximum amount of official support by the amount of principal of the instalments deemed due from the starting point of the credit so as to ensure that, at the time of disbursement, the amount outstanding is the same as if such an officially supported export credit was provided at the time of delivery. In such circumstances, prior to delivery the Participant shall have received an application for official support.

11. MINIMUM PREMIUM RATES

a) The Participants providing official support shall charge, for the credit amount officially supported, no less than the minimum premium rate set out in accordance with Appendix II.

b) The Participants shall use, whenever necessary, the agreed premium rate conversion model to convert between *per annum* spreads calculated on the outstanding amount of the official support and single up-front premium rates calculated on the original amount of the official support.

12. MAXIMUM REPAYMENT TERM

a) The maximum repayment term shall be 12 years for all new aircraft.

b) On an exceptional basis, and with a prior notification, a maximum repayment term of up to 15 years shall be allowed. In this case, a surcharge of 35 % to the minimum premium rates calculated in accordance with Appendix II shall apply.

c) There shall be no extension of the repayment term by way of sharing of rights in the security on a *pari passu* basis with commercial lenders for the officially supported export credit.

13. REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST

a) The Participants shall apply a profile of repayment of principal and payment of interest as specified in sub-paragraph 1) or 2) below.

▼**M1**

1) Repayment of principal and payment of interest combined shall be made in equal instalments:

— Instalments shall be made no less frequently than every three months and the first instalment shall be made no later than three months after the starting point of credit.

— Alternatively, and subject to a prior notification, instalments shall be made every six months and the first instalment shall be made no later than six months after the starting point of credit. In this case, a surcharge of 15 % to the minimum premium rates calculated in accordance with Appendix II shall apply.

— In the case of a floating rate transaction, the principal amortising profile shall be set for the entire term, two business days prior to the disbursement date, based on the floating or swap rate at that time.

2) Repayment of principal shall be made in equal instalments with interest payable on declining balances:

— Instalments shall be made no less frequently than every three months and the first instalment shall be made no later than three months after the starting point of credit.

— Alternatively, and subject to a prior notification, instalments shall be made every six months and the first instalment shall be made no later than six months after the starting point of credit. In this case, a surcharge of 15 % to the minimum premium rates calculated in accordance with Appendix II shall apply.

b) Notwithstanding paragraph a) above, and subject to a prior notification, the repayment of principal may be structured to include a final payment of all outstanding amounts on a specified date. In such case, repayments of principal prior to the final payment will be structured as set out in paragraph a) above, based on an amortization period not greater than the maximum repayment term allowed for the goods and services being supported.

c) Notwithstanding paragraph a) above, repayment of principal may be structured on terms less favourable to the obligor.

d) Interest due after the starting point of credit shall not be capitalised.

14. MINIMUM INTEREST RATES

a) The Participants providing official financing support shall apply either a minimum floating interest rate or a minimum fixed interest rate, in accordance with the provisions of Appendix III.

b) For jet aircraft of a net price of at least USD 35 million, official financing support on CIRR basis shall only be provided in exceptional circumstances. A Participant intending to provide such support shall notify all other Participants at least 20 calendar days before final commitment, identifying the borrower.

▼**M1**

c) Interest rate excludes any payment by way of premium referred to in Article 11 above, and fees referred to in Article 16 below.

15. INTEREST RATE SUPPORT

The Participants providing interest rate support shall comply with the financial terms and conditions of this Sector Understanding and shall require any bank or any other financial institution which is a party to the interest supported transaction to participate in that transaction only on terms that are consistent in all respects with the financial terms and conditions of this Sector Understanding.

16. FEES

a) Subject to the limits of the premium holding period, the Participants providing official support in the form of pure cover shall charge a premium holding fee on the un-drawn portion of the official support during the premium holding period, as follows:

1) For the first six months of the holding period: zero basis points *per annum*.

2) For the second six months of the holding period: 12,5 basis points per annum.

3) For the third and final six months of the holding period: 25 basis points *per annum*.

b) The Participants providing official support in the form of direct credit / financing shall charge the following fees:

1) Arrangement / Structuring fee: 25 basis points on the disbursed amount payable at the time of each disbursement.

2) Commitment and premium holding fee: 20 basis points *per annum* on the un-drawn portion of the officially supported export credit to be disbursed, during the premium holding period, payable in arrears.

3) Administration fee: five basis points *per annum* on the amount of official support outstanding payable in arrears. Alternatively, the Participants may elect to have this fee payable as an up-front fee, on the amount disbursed, at the time of each disbursement pursuant to the provisions of Article 11 b) above.

17. CO-FINANCING

Notwithstanding Articles 14 and 16 above, in a co-financing where official support is provided by way of direct credit and pure cover, and where pure cover represents at least 35 % of the officially supported amount, the Participant providing direct credit shall apply the same financial terms and conditions, including fees, as those provided by the financial institution under pure cover, to generate an all-in cost equivalence between the pure cover provider and the direct lender. In such circumstances, the Participant providing such support shall report the financial terms and conditions supported, including fees, in accordance with the reporting form set out in Appendix IV.

▼M1

PART 3

USED AIRCRAFT, SPARE ENGINES, SPARE PARTS, MAINTENANCE AND SERVICE CONTRACTS

CHAPTER I

Coverage

18. USED AIRCRAFT AND OTHER GOODS AND SERVICES

This Part of the Sector Understanding shall apply to used aircraft and to spare engines, spare parts, cargo conversion, major modification, refurbishing, maintenance and service contracts in conjunction with both new and used aircraft and engine kits.

CHAPTER II

Financial terms and conditions

The financial terms and conditions to be applied, other than the maximum repayment term, shall be in accordance with the provisions set out in Part 2 of this Sector Understanding.

19. SALE OF USED AIRCRAFT

The maximum repayment term for used aircraft shall be established in accordance with the age of the aircraft, as set out below:

Age of Aircraft (years)	Asset-Backed or Sovereign Transactions	Transactions neither Asset-Backed nor Sovereign
1	10	8,5
2	9	7,5
3	8	6,5
4	7	6
5 - 8	6	5,5
Over 8	5	5

20. SPARE ENGINES AND SPARE PARTS

a) When purchased, or ordered in connection with the engines to be installed on a new aircraft, the official support for spare engines may be provided on the same terms and conditions as for the aircraft.

b) When purchased with new aircraft, the official support for spare parts may be provided on the same terms and conditions as for the aircraft up to a maximum 5 % of the net price of the new aircraft and installed engines; Article 20 d) below shall apply to official support for spare parts in excess of the 5 % limit.

c) When spare engines are not purchased with a new aircraft, the maximum repayment term shall be eight years. For spare engines with a unit value of USD 10 million or more, provided the transaction meets all requirements under Article 19 of Appendix II, the repayment term shall be 10 years.

d) When other spare parts are not purchased with a new aircraft, the maximum repayment term shall be:

1) Five years with a contract value of USD 5 million or more.

▼M1

2) Two years with a contract value of less than USD 5 million.

21. CONTRACTS FOR CARGO CONVERSION/MAJOR MODIFICATION/ REFURBISHING

The Participants may offer official support with a repayment term of up to:

a) Five years with a contract value of USD 5 million or more.

b) Two years with a contract value of less than USD 5 million.

22. MAINTENANCE AND SERVICE CONTRACTS

The Participants may offer official support with a repayment term of up to three years.

23. ENGINE KITS

The Participants may offer official support with a repayment term of up to five years.

PART 4

TRANSPARENCY PROCEDURES

All communications shall be made between the designated contact points in each Participant country by means of instant communication, *e.g.* the OECD On-Line Information System (OLIS). Unless otherwise agreed, all information exchanged under this Part of the Sector Understanding shall be treated by all Participants as confidential.

Section 1

Information requirements

24. INFORMATION ON OFFICIAL SUPPORT

a) Within one month after the date of a final commitment, a Participant shall submit the information required in Appendix IV to all other Participants, with a copy to the Secretariat.

b) In order to establish the margin benchmark in accordance with Appendix III Article 8 b), information on pure cover margins shall be submitted to the Secretariat no later than five days after the end of each month.

Section 2

Exchange of information

25. REQUESTS FOR INFORMATION

a) A Participant may ask another Participant for information about the use of its officially supported export credits for the sale or lease of aircraft covered by this Sector Understanding.

b) A Participant which has received an application for official support may address an enquiry to another Participant, giving the most favourable credit terms and conditions that the enquiring Participant would be willing to support.

▼**M1**

c) The Participant to which such an enquiry is addressed shall respond within seven calendar days and provide reciprocal information to the fullest extent possible. The reply shall include the best indication that the Participant can give of the decision it is likely to take. If necessary, the full reply shall follow as soon as possible.

d) Copies of all enquiries and responses shall be sent to the Secretariat.

26. FACE-TO-FACE CONSULTATIONS

a) In a competitive situation, a Participant may request face-to-face consultations with one or more Participants.

b) Any Participant shall agree within ten working days to such requests.

c) The consultations shall take place as soon as possible after the expiry of the ten working-day period.

d) The Chairman of the Participants shall co-ordinate with the Secretariat on any necessary follow-up action. The Secretariat shall promptly make available to all Participants the outcome of the consultation.

27. SPECIAL CONSULTATIONS

a) A Participant (the initiating Participant) that has reasonable grounds to believe that financial terms and conditions offered by another Participant (the responding Participant) are more generous than those provided for in this Sector Understanding shall inform the Secretariat; the Secretariat shall immediately make available such information to the responding Participant.

b) The responding Participant shall clarify the financial terms and conditions of the official support being considered within five working days following the issue of the information from the Secretariat.

c) Following clarification by the responding Participant, the initiating Participant may request that a special consultation with the responding Participant be organised by the Secretariat within five working days to discuss the issue.

d) The responding Participant shall wait for the outcome of the consultation which shall be determined on the day of such consultation before proceeding any further with the transaction.

Section 3

Common lines

28. PROCEDURES AND FORMAT OF COMMON LINES

a) Common Line proposals shall be addressed to the Secretariat only. The identity of the initiator is not revealed on the Common Line register on the OLIS. However, the Secretariat may orally reveal the identity of the initiator to a Participant on demand. The Secretariat shall keep a record of such requests.

b) The Common Line proposal shall be dated and shall be in the following format:

1) Reference number, followed by Common Line.

2) Name of the importing country and buyer/borrower.

▼**M1**

3) Name or description of the transaction as precise as possible to clearly identify the transaction.

4) Common Line proposal for the most generous terms and conditions to be supported.

5) Nationality and names of known competing bidders.

6) Bid closing date and tender number to the extent it is known.

7) Other relevant information, including reasons for proposing the Common Line and as appropriate, special circumstances.

29. RESPONSES TO COMMON LINE PROPOSALS

a) Responses shall be made within 20 calendar days, although the Participants are encouraged to respond to a Common Line proposal as quickly as possible.

b) A response may be acceptance, rejection, a request for additional information, a proposal for modification of the Common Line or an alternative Common Line proposal.

c) A Participant which remains silent or advises that it has no position shall be deemed to have accepted the Common Line proposal.

30. ACCEPTANCE OF COMMON LINES

a) After a period of 20 calendar days, the Secretariat shall inform all Participants of the status of the Common Line proposal. If not all Participants have accepted the Common Line, but no Participant has rejected it, the proposal shall be left open for a further period of eight calendar days.

b) After this further period, a Participant which has not explicitly rejected the Common Line proposal shall be deemed to have accepted the Common Line. Nevertheless, a Participant, including the initiating Participant, may make its acceptance of the Common Line conditional on the explicit acceptance by one or more Participants.

c) If a Participant does not accept one or more elements of a Common Line it implicitly accepts all other elements of the Common Line.

31. DISAGREEMENT ON COMMON LINES

a) If the initiating Participant and a Participant which has proposed a modification or alternative cannot agree on a Common Line within the additional eight calendar-day period mentioned in Article 30 above, this period can be extended by their mutual consent. The Secretariat shall inform all Participants of any such extension.

b) A Common Line which has not been accepted may be reconsidered using the procedures in Articles 28 to 30 above. In these circumstances, the Participants are not bound by their original decision.

▼**M1**

32. EFFECTIVE DATE OF COMMON LINE

The Secretariat shall inform all Participants either that the Common Line will go into effect or that it has been rejected; the agreed Common Line will take effect three calendar days after this announcement.

33. VALIDITY OF COMMON LINES

a) Unless agreed otherwise, a Common Line, once agreed, shall be valid for a period of two years from its effective date, unless the Secretariat is informed that it is no longer of interest, and that such situation is accepted by all Participants.

b) If a Participant seeks an extension within 14 calendar days of the original date of expiry and in the absence of disagreement, a Common Line shall remain valid for a further two-year period; subsequent extensions may be agreed through the same procedure.

c) The Secretariat shall monitor the status of Common Lines and shall keep the Participants informed accordingly, through the maintenance of the listing The Status of Valid 'Common Lines' on OLIS. Accordingly, the Secretariat, *inter alia*, shall issue, on a quarterly basis, a list of Common Lines due to expire in the following quarter.

d) Upon the request of a non-Participant which produces competing aircraft, the Secretariat shall make available valid Common Lines to that non-Participant.

Section 4

Matching

34. MATCHING

a) Taking into account a Participant's international obligations, a Participant may match financial terms and conditions of official support offered by a non-Participant.

b) In the event of matching non-conforming terms and conditions offered by a non-Participant:

1) The matching Participant shall make every effort to verify such terms and conditions.

2) The matching Participant shall inform the Secretariat and all other Participants of the nature and outcome of such efforts, as well as of the terms and conditions it intends to support, at least ten calendar days before issuing any commitment.

3) If a competing Participant requests a discussion during this ten calendar-day period, the matching Participant shall wait an additional ten calendar days before issuing any commitment on such terms.

c) If a matching Participant modifies or withdraws its intention to support the notified terms and conditions, it shall immediately inform all other Participants accordingly.

▼M1

PART 5

MONITORING AND REVIEW

35. MONITORING

a) The Secretariat shall monitor the implementation of this Sector Understanding and report to the Participants on an annual basis.

b) Each transaction deemed eligible under Article 39 a) shall be reported in accordance with the provisions of Article 24 a) and Appendix IV.

c) Each transaction deemed eligible under Article 39 b) shall be reported in accordance with the provisions of Article 24 a) and Appendix IV, in addition to which:

1) The reporting Participant shall indicate the link between that transaction and the transition list.

2) The transition lists shall be monitored on a semi-annual basis; to that end, the Secretariat shall meet with each Participant, with a view to:

— Monitoring the number of firm orders registered on the transition lists which have been delivered.

— Updating for the following year the delivery schedule for transactions registered on the transition lists.

— Identifying orders registered on transition lists which have not been or shall not, for any reason, be delivered to the buyer listed on such transition lists. Any such order shall be deleted from the transition list and shall not be reallocated in any way to any other buyer.

36. REVIEW

The Participants shall review the procedures and provisions of this Sector Understanding, against the criteria, and at the times, set out in paragraphs a) and b) below.

a) The Participants shall undertake the review of this Sector Understanding as follows:

1) In the fourth calendar year following the effective date of this Sector Understanding and, regularly thereafter, in each case with three months prior notice given by the Secretariat.

2) At the request of a Participant after due consultation, provided that three months prior notice has been given by the Secretariat and the requesting Participant provides a written explanation of the reason for, and objectives of, the review as well as a summary of the consultations preceding its request.

3) Modalities of update of minimum premium rates and minimum interest rates are set out in Appendixes II and III respectively.

4) Fees set out in Article 16 shall be part of reviews.

▼**M1**

b) The review set out in sub-paragraph a) 1) above shall consider:

1) The extent to which the purposes of this Sector Understanding, as set out in Article 1 above, have been achieved and any other issue a Participant may wish to bring forward for discussion.

2) In view of the elements in sub-paragraph b) 1) above, whether amendments to any aspect of this Sector Understanding are justified.

c) In recognition of the importance of the review process, to ensure that the terms and conditions of this Sector Understanding continue to meet the needs of the Participants, each Participant reserves the right to withdraw from this Sector Understanding in accordance with Article 40 below.

37. FUTURE WORK

Consideration will be given to:

a) Examining Participants' practices in providing official support before the starting point of credit.

b) The provisions applicable to indirect loans.

c) An extension of maximum repayments terms under Article 19 for used aircraft that have undergone significant refurbishment prior to sale.

d) An extension of maximum repayment terms under Article 21 for larger contract values.

e) The provisions applicable to 'refurbishing' (Article 21) and 'services' (Article 22).

f) The Cape Town eligibility process.

g) The definition of 'Interested Participant'.

PART 6

FINAL PROVISIONS

38. ENTRY INTO FORCE

The effective date of this Sector Understanding is 1 February 2011.

39. TRANSITIONAL ARRANGEMENTS

Notwithstanding Article 38 above, the Participants may provide official support on the terms and conditions set out as follows:

a) The Participants may provide official support on the terms and conditions set out in the Aircraft Sector Understanding in force as of 1 July 2007 ('the 2007 ASU') if the following conditions are fulfilled:

1) The goods and services shall be subject to a firm contract concluded not later than 31 December 2010.

▼**M1**

2) The goods and services shall be physically delivered not later than 31 December 2012 for 2007 ASU Category 1 aircraft and 31 December 2013 for 2007 ASU Category 2 and 3 aircraft.

3) For each final commitment notified, a 20 basis points *per annum* commitment fee shall be charged from the earlier of the date of the final commitment or 31 January 2011 (2007 ASU Category 1 aircraft)/30 June 2011 (2007 ASU Category 2 and 3 aircraft), until the aircraft is delivered. This commitment fee shall be in lieu of the fees set out in Articles 17 a) and b) 2) of the 2007 ASU. This commitment fee shall be charged in addition to the minimum premium charged.

b) The Participants may provide official support on terms and conditions applicable prior to the effective date of this Sector Understanding if the following conditions are fulfilled:

1) The goods and services shall be subject to a firm contract concluded not later than 31 December 2010.

2) Such official support is limited to deliveries of 69 2007 ASU Category 1 aircraft per Participant and 92 2007 ASU Category 2 aircraft per Participant.

3) In order to benefit from the terms and conditions set out in this paragraph, aircraft mentioned in sub-paragraph b) 2) above shall be registered on lists ('hereafter' transition lists) which shall be notified by the Participants to the Secretariat prior to the entry into force of this Sector Understanding. Such transition lists shall include:

— The aircraft models and numbers.

— Tentative delivery dates.

— Identity of buyers.

— The applicable regime (either the Aircraft Sector Understanding prevailing prior to the 2007 ASU, or the 2007 ASU).

4) Information under the first, second and fourth tirets above shall be shared with all Participants; information under the third tiret above shall be managed exclusively by the Secretariat and the Chairman.

5) For each aircraft on transition lists:

— If official support is committed under the Aircraft Sector Understanding prevailing prior to the 2007 ASU, a commitment fee of 35 basis points *per annum* shall be charged from the earlier of the date of the final commitment or 31 March 2011, until the aircraft is delivered. In addition, the minimum premium charged shall be no less than 3 % on an up-front basis.

▼**M1**

— If official support is committed under the 2007 ASU, a commitment fee of 20 basis points per annum shall be charged from the earlier of the date of the final commitment or 30 June 2011, until the aircraft is delivered.

— The commitment fee set out in both tirets above shall be in lieu of the fees set out in Articles 17 a) and b) 2) of the 2007 ASU. This commitment fee shall be charged in addition to the minimum premium charged.

6) The Participants may provide officially supported export credits on the terms and conditions set out in the Aircraft Sector Understanding prevailing prior to the 2007 ASU only for deliveries of aircraft scheduled to occur on or prior to 31 December 2010, in accordance with firm contracts concluded not later than 30 April 2007 and notified to the Secretariat not later than 30 June 2007.

c) The implementation of this Article shall be monitored in accordance with Articles 35 b) and c).

40. WITHDRAWAL

A Participant may withdraw from this Sector Understanding by notifying the Secretariat in writing by means of instant communication, *e.g.* the OLIS. The withdrawal takes effect six months after receipt of the notification by the Secretariat. Withdrawal will not affect agreements reached on individual transactions entered into prior to the effective date of the withdrawal.

▼**M1**

Appendix 1

Participation in the Aircraft Sector Understanding

1. The Participants encourage non-Participants that are developing a manufacturing capacity for civil aircraft to apply the disciplines of this Sector Understanding. In this context the Participants invite non-Participants to enter into a dialogue with them regarding the conditions of joining the ASU.

2. The Secretariat should ensure that a non-Participant interested in participating in this Sector Understanding is provided with full information on the terms and conditions associated with becoming a Participant to this Sector Understanding.

3. The non-Participant would then be invited by the Participants to take part in the activities in pursuance of this Sector Understanding and to attend, as an observer, the relevant meetings. Such an invitation would be for a maximum of two years and could be renewed once for a further two years. During this period the non-Participant shall be invited to provide a review of its export credit system, especially for the export of civil aircraft.

4. At the end of that period, the non-Participant shall indicate whether it wishes to become a Participant in this Sector Understanding and to follow its disciplines; in the case of such confirmation, the non-Participant shall contribute, on an annual basis, to the costs associated with the implementation of this Sector Understanding.

5. The interested non-Participant shall be considered a Participant 30 working days after the confirmation referred to in Article 4 of this Appendix.

▼**M1**

Appendix II

Minimum premium rates

This Appendix sets out the procedures to be used when determining the pricing of official support for a transaction subject to this Sector Understanding. Section 1 sets out the risk classification procedures; Section 2 sets out the minimum premium rates to be charged for new and used aircraft, and Section 3 sets out the minimum premium rates to be charged for spare engines, spare parts, cargo conversion/major modification/refurbishing, maintenance and service contracts, and engine kits.

SECTION 1

Procedures for risk classification

1. The Participants have agreed on a list of risk classifications (the List) for buyers/borrowers; such risk classifications reflect the senior unsecured credit rating of buyers/borrowers using a common rating scale such as that of one of the credit rating agencies (CRA).

2. The risk classifications will be made by experts nominated by the Participants against the risk categories set out in Table 1 of this Appendix.

3. The List shall be binding at any stage of the transaction (*e.g*. campaign and delivery), subject to the provisions of Article 15 of this Appendix.

I. ESTABLISHMENT OF THE LIST OF RISK CLASSIFICATIONS

4. The List shall be developed and agreed among the Participants prior to the entry into force of this Sector Understanding; it shall be maintained by the Secretariat and made available to all the Participants on a confidential basis.

5. Upon request, the Secretariat may, on a confidential basis, inform an aircraft-producing non-Participant of the risk classification of a buyer/borrower; in this case, the Secretariat shall inform all Participants of the request. A non-Participant may, at any time, propose additions to the List to the Secretariat. A non-Participant proposing an addition to the List may participate in the risk-classification procedure as if it were an interested Participant.

II. UPDATE OF THE LIST OF RISK CLASSIFICATIONS

6. Subject to the provisions of Article 15 of this Appendix, the List may be updated on an *ad hoc* basis in the event that either a Participant signals, in any form, its intention to apply another risk classification than that on the List, or a Participant needs a risk classification for a buyer/borrower that is not yet on the List ([1]) ([2]).

([1]) An explanation shall be provided where the proposed risk-rating of a buyer/borrower exceeds the risk rating of the host sovereign.

([2]) For transactions with an export contract value of less than USD 5 million, a Participant not wishing to follow the risk classification procedure set out in Articles 6 to 8 of this Appendix shall apply the risk ‘classification 8’ for the buyer/borrower which is the subject of the transaction and shall notify the transaction in accordance with Article 24 a) of this Sector Understanding.

▼**M1**

7. Any Participant shall, before any use of an alternative or new risk classification, send a request to the Secretariat for updating the List on the basis of an alternative or new risk classification. The Secretariat will circulate this request to all Participants within two working days, without mentioning the identity of the Participant who submitted the request.

8. A period of ten ([3]) working days is allowed for interested Participants either to agree to or to challenge any proposed change to the List; a failure to respond within this period is considered as an agreement to the proposal. If at the end of the ten-day period, no challenge has been made to the proposal, the proposed change in the List is deemed to have been agreed. The Secretariat will modify the List accordingly and send an OLIS message within five working days; the revised List shall be binding from the date of that message.

III. RESOLUTION OF DISAGREEMENTS

9. In the event of a challenge to a proposed risk classification, interested Participants shall, at an expert level, make their best efforts to come to an agreement on the risk classification within a further period of ten working days after notification of a disagreement. All means necessary to resolve the disagreement should be explored, with the assistance of the Secretariat if necessary (*e.g.* conference calls or face-to-face consultations). If interested Participants agree to a risk classification within this ten working-day period, they shall inform the Secretariat of the outcome upon which the Secretariat will update the List accordingly and send an OLIS message in the following five working days. The adjusted List shall be binding from the date of that message.

10. In case the disagreement is not resolved among the experts within ten working days, the issue will be referred to the Participants for decision on an appropriate risk classification, in a period that shall not exceed five working days.

11. In the absence of a final agreement, a Participant may have recourse to a CRA to determine the risk classification of the buyer/borrower. In such cases, the Chairman of the Participants shall address a communication on behalf of the Participants to the buyer/borrower, within ten working days. The communication shall include the terms of reference for the risk assessment consultation as agreed among the Participants. The resulting risk classification will be registered in the List and become binding immediately following the Secretariat's OLIS message to finalise the update procedure within five working days.

12. Unless otherwise agreed, the cost of such recourse to a CRA shall be borne by the interested buyer/borrower.

13. During the procedures set out in Articles 9 to 11 of this Appendix, the prevailing risk classification (when available on the List) shall remain applicable.

IV. VALIDITY PERIOD OF CLASSIFICATIONS

14. The valid risk classifications are the prevailing risk classifications as recorded in the List maintained by the Secretariat; indications and commitments of premium rates shall only be made in accordance with those risk classifications.

([3]) For transactions with an export contract value of less than USD 5 million, a five working-day period shall apply.

▼M1

15. Risk classifications have a 12-month maximum validity period from the date recorded in the List by the Secretariat for the purpose of the Participants providing indication and final commitments of premium rates; the validity period for a specific transaction may be extended by an additional 18 months once a commitment or a final commitment has occurred and premium holding fees are charged. Risk classifications may be subject to revision during the 12-month validity period in case of material changes to the risk profile of the buyer/borrower, such as a modification of a rating delivered by a CRA.

16. Unless any Participant requests its update, at least 20 working days before the end of the relevant risk classification validity period, the Secretariat shall remove that risk classification from the next succeeding updated List. The Secretariat will circulate this update request to all Participants within two working days, without mentioning the identity of the Participant who submitted the request, and the procedures set out in Articles 9 to 11 of this Appendix shall apply.

V. BUYER/BORROWER RISK CLASSIFICATION REQUEST

17. If, at the campaign stage, a buyer/borrower requests an indication of its risk classification and if it is not yet on the List, that buyer/borrower may ask for an indicative risk classification from a CRA at its own expense. This risk classification shall not be included in the List; it may be used by the Participants as a basis for their own risk assessment.

SECTION 2

Minimum premium rates for new and used aircraft

I. ESTABLISHMENT OF THE MINIMUM PREMIUM RATES

18. Articles 19 to 58 of this Appendix set out the minimum premium rates corresponding to the risk classification of a buyer/borrower (or, if a different entity, the primary source of repayment of the transaction).

19. The Participants may provide official support at or above the minimum premium rate provided that all the conditions below are fulfilled:

a) The transaction is asset-backed, meeting all of the following criteria:

   1) A first priority security interest on or in connection with the aircraft and engines.

   2) In the case of a lease structure, assignment and/or a first priority security interest in connection with the lease payments.

   3) Cross default and cross collateralization of all aircraft and engines owned legally and beneficially by the same parties under the proposed financing, whenever possible under the applicable legal regime.

b) The transaction is structured to include, as a minimum, risk mitigants as set out in Table 1 below:

▼M1

Table 1

Risk Mitigants

ASU Risk Category	Risk Ratings	Risk Mitigants		
		A+B	Of which at least A	And at least B
1	AAA to BBB-	0	0	0
2	BB+ and BB	0	0	0
3	BB-	1	1	0
4	B+	2	1	
5	B	2	1	
6	B-	3	2	
7	CCC	4	3	
8	CC to C	4	3	

20. For purposes of Article 19 of this Appendix:

a) The Participants may select from the following risk mitigants:

'A' risk mitigants:

1) Reduced advance rate: each reduction of five percentage points from the advance rates referred to in Articles 10 a) and b) of this Sector Understanding is equivalent to one 'A' risk mitigant. In this case, the Participant shall not provide official support in any form in excess of the reduced advance rate.

2) Straight line amortisation: repayment of principal in equal instalments is equivalent to one risk mitigant.

3) Reduced repayment term: a repayment term which does not exceed ten years is equivalent to one risk mitigant.

'B' risk mitigants:

1) Security deposit: each security deposit in an amount equal to one quarterly instalment of principal and interest is equivalent to one risk mitigant. The security deposit can be in the form of cash or a standby letter of credit.

2) Lease payments in advance: lease payments in an amount equal to one quarterly instalment of principal and interest shall be paid one quarter in advance of each repayment date.

3) Maintenance reserves in a form and amount reflective of market best practices.

b) Subject to prior notification, one of the 'A' risk-mitigant may be replaced by a 15 % surcharge on the applicable minimum premium rate.

21. Pursuant to Article 11 of this Sector Understanding, the minimum premium rates to be applied are composed of minimum risk-based rates (RBR) to which a market reflective surcharge (MRS) shall be added, in accordance with Articles 22 to 34 below.

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22. As of the entry into force of this Sector Understanding, the RBRs are:

Table 2

Risk-Based Rates

ASU Risk Category	Spreads (bps)	Upfront (%)
1	89	5,00
2	98	5,50
3	116	6,50
4	133	7,50
5	151	8,50
6	168	9,50
7	185	10,50
8	194	11,00

23. The RBRs rates shall be reset on an annual basis, based on 4-year moving average of the annual Moody's Loss Given Default (LGD). The appropriate LGD for this reset is based on the 1st Lien Senior Secured Bank Loans, and shall be calculated as follows:

Table 3

LGD Mapping	
4-year Moving Average	LGD Considered
≥ 45 %	25 %
≥ 35 % < 45 %	23 %
≥ 30 % < 35 %	21 %
< 30 %	19 %

24. A RBR adjustment factor shall be determined as follows:

$$\frac{\text{LGD Considered}}{19\ \%} = \text{RBR adjustment factor}$$

25. The RBR adjustment factor shall be multiplied by the RBRs set out in Table 2 above, in order to determine the reset RBRs.

26. The first reset process will take place in the first quarter of 2012 and the resulting RBRs will become effective as of 15 April 2012.

27. The RBRs resulting from subsequent reset processes will be effective as of 15 April of each following year. Once the RBRs resulting from the annual reset have been determined, the Secretariat shall inform immediately all Participants of the applicable rates and make them publicly available.

28. For each risk category, a Market Reflective Surcharge shall be calculated as follows:

$$\text{MRS} = \text{B} * [(0,5 * \text{MCS}) - \text{RBR}]$$

▼M1

where:

B is a blend coefficient varying from 0,7 to 0,35 according to each risk category as per Table 4 below.

MCS is a 90-day moving average of Moody's Median Credit Spreads (MCS) with an average life of 7 years.

29. Where risk categories include more than one risk rating, the spreads shall be averaged. In risk category 1, the BBB- spread shall be used.

30. The MCS spreads shall be discounted by 50 % to account for the asset-security. The MCS discounted spreads shall then be adjusted by a blend factor ranging from 70 % to 35 % as per Table 4 below, applied on the difference between the MCS discounted spreads and the RBR. Any negative spreads resulting from the blending shall not be deducted.

Table 4

Blend Factors

Risk-Ratings	ASU Risk Category	Blend Factor (%)
AAA		70
AA		70
A		70
BBB+		70
BBB		70
BBB-		70
BB+	2	65
BB	2	65
BB-	3	50
B+	4	45
B	5	40
B-	6	35
CCC	7	35
CC	8	35
C	8	35

31. The MRS shall be updated on a quarterly basis, as follows:

The first update process shall take place in the first quarter of 2011 and the resulting MCS shall become effective as of 15 April 2011; however, until 15 April 2012, the outcome of updates of the MRS applying to Risk Category 1 shall become effective only if they result in an increase of such MRS.

The subsequent update processes shall take place in the second, third and fourth quarters of 2011 (and thereon) and the resulting MCS shall become effective respectively on 15 July 2011, 15 October 2011 and 15 January 2012, and thereon.

▼M1

Following each update, the Secretariat shall inform immediately all Participants of the applicable MRS and the resulting minimum rates and make them publicly available prior to the date these rate become effective.

32. The MRS shall be applied only if and when it is positive and exceeds 25 basis points.

33. The increase in minimum premium rates resulting from the MRS update shall not exceed 10 % of the previous quarterly minimum premium rates. The minimum premium rates (which result from adding the risk-based rates and the market reflective surcharge) shall not exceed the risk-based rates by more than 100 %.

34.1. In order to determine the minimum premium rates: The following formula shall be used: $\text{Net MPR} = \text{MPR} * (1 + \text{RTAS}) * (1 + \text{RFAS}) * (1 + \text{RMRS}) * (1 - \text{CTCD}) * (1 + \text{NABS}) - \text{CICD}$

Where:

— RTAS represents the repayment term adjustment surcharge set out in Article 12 b) of this Sector Understanding.

— RFAS represents the repayment frequency adjustment surcharge set out in Articles 13 a) 1) and 2) of this Sector Understanding.

— RMRS represents the risk mitigant replacement surcharge set out in Article 20 b) of this Appendix.

— CTCD represents the Cape Town Convention Discount set out in Article 36 of this Appendix.

— NABS represents the non-asset-backed surcharge set out in Articles 55 a) 4), 55 b) and 57 b) of this Appendix II, as applicable.

— CICD represents the conditional insurance coverage discount set out in Article 54 a) of this Appendix.

Premium may be paid either upfront or, over the life of the facility, as spreads expressed in basis points per annum. The upfront rates and spreads shall be calculated using the premium rate conversion model (PCM) so that the premium charge payable for a given transaction is the same in NPV terms whether the charge is effected by means of the upfront rates or the spreads. In transactions where, prior to the commencement of cover, terms are agreed or stipulated, which entail a reduction in the weighted average life, an upfront rate (calculated using the PCM) may be charged, which in terms of the resulting premium payable, corresponds to that payable in NPV terms under the spreads.

34.2. The applicable minimum premium rates as of the initial effective date of this Sector Understanding (1 February 2011) are set out in Table 5 below.

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Table 5

Minimum Premium Rates

(12-year repayment term, asset-backed transactions)

Risk Category	Risk Classification	Minimum Premium Rates	
		Per Annum Spreads (bps)	Up-Front (%)
1	AAA to BBB-	137	7,72
2	BB+ and BB	184	10,44
3	BB-	194	11,03
4	B+	208	11,85
5	B	234	13,38
6	B-	236	13,50
7	CCC	252	14,45
8	CC to C	257	14,74

II. REDUCTIONS OF THE MINIMUM PREMIUM

35. Subject to the provisions of Article 36 of this Appendix, a reduction of the minimum premium rates established in accordance with sub-Section I above shall be allowed if:

a) The asset-backed transaction relates to an aircraft object within the meaning of the Cape Town Protocol on Matters Specific to Aircraft Equipment,

b) The operator of the aircraft object (and, if different, the borrower/buyer or lessor if, in the view of the Participant providing the official support, the structure of the transaction so warrants) is situated in a State which, at the time of disbursement in respect of the aircraft object, appears on the list of States which qualify for the reduction of the minimum premium rates ('Cape Town List'), and where applicable, in a territorial unit of that State that qualifies under Article 38 of this Appendix, and

c) The transaction relates to an aircraft object registered on the International Registry established pursuant to the Cape Town Convention, and the Aircraft Protocol thereto (Cape Town Convention or CTC).

36. The reduction of the minimum premium rates established in accordance with sub-Section I above shall not exceed 10 % of the applicable minimum premium rate.

37. In order to be included on the Cape Town List, a State shall:

a) Be a Contracting Party to the Cape Town Convention;

b) Have made the qualifying declarations set out in Annex I to this Appendix; and

c) Have implemented the Cape Town Convention, including the qualifying declarations, in its laws and regulations, as required, in such a way that the Cape Town Convention commitments are appropriately translated into national law.

38. To qualify under Article 35 of this Appendix, a territorial unit shall:

a) Be a territorial unit to which the Cape Town Convention has been extended;

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b) Be a territorial unit in respect of which the qualifying declarations set out in Annex I to this Appendix apply; and

c) Have implemented the Cape Town Convention, including the qualifying declarations, in its laws and regulations, as required, in such a way that the Cape Town Convention commitments are appropriately translated into national law.

39. An initial agreed Cape Town List shall be provided by the Participants to the Secretariat prior to the entry into force of this Sector Understanding. Updates to the Cape Town List shall be made in accordance with Articles 40 to 52 of this Appendix.

40. Any Participant or non-Participant which provides official support for aircraft may propose to the Secretariat the addition of a State to the Cape Town List. Such proposal shall include, with respect to such State:

a) All the relevant information in respect of the date of deposit of the Cape Town Convention ratification or accession instruments with the Depositary;

b) A copy of the declarations made by the State which is proposed to be added to the Cape Town List;

c) All relevant information in respect of the date on which the Cape Town Convention and the qualifying declarations have entered into force;

d) An analysis which outlines the steps that the State which is proposed to be added to the Cape Town List has taken to implement the Cape Town Convention including the qualifying declarations in its laws and regulations, as required to ensure that the Cape Town Convention commitments are appropriately translated into national law; and

e) A duly completed questionnaire, the form of which is attached at Annex 2 of this Appendix ("CTC Questionnaire") completed by at least one law firm qualified to give legal advice in relation to the relevant jurisdiction of the State which is proposed to be added to the Cape Town List. The completed CTC Questionnaire shall specify:

(i) The name(s) and office address(es) of the responding law firm(s);

(ii) The law firm's relevant experience, which could include experience in legislative and constitutional processes as they relate to the implementation of international treaties in the State, and specific experience in CTC related issues including any experience in advising either a government on implementation and enforcement of the Cape Town Convention or the private sector, or enforcement of creditor's rights in the State which is proposed to be added to the Cape Town List;

(iii) Whether the law firm is involved or intends to be involved in any transactions that may benefit from a reduction of minimum premium rates if the proposed State is added to the CTC list ([4]); and

(iv) The date on which the CTC Questionnaire has been completed.

([4]) Together with information regarding any involvement (provided with due respect for confidentiality duties).

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41. The Secretariat shall circulate an OLIS message within five working days containing the proposal.

42. Any Participant or non-Participant which provides official support for aircraft may propose that a State be removed from the Cape Town List if they are of the view that such State has taken actions that are inconsistent with, or failed to take actions that are required by virtue of, that State's Cape Town Convention commitments. To that end, the Participant or non-Participant shall include in a proposal for removal from the Cape Town List, a full description of the circumstances that have given rise to the proposal for deletion, such as any State actions that are inconsistent with its Cape Town Convention commitments, or any failure to maintain or enforce legislation required by virtue of that State's Cape Town Convention commitments. The Participant or non-Participant who submits the proposal for removal from the Cape Town List shall provide any supporting documentation that may be available, and the Secretariat shall circulate an OLIS message within five working days containing such proposal.

43. Any Participant or non-Participant which provides official support for aircraft may propose the reinstatement of a State that has been previously removed from the Cape Town List, where such reinstatement is justified by subsequent corrective actions or events. Such a proposal shall be accompanied by a description of the circumstances that gave rise to the removal of the State as well as a report of the subsequent corrective actions in support of reinstatement. The Secretariat shall circulate an OLIS message within five working days containing such proposal.

44. The Participants may either agree to or challenge a proposal brought forward under Articles 40 to 43 of this Appendix within 20 working days from the date of submission of the proposal ('Period 1').

45. If at the end of Period 1, no challenge has been made to the proposal, the proposed update to the Cape Town List is deemed to have been accepted by all Participants. The Secretariat will modify the Cape Town List accordingly and send an OLIS message within five working days. The updated Cape Town List shall take effect on the date of that message.

46. In the event of a challenge to the proposed update of the Cape Town List, the challenging Participant or Participants shall, within Period 1, provide a written explanation of the basis of the challenge. Following circulation by the OECD Secretariat to all Participants of the written challenge, the Participants shall make best efforts to come to an agreement within a further ten working day period ('Period 2').

47. The Participants shall inform the Secretariat of the outcome of their discussions. If an agreement is reached during Period 2, the Secretariat will, if necessary, update the Cape Town List accordingly and send an OLIS message in the following five working days. The updated Cape Town List shall take effect on the date of that message.

48. If no agreement is reached during Period 2, the Chairman of the Participants to this Sector Understanding (hereafter 'the Chairman') will make her/his best efforts to facilitate a consensus between the Participants, within twenty working days ('Period 3') immediately following Period 2. If at the end of Period 3, no consensus is reached, a final resolution shall be achieved through the following procedures:

a) The Chairman shall make a written recommendation with respect to the proposed update of the Cape Town List. The Chairman's recommendation shall reflect the majority view emerging from the views openly expressed by at least the Participants which provide official support for aircraft exports. In the absence of a majority view, the Chairman shall make a recommendation based exclusively on the views expressed by the Participants and shall set out in writing the basis for the recommendation, including in the case of ineligibility, the eligibility criteria that were not met.

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b) The Chairman's recommendation shall not disclose any information relating to Participants' views or positions expressed in the context of the process set out in Articles 40 to 49 of this Appendix, and

c) The Participants shall accept the recommendation of the Chairman.

49. If, following a proposal submitted under Article 40, the Participants or Chairman has determined that a State is not eligible to be added to the Cape Town List, a Participant or non-Participant may submit another proposal requesting that the Participants reconsider the State's eligibility. The proposing Participant or non-Participant shall address the reasons substantiating the original determination of ineligibility. The proposing Participant or non-Participant shall also obtain and provide an updated CTC questionnaire. This new proposal shall be subject to the process set out in Articles 44 to 50.

50. In the event of any change to the list of qualified countries pursuant to the procedures set out in Article 48 of this Appendix, the Secretariat shall issue an OLIS message containing the updated Cape Town List within five working days of such change. The updated Cape Town List shall take effect on the date of that message.

51. The addition, withdrawal or reinstatement of a State to the Cape Town List after disbursement in respect of an aircraft shall not affect MPRs established regarding such aircraft.

52. In the context of the process set out in Articles 40 to 50 of this Appendix, the Participants shall not disclose any information relating to views or positions expressed.

53. The Participants shall monitor the implementation of Articles 40 to 52 of this Appendix and review it in the first half of 2012, annually thereafter or upon the request of any Participant.

54. The following adjustments to the applicable minimum premium rates may be applied:

a) A discount of five basis points (per annum spreads) or 0,29 % (up-front) to the applicable minimum premium rates may be applied for officially supported transactions in the form of conditional insurance cover.

b) The minimum premium rates shall be applied on the covered principal amount.

III. NON ASSET-BACKED TRANSACTIONS

55. Notwithstanding the provisions of Article 19 a) of this Appendix, the Participants may provide officially supported export credits for non-asset backed transactions, provided either of the following conditions is fulfilled:

a) In the case of non-sovereign transactions:

1) The maximum value of the export contract receiving official support is USD 15 million.

2) The maximum repayment term shall be 10 years,

3) No third party has a security interest in the assets being financed, and

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4) A minimum surcharge of 30 % shall be applied to the minimum premium rates established in accordance with sub-Section I above.

b) In the case of a transaction with a sovereign or backed by an irrevocable and unconditional sovereign guarantee, a minimum surcharge shall, in accordance with Table 6 below, be applied to the minimum premium rates set out in accordance with sub-Section I above.

Table 6

Risk Category	Surcharge (%)
1	0
2	0
3	0
4	10
5	15
6	15
7	25
8	25

56. The provisions of Articles 35 to 51 of this Appendix do not apply to officially supported export credits provided pursuant to Article 55 of this Appendix.

SECTION 3

Minimum premium rates for goods and services other than used aircraft covered by Part 3 of this Sector Understanding

57. When providing official support for all goods and services other than used aircraft covered by Part 3 of this Sector Understanding, the minimum premium rates shall be as follows:

a) In the case of asset-backed transactions, the minimum premium rates shall be equal to the prevailing minimum spreads established in accordance with sub-Section I above and, in the case of pure cover, converted to upfront fees using the conversion model and the appropriate tenor.

b) In the case of non asset-backed transactions, the minimum premium rates shall be equal to the prevailing minimum spreads established in accordance with sub-Section I above to which a surcharge of 30 % will be added, and, in the case of pure cover, converted to upfront fees using the conversion model and the appropriate tenor.

58. The provisions of Articles 35 to 54 of this Appendix shall apply to official support for all goods and services other than used aircraft covered by Part 3 of this Sector Understanding.

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Annex 1

Qualifying declarations

1. For the purpose of Section 2 of Appendix II, the term 'qualifying declarations', and all other references thereto in this Sector Understanding, means that a Contracting party to the Cape Town Convention (Contracting Party):

   a) Has made the declarations in Article 2 of this Annex, and

   b) Has not made the declarations in Article 3 of this Annex.

2. The declarations for the purpose of Article 1 a) of this Annex are:

   a) Insolvency: State Party declares that it will apply the entirety of Alternative A under Article XI of the Aircraft Protocol to all types of insolvency proceeding and that the waiting period for the purposes of Article XI (3) of that Alternative shall be no more than 60 calendar days.

   b) Deregistration: State Party declares that it will apply Article XIII of the Aircraft Protocol.

   c) Choice of Law: State Party declares that it will apply Article VIII of the Aircraft Protocol.

And at least one of the following (though both are encouraged):

   d) Method for Exercising Remedies: State Party declares under Convention Article 54 (2) that any remedies available to the creditor under any provision of the Convention which are not expressed under the relevant provisions thereof to require application to a court may be exercised without leave of the court (the insertion 'without court action and' to be recommended (but not required) before the words 'leave of the court');

   e) Timely Remedies: State Party declares that it will apply Article X of the Aircraft Protocol in its entirety (though clause 5 thereof, which is to be encouraged, is not required) and that the number of working days to be used for the purposes of the time-limit laid down in Article X (2) of the Aircraft Protocol shall be in respect of:

      1) The remedies specified in Articles 13 (1) (a), (b) and (c) of the Convention (preservation of the aircraft objects and their value; possession, control or custody of the aircraft objects; and immobilisation of the aircraft objects), not more than that equal to ten calendar days, and

      2) The remedies specified in Articles 13 (1) (d) and (e) of the Convention (lease or management of the aircraft objects and the income thereof and sale and application of proceeds from the aircraft equipment), not more than that equal to 30 calendar days.

3. The declarations referred to in Article 1 b) of this Annex are the following:

   a) Relief Pending Final Determination: State Party shall not have made a declaration under Article 55 of the Convention opting out of Article 13 or Article 43 of the Convention; provided, however, that, if State Party made the declarations set out under Article 2 d) of this Annex, the making of a declaration under Article 55 of the Convention shall not prevent application of the Cape Town Convention discount.

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b) Rome Convention: State Party shall not have made a declaration under Article XXXII of the Aircraft Protocol opting out of Article XXIV of the Aircraft Protocol; and

c) Lease Remedy: State Party shall not have made a declaration under Article 54 (1) of the Convention preventing lease as a remedy.

4. Regarding Article XI of the Aircraft Protocol, for Member States of the European Union, the qualifying declaration set out in Article 2 a) of this Annex shall be deemed made by a Member State, for purposes hereof, if the national law of such Member State was amended to reflect the terms of Alternative A under Article XI of the Aircraft Protocol (with a maximum 60 calendar days waiting period). As regards the qualifying declarations set out in Articles 2 c) and e) of this Annex, these shall be deemed satisfied, for the purpose of this Sector Understanding, if the laws of the European Union or the relevant Member States are substantially similar to that set out in such Articles of this Annex. In the case of Article 2 c) of this Annex, the laws of the European Union (EC Regulation 593/2008 on the Law Applicable to Contractual Obligations) are agreed to be substantially similar to Article VIII of the Aircraft Protocol.

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Annex 2

Cape Town Convention questionnaire

I. PRELIMINARY INFORMATION

Please provide the following information:

1. The name and full address of the law firm completing the questionnaire.

2. The law firm's relevant experience, which could include experience in legislative and constitutional processes as they relate to the implementation of international treaties in the State, and specific experience in CTC related issues including any experience in advising either a government on implementation and enforcement of the Cape Town Convention or the private sector, or enforcement of creditor's rights in the State which is proposed to be added to the Cape Town List;

3. Whether the law firm is involved or intends to be involved in any transactions that may benefit from a reduction of minimum premium rates if the proposed State is added to the CTC list; ([1])

4. The date on which this questionnaire was completed.

II. QUESTIONS

1. **Qualifying declarations**

1.1 Has the State ([2]) made each of the qualifying declarations in accordance with the requirements of Annex 1 to Appendix II of the Sector Understanding on Export Credits for Civil Aircraft ('ASU') (each a 'Qualifying Declaration')? In particular, regarding the declarations concerning 'Method for Exercising Remedies' [Article 2 d)] and 'Timely Remedies' [Article 2 e)], please specify if one or both of these have been made.

1.2 Please describe the way in which the declarations made differ, if at all, from the requirements referred to in Question 1.1.

1.3 Please confirm that the State has not made any of the declarations listed in Article 3 of Annex 1 to Appendix II of the ASU.

2. **Ratification**

1.1 Has the State ratified, accepted, approved or acceded to the Cape Town Convention and Aircraft Protocol ('Convention')? Please could you state the date of ratification/accession and briefly describe the State's process of accession to or ratification of the Convention?

1.2 Do the Convention and Qualifying Declarations ('QD') made have the force of law in the whole territory of the State without any further act, implementing legislation or the passing of any further law or regulation?

([1]) Together with information regarding any involvement (provided with due respect for confidentiality duties).

([2]) For the purposes of this questionnaire the 'State' is the country that is being proposed for addition to the Cape Town Convention List under Appendix II, Section 2, II of the ASU. Where appropriate, these questions shall also be answered in respect of the laws of the particular 'territorial unit' of the State in which the relevant operator of an aircraft (or other relevant body as set out in Article 35 (b) Appendix II) is located and 'national law' shall be read as including a reference to the relevant local law.

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1.3 If so, please briefly explain the process that gives the Convention and QDs the force of law.

3. **Effect of national and local law**

1.1 Describe and list, if applicable, the implementing legislation and regulation(s) with respect to the Convention and each QD made by the State.

1.2 Would the Convention and QDs made, as translated into national law ([3]) ('Convention and QDs'), overrule or have priority over any conflicting national law, regulation, order, judicial precedent or regulatory practice. If so, please describe the process by which this happens, ([4]) and if not, please provide details.

1.3 Are there any existing gaps in the implementation of the Convention and QDs? If so, please describe. ([5])

4. **Court and administrative decisions**

1.1. Please describe any matters, including judicial, regulatory, or administrative practice which could be expected to result in the courts, authorities or administrative bodies failing to give full force and effect to the Convention and QDs. ([6]) ([7])

1.2. To your knowledge, has there been any judicial or administrative enforcement action taken by a creditor under the Convention? If so, please describe the action and indicate whether it was successful.

1.3. To your knowledge, since ratification/implementation, have the courts in that State refused in any instance to enforce loan obligations of a debtor or guarantor in the State contrary to the Convention and QDs?

1.4. To your knowledge, are there any other matters that may impact whether courts and administrative bodies should be expected to act in a manner consistent with the Convention and QDs? If so, please specify.

([3]) For the purposes of this questionnaire, 'national law' refers to all national legislation of a State, including but not limited to, the Constitution and its Amendments, any federal, state and district law or regulation.

([4]) For example, that (i) treaties prevail over other law as a matter of constitutional or similar framework law in State X, or (ii) legislation is required in State X, and has been enacted expressly setting out the priority of the Cape Town Treaty and /or superseding such other law, or (iii) the Cape Town Treaty or its implementing legislation is (a) more specific than other law (*lex specialis derogat legi generali*), and/or (b) later in time than such other law (*lex posterior derogat legi priori*), and as a result of (a) and/or (b) prevails over such other law.

([5]) For example, is there any reason why the rights and remedies granted to creditors under the Convention, including those granted under the QDs, would not (a) be recognized as being effective or (b) be sufficient by themselves, to enable such rights and remedies to be validly exercised in the State?

([6]) An example of an administrative action for the purposes of this question might be the failure by the State to put in place any procedures or resources to give effect to a provision of the Convention or a Qualifying Declaration. Another example would be the failure by a State to put in place proper procedures in its aircraft registry for recording IDERAs.

([7]) Please include in your analysis any precedent / decision relating to the recognition of rights of creditors, including ECAs, when relevant.

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Appendix III

Minimum interest rates

The provision of official financing support shall not offset or compensate, in part or in full, for the appropriate premium rate to be charged for the risk of non-repayment pursuant to the provisions of Appendix II.

1. MINIMUM FLOATING INTEREST RATE

a) The minimum floating interest rate shall be, as appropriate, the EURIBOR, the Bank Bill Swap Rate, *i.e.* BBSY, or the London Inter-Bank Offered Rate, *i.e.* LIBOR, as compiled by the British Bankers' Association (BBA) with the currency and the maturity corresponding to the frequency of interest payment of officially supported export credit, to which a margin benchmark calculated in accordance with Article 8 of this Appendix, shall be added.

b) The floating interest rate setup mechanism shall vary according to the repayment profile chosen, as follows:

   1) When the repayment of principal and the payment of interest are combined in equal instalments, the relevant EURIBOR/BBSY/LIBOR effective two business days prior to the loan drawdown date, according to the relevant currency and payment frequency shall be used to calculate the entire payment schedule, as if it were a fixed rate. The principal payment schedule shall then be fixed as well as the first interest payment. The second interest payment, and so on, shall be calculated based on the relevant EURIBOR/BBSY/LIBOR effective two business days before the prior payment date over the outstanding principal balance initially established.

   2) When the repayment of principal is made in equal instalments, the relevant EURIBOR/BBSY/LIBOR, according to the relevant currency and payment frequency, effective two business days before the loan drawdown date and prior to each payment date shall be used to calculate the following interest payment over the outstanding principal balance.

c) Where official financing support is provided for floating rate loans, buyers/borrowers may have the option to switch from a floating rate to a fixed rate provided that the following conditions are fulfilled:

   1) The option is restricted to switching to the swap rate only;

   2) The option to switch shall only be exercised upon request, only once, and shall be reported accordingly with a reference to the reporting form initially sent to the Secretariat pursuant to Article 24 of this Understanding.

2. MINIMUM FIXED INTEREST RATE

The minimum fixed interest rate shall be either:

a) The swap rate, concerning the relevant currency of the officially supported export credit and with a maturity according to Table 7 below in the cases where the loan amortization is based on equal payments of principal or equal payments of principal and interest. When the principal payments are not structured in accordance with Article 13 a) of this Sector Understanding, the swap rate maturity applied shall be the interpolated rate for the two closest available annual periods to the weighted average life of the loan. The interest rate shall be set two business days prior to each drawdown date.

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Table 7

Repayment Term	Swap Rate Maturity
Up to 3 years	2 years
Up to 5 years	3 years
Up to 7 years	4 years
Up to 9 years	5 years
Up to 10 years	6 years
Up to 12 years	7 years
Up to 15 years	9 years

OR

b) The Commercial Interest Reference Rate (CIRR) established according to the provisions set out in Articles 3 to 7 of this Appendix, to which, in both cases, the margin benchmark, calculated in accordance with Article 8 of this Appendix, shall be added.

3. CONSTRUCTION OF CIRR

a) A CIRR is established for any of the eligible currencies set out in Article 9 of this Sector Understanding and calculated by adding a fixed margin of 120 basis points to one of the following three yields (the base rates):

1) Five-year government bond yields for a repayment term up to and including nine years,

2) Seven-year government bond yields for over nine and up to and including 12 years, or

3) Nine-year government bond yields for over 12 and up to and including 15 years.

b) CIRR shall be calculated monthly using data from the previous month and notified to the Secretariat, no later than five days after the end of each month. The Secretariat shall then inform immediately all Participants of the applicable rates and make them publicly available. CIRR shall take effect on the 15th day of each month.

c) A Participant or a non-Participant may request that a CIRR be established for the currency of a non-Participant. In consultation with the non-Participant, a Participant or the Secretariat on behalf of that non-Participant may make a proposal for the construction of the CIRR in that currency using the Common Line procedures set out in Articles 28 to 33 of this Sector Understanding.

4. VALIDITY PERIOD OF CIRR

a) Holding the CIRR: the CIRR applying to a transaction shall not be held for a period longer than six months from its selection (export contract date or any application date thereafter) to the credit agreement date. If the credit agreement is not signed within that limit, and the CIRR is reset for an additional six months, the new CIRR shall be committed at the rate prevailing at the date of reset.

b) After the credit agreement date, the CIRR shall be applied for drawing periods which do not exceed six months. After the first six-month drawing period, the CIRR is reset for the next six months; the new CIRR shall be the one prevailing at the first day of the new six-month period and cannot be lower than the CIRR originally selected (procedure to be replicated for each subsequent six-month period of drawings).

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5. APPLICATION OF MINIMUM INTEREST RATES

Within the provisions of the credit agreement the borrower shall not be allowed an option to switch from an officially supported floating rate financing to a pre-selected CIRR financing, nor be allowed to switch between a pre-selected CIRR and the short term market rate quoted on any interest payment date throughout the life of the loan.

6. EARLY REPAYMENT OF CIRR

In the event of a voluntary, early repayment of a loan or any portion thereof or when the CIRR applied under the credit agreement is modified into a floating or a swap rate, the borrower shall compensate the institution providing official financing support for all costs and losses incurred as a result of such actions, including the cost to the government institution of replacing the part of the fixed rate cash inflow interrupted by the early repayment.

7. IMMEDIATE CHANGES IN INTEREST RATES

When market developments require the notification of an amendment to a CIRR during the course of a month, the amended rate shall be implemented ten working days after notification of this amendment has been received by the Secretariat.

8. MARGIN BENCHMARK

a) A margin benchmark shall be calculated monthly, using data notified to the Secretariat in accordance with Article 24 b) of this Sector Understanding, and shall take effect on the 15th day of each month. Once calculated, the margin benchmark shall be notified by the Secretariat to the Participants and shall be made publicly available.

b) The margin benchmark shall be a rate equivalent to the average of the lowest 50 % of the margins over LIBOR or SWAP charged for transactions in the three full calendar months preceding the effective date set out in paragraph a) above, meeting the following conditions:

   1) 100 % unconditional guarantee transactions denominated in US dollars;

   2) Official support provided in respect of aircraft valued at or above USD 35 million (or its equivalent in any other eligible currency); and

   3) Transactions will be notified as of their loan drawdown dates. In case several drawdowns occur under the same bank mandate at the same margin, only the drawdown of the first aircraft will be notified.

c) Once it has taken effect, the margin benchmark shall apply to all official financing support provided during the ensuing one month period until the margin benchmark is reset by the Secretariat as set out above.

d) The Participants shall monitor the margin benchmark and shall review the margin benchmark mechanism six and twelve months following the effective date of this Sector Understanding, annually thereafter or upon the request of any Participant.

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Appendix IV

Reporting form

a) *Basic Information*

1. Notifying country

2. Notification date

3. Name of notifying authority/agency

4. Identification number

b) *Buyer/Borrower/Guarantor Information*

5. Name and country of buyer

6. Name and country of borrower

7. Name and country of guarantor

8. Status of buyer/borrower/guarantor, *e.g.* sovereign, private bank, other private

9. Risk classification of buyer/borrower/guarantor

c) *Financial Terms and Conditions*

10. In what form is official support provided, *e.g.* pure cover, official financing support

11. If official financing support is provided, is it a direct credit/refinancing/interest rate support

12. Description of the transaction supported, including the manufacturer, aircraft model and number of aircraft; indication of whether the transaction falls under the transitional arrangements set out in Article 39 a) or b) of this Understanding.

13. Final commitment date

14. Currency of credit

15. Credit amount, according to the following scale in USD millions:

Category	Credit Amount
I	0-200
II	200-400
III	400-600
IV	600-900
V	900-1 200
VI	1 200-1 500
VII	1 500-2 000 (*)

(*) *Indicate the number of USD 300 million multiples in excess of USD 2 000 million.*

16. Percentage of official support

17. Repayment term

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18. Repayment profile and frequency – including, where appropriate, weighted average life
19. Length of time between the starting point of credit and the first repayment of principal
20. Interest rates:
    - — Minimum interest rate applied
    - — Margin benchmark applied
21. Total premium charged by way of:
    - — Up-front fees (in percentage of the credit amount) or
    - — Spreads (basis points *per annum* above the applied interest rate)
    - — As appropriate, please indicate separately the 15 % surcharge applied in accordance with Appendix II Article 20 b).
22. In the case of direct credit/financing, fees charged by way of:
    - — Arrangement/Structuring fee
    - — Commitment/Premium holding fee
    - — Administration fee
23. Premium holding period
24. In the case of pure cover, premium holding fees
25. Transaction structuring terms: risk mitigants / premium surcharge applied
26. As appropriate, an indication of the impact of the Cape Town Convention on the premium rate applied

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Appendix V

List of definitions

All-In Cost Equivalence: the net present value of premium rates, interest rate costs and fees charged for a direct credit as a percentage of the direct credit amount is equal to the net present value of the sum of premium rates, interest rate costs and fees charged under pure cover as a percentage of the credit amount under pure cover.

Asset-Backed: a transaction that meets the conditions set out in 19 a) of Appendix II.

Buyer/Borrower: includes (but is not limited to) commercial entities such as airlines and lessors, as well as sovereign entities (or if a different entity, the primary source of repayment of the transaction).

Buyer Furnished Equipment: equipment furnished by the buyer and incorporated in the aircraft during the manufacture/refurbishment process, on or before delivery, as evidenced by the Bill of Sale from the manufacturer.

Cape Town Convention: refers to the Cape Town Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters specific to Aircraft Equipment.

Cargo Conversion: costs associated with converting a passenger aircraft into a commercial cargo aircraft.

Commitment: any statement, in whatever form, whereby the willingness or intention to provide official support is communicated to the recipient country, the buyer, the borrower, the exporter or the financial institution, including without limitation, eligibility letters, marketing letters.

Common Line: agreement of the Participants for a given transaction, or in special circumstances on specific financial terms and conditions for official support; such common line shall prevail over the relevant provisions of this Sector Understanding only for the transaction or in the circumstances specified in the common line.

Conditional Insurance Cover: official support which in the case of a default on payment for defined risks provides indemnification to the beneficiary after a specified waiting period; during the waiting period the beneficiary does not have the right to payment from the Participant. Payment under conditional insurance cover is subject to the validity and the exceptions of the underlying documentation and of the underlying transaction.

Country Risk Classification:: the prevailing country risk classification of the Participants to the Arrangement on Officially Supported Export Credits as published on the OECD website.

Credit Rating Agency: one of the internationally reputable rating agencies or any other rating agency that is acceptable to the Participants.

Engine Kits: a set of parts introduced to improve reliability, durability and/or on-wing performance procurement through introduction of technology.

Export Credit: an insurance, guarantee or financing arrangement which enables a foreign buyer of exported goods and/or services to defer payment over a period of time; an export credit may take the form of a supplier credit extended by the exporter, or of a buyer credit, where the exporter's bank or other financial institution lends to the buyer (or its bank).

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Final Commitment: a final commitment exists when the Participant commits to precise and complete financial terms and conditions, either through a reciprocal agreement or by a unilateral act.

Firm Contract: an agreement between the manufacturer and the person taking delivery of the aircraft or engines as buyer, or, in connection with a sale-leaseback arrangement, as lessee under a lease with a term of at least five years, setting forth a binding commitment (excluding those relating to then unexercised options), where non-performance entails legal liability.

Interested Participant: a Participant which (i) provides official support for airframe or aircraft engines completely or partially manufactured in its territory, (ii) has an existing substantial commercial interest or has experience with the buyer/borrower concerned, or (iii) has been requested by a manufacturer/exporter to provide official support to the buyer/borrower in question.

Interest Rate Support: can take the form of an arrangement between on the one hand a government, or an institution acting for or on behalf of a government and, on the other hand, banks or other financial institutions which allows the provision of fixed rate export finance at or above the relevant minimum fixed interest rate.

Major Modification/Refurbishing: operations of reconfiguration or upgrading of either a passenger or cargo aircraft.

Net Price: the price for an item invoiced by the manufacturer or supplier thereof, after accounting for all price discounts and other cash credits, less all other credits or concessions of any kind related or fairly allocable thereto, as stated in a binding representation by each of the aircraft and engine manufacturers - the engine manufacturer representation is required only when it is relevant according to the form of the purchase agreement - or service provider, as the case may be, and supported by documentation required by the provider of official support to confirm that net price. All import duties and taxes (*e.g.* VAT) are not included in the net price.

New Aircraft: see Article 8 a) of this Sector Understanding.

Non-Asset-Backed: a transaction that does not meet the conditions set out in 19 a) of Appendix II.

Non-Sovereign Transaction: a transaction that does not meet the description set out in Article 49 b) of Appendix II.

Premium Holding Period: subject to Article 35 b) of Appendix II, period during which a premium rate offered for a transaction is being maintained; not to exceed 18 months from the date of Final Commitment.

Premium Rate Conversion Model: model agreed by and made available to the Participants, to be used for the purpose of this Sector Understanding in order to convert up-front premium fees into spreads and *vice versa*, in which the interest rate and the discount rate used shall be 4,6 %; such rate shall be reviewed regularly by the Participants.

Prior Notification: a notification made at least ten calendar days before issuing any commitment, using the reporting form set out in Annex IV.

Pure Cover: Official support provided by or on behalf of a government by a way of export credit guarantee or insurance only, *i.e.* which does not benefit from official financing support.

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Repayment Term: the period beginning at the Starting Point of Credit and ending on the contractual date of the final repayment of principal.

Sovereign Transaction: a transaction that meets the description set out in Article 55 b) of Appendix II.

Starting Point of Credit: for the sale of aircraft including helicopters, spare engines and parts, at the latest the actual date when the buyer takes physical possession of the goods, or the weighted mean date when the buyer takes physical possession of the goods. For services, the latest starting point of credit is the date of the submission of the invoices to the client or acceptance of service by the client.

Swap Rate: a fixed rate equal to the semi-annual rate to swap floating rate debt to fixed rate debt (Offer side), posted on any independent market index provider, such as Telerate, Bloomberg, Reuters, or its equivalent, at 11:00 am New York time, two business days prior to the loan drawdown date.

Weighted Average Life: the time it takes to retire one-half of the principal of a credit; this is calculated as the sum of time (in years) between the starting point of credit and each principal repayment weighted by the portion of principal repaid at each repayment date.

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ANNEX IV

SECTOR UNDERSTANDING ON EXPORT CREDITS FOR RENEWABLE ENERGY, CLIMATE CHANGE MITIGATION AND WATER PROJECTS

The purpose of this Sector Understanding is to provide adequate financial terms and conditions to projects in selected sectors identified including under international initiatives as significantly contributing to climate change mitigation, including renewable energy, greenhouse gas (GHG) emissions' reduction and high energy efficiency projects as well as water projects. The Participants to this Sector Understanding agree that the financial terms and conditions of the Sector Understanding, which complements the Arrangement, shall be implemented in a way that is consistent with the Purpose of the Arrangement.

CHAPTER I

Scope of the Sector Understanding

1. SCOPE OF APPLICATION FOR PROJECTS IN RENEWABLE ENERGY SECTORS ELIGIBLE TO APPENDIX I

a) This Sector Understanding sets out the financial terms and conditions that apply to officially supported export credits relating to contracts in the eligible sectors listed in Appendix I of this Sector Understanding for:

1) The export of complete renewable energies plants or parts thereof, comprising all components, equipment, materials and services (including the training of personnel) directly required for the construction and commissioning of such plants.

2) The modernisation of existing renewable energies plants in cases where the economic life of the plant is likely to be extended by at least the repayment period to be awarded. If this criterion is not met, the terms of the Arrangement apply.

b) This Sector Understanding does not apply to items located outside the power plant site boundary for which the buyer is usually responsible, in particular, water supply not directly linked to the power production plant, costs associated with land development, roads, construction villages, power lines and switchyard, as well as costs arising in the buyer's country from official approval procedures (*e.g.* site permits, construction permit), except:

1) In cases where the buyer of the switchyard is the same as the buyer of the power plant and the contract is concluded in relation to the original switchyard for that power plant, the terms and conditions for the original switchyard shall not exceed those for the renewable energies power plant; and

2) The terms and conditions for sub-stations, transformers and transmission lines with a minimum voltage threshold of 60kV located outside the renewable energies power plant site boundary shall not be more generous than those for the renewable energies power plant.

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2. SCOPE OF APPLICATION FOR PROJECTS IN CLIMATE CHANGE MITIGATION SECTORS ELIGIBLE TO APPENDIX II

a) This Sector Understanding sets out the financial terms and conditions that apply to officially supported export credits relating to contracts in a sector listed in Appendix II of this Sector Understanding. This list of sectors and, when applicable, corresponding technology-neutral performance criteria used to define a project's eligibility, may be modified over time in accordance with the review provisions set out in Article 11 of this Sector Understanding.

b) Such contracts shall relate to the export of complete projects or parts thereof, comprising all components, equipment, materials and services (including the training of personnel) directly required for the construction and commissioning of an identifiable project, providing that:

1) The project should result in low to zero carbon emissions, or CO_2 equivalent, and/or in high energy efficiency;

2) The project should be designed to meet, as a minimum, the performance standards as set out in Appendix II; and

3) The terms and conditions provided shall be extended only to address specific financial disadvantages encountered by a project, and shall be based on the individual financial needs and specific market conditions of each project.

3. SCOPE OF APPLICATION FOR WATER PROJECTS

This Sector Understanding sets out the financial terms and conditions that apply to officially supported export credits relating to contracts for the export of complete projects or parts thereof related to the supply of water for human use and wastewater treatment facilities:

a) Infrastructure for the supply of drinking water to municipalities, including to households and small businesses, *i.e.* water purification for the purpose of obtaining drinking water and distribution network (including leakage control).

b) Wastewater collection and treatment facilities, *i.e.* collection and treatment of household and industrial wastewater and sewage, including processes for the re-use or recycling of water and the treatment of sludge directly associated with these activities.

c) The modernisation of such facilities in cases where the economic life of the plant is likely to be extended by at least the repayment period to be awarded. If this criterion is not met, the provisions of the Arrangement apply.

CHAPTER II

Provisions for export credits

4. MAXIMUM REPAYMENT TERMS

a) For officially supported export credits relating to contracts in the sectors listed in Appendix I, and for water projects defined in Article 3 of this Sector Understanding, the maximum repayment term is 18 years.

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b) For officially supported export credits relating to contracts of a value of at least SDR 10 million in the project classes listed in Appendix II, the maximum repayment term is set out as follows:

1) For contracts in Project Class A: 18 years.

2) For contracts in Project Class B and Project Class C: 15 years.

c) For officially supported export credits relating to contracts of a value of less than SDR 10 million in the project classes listed in Appendix II, the maximum repayment term is set out as follows:

1) For Category I countries as defined in Article 11 of the Arrangement, the maximum repayment term is five years, with the possibility of agreeing up to eight-and-a-half years when the procedures for prior notification set out in Article 9 of this Sector Understanding are followed.

2) For Category II countries, the maximum repayment term is ten years.

3) Notwithstanding sub-paragraphs 1) and 2) above, for non-nuclear power plants as defined in Article 13 of the Arrangement, the maximum repayment term is 12 years.

5. REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST

a) The Participants shall apply a profile of repayment of principal and payment of interest as specified in sub-paragraphs 1) or 2) below:

1) Repayment of principal shall be made in equal instalments.

2) Repayment of principal and payment of interest combined shall be made in equal instalments.

b) Principal shall be repaid and interest shall be paid no less frequently than every six months and the first instalment of principal and interest shall be made no later than six months after the starting point of credit.

c) On an exceptional and duly justified basis, official support may be provided on terms other than those set out in a) and b) above. The provision of such support shall be explained by an imbalance in the timing of the funds available to the obligor and the debt service profile available under an equal, semi-annual repayment schedule, and shall comply with the following criteria:

1) No single repayment of principal or series of principal payments within a six-month period shall exceed 25 % of the principal sum of the credit.

2) Principal shall be repaid no less frequently than every 12 months. The first repayment of principal shall be made no later than 18 months after the starting point of credit and no less than 2 % of the principal sum of the credit shall have been repaid 18 months after the starting point of credit.

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3) Interest shall be paid no less frequently than every 12 months and the first interest payment shall be made no later than six months after the starting point of credit.

4) The maximum weighted average life of the repayment period shall not exceed 60 % of the maximum available tenor.

d) Interest due after the starting point of credit shall not be capitalised.

6. MINIMUM INTEREST RATES

A Participant providing official financing support for fixed rates loans shall apply the following minimum interest rates:

Repayment term (years)	Standard minimum interest rates		Minimum interest rates for projects with long construction periods, *i.e.*: — New large hydro-power projects — Appendix II Project Class A	
	Government bonds (years)	Margin (bps)	Government bonds (years)	Margin (bps)
< 11	Relevant CIRR in accordance with Article 20 of the Arrangement			
11 to 12	7	100	7	100
13	7	120	8	120
14	8	120	9	120
15	8	120	9	120
16	9	120	10	125
17	9	120	10	130
18	10	120	10	130

7. ELIGIBLE CURRENCIES

The currencies that are eligible for official financing support are those which are fully convertible and for which data are available to construct the minimum interest rates mentioned in Article 6 of this Sector Understanding, and Article 20 of the Arrangement for repayment terms less than 11 years.

8. LOCAL COSTS

a) For officially supported export credits relating to contracts of a value of at least SDR 10 million, official support provided for local costs shall not exceed 30 % of the export contract value.

b) For officially supported export credits relating to contracts of a value of less than SDR 10 million:

1) For the sectors listed in Appendix I, official support provided for local costs shall not exceed 45 % of the export contract value.

2) For the sectors listed in Appendix II and for water projects defined in Article 3 of this Sector Understanding, official support provided for local costs shall not exceed 30 % of the export contract value.

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c) Where official support for local cost exceeds 15 % of the export contract value, such official support shall be subject to prior notification, pursuant to Article 9 of this Sector Understanding, specifying the nature of the local costs being supported.

CHAPTER III

Procedures

9. PRIOR NOTIFICATION

a) A Participant shall give prior notification in accordance with Article 48 of the Arrangement at least ten calendar days before issuing any commitment if it intends to provide support in accordance with the provisions of this Sector Understanding.

b) For projects falling in the Project Classes listed in Appendix II of this Sector Understanding, such notifications shall include an enhanced description of the project in order to demonstrate how the project complies with the criteria for support, as set out in Article 2 b) of this Sector Understanding.

c) If the notifying Participant intends to provide support with a repayment term in excess of 15 years and/or in accordance with Article 5 c) of this Sector Understanding, it shall wait an additional ten calendar days if any other Participant requests a discussion during the initial ten calendar days.

d) A Participant shall inform all other Participants of its final decision following a discussion, to facilitate the review of the body of experience.

CHAPTER IV

Monitoring and review

10. FUTURE WORK

The Participants agree to examine the following issues in the 12 months following the adoption of this Sector Understanding:

a) Term-adjusted risk-premia.

b) Climate change adaptation sectors and technologies.

c) Conditions for low emission/high energy efficiency fossil fuel power plants including definition of CCS-readiness.

d) Net zero energy buildings.

e) Smart grids.

f) Fuel cell projects.

11. MONITORING AND REVIEW

a) The Secretariat shall report annually on the implementation of this Sector Understanding.

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b) The Participants shall regularly review the scope and other provisions of this Sector Understanding and at the latest by the end of 2013.

c) Appendix II shall be reviewed at regular intervals, including upon the request of a Participant, with the view to assessing whether any Project Class and/or Type should be added to, or removed from, or whether any thresholds should be changed in, that Appendix. Proposals for new Project Classes and/or Types shall be supported by information on how projects within such a Class/Type should fulfil the criteria set out in Article 2 b) of this Sector Understanding and shall follow the methodology set out in Appendix III.

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Appendix I

Renewable energies sectors

The following renewable energies sectors shall be eligible for the financial terms and conditions set out in this Sector Understanding provided that their impacts are addressed in accordance with the 2012 Recommendation on Common Approaches on Officially Supported Export Credits and Environmental and Social Due Diligence ([1]) (as subsequently amended by Members of the OECD Working Group on Export Credits and Credit Guarantee (ECG) and adopted by the OECD Council):

a) Wind energy ([2]).

b) Geothermal energy.

c) Tidal and tidal stream power.

d) Wave power.

e) Osmotic power.

f) Solar photovoltaic power.

g) Solar thermal energy.

h) Ocean thermal energy.

i) Bio-energy: all sustainable landfill gas, sewage treatment plant gas, biogas energy or fuel derived from biomass energy installations. Biomass shall mean the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

j) Hydro power.

k) Energy efficiency in Renewable Energies projects.

([1]) It is understood that the 2012 Recommendation applies equally to projects that are not eligible for these financial terms and conditions.

([2]) The maximum repayment term for jack-up rigs used in the installation of wind turbines shall be 12 years.

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Appendix II

Climate change mitigation sectors

Project Class	Definition	Rationale	Standards used	Repayment Terms
Project Class A: Carbon capture and storage				
TYPE 1: Fossil Fuel Power Plants with Operational Capture and Storage (CCS)	A process consisting of the separation of CO_2 stream from the emissions produced by fossil fuel generation sources, transport to a storage site, for the purposes of environmentally safe and permanent geological storage of CO_2.	To achieve low carbon emission levels for fossil fuel power sources.	Carbon intensity shall achieve a level equal to or less than 350 metric ton CO_2 per GWh vented to atmosphere ([1]); Or In the case of all projects, a capture and storage rate that would reduce the plant's carbon emissions by 65 % or greater; Or The capture rate has to be at least 85 % of CO_2 emitted by the equipment included in the application for officially supported export credits. The 85 % is to apply at normal operating conditions.	18 years
TYPE 2: CCS Projects as such	A process consisting of the separation of CO_2 from industrial or energy generation sources, transport to a storage site, for the purposes of environmentally safe and permanent geological storage of CO_2.	To significantly reduce carbon emissions from existing sources.	In the case of all projects, a capture and storage rate that would reduce the industrial or energy generation carbon emissions by 65 % or greater; Or The capture rate has to be at least 85 % of CO_2 emitted by the equipment included in the application for officially supported export credits. The 85 % is to apply at normal operating conditions.	18 years

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Project Class	Definition	Rationale	Standards used	Repayment Terms
Project Class B: Fossil Fuel Substitution				
TYPE 1: Waste to Energy	Unit dedicated to generating energy by thermal treatment (including gasification) of mixed stream solid waste.	To offset GHG emissions from the use of conventional power and by reducing future GHG such as methane that would normally emanate from the waste.	In the case of a steam cycle, a boiler (or steam generator) energy conversion efficiency of at least 75 % based on low heating value (LHV) ([2]). In the case of gasification, a gasifier efficiency of at least 65 % LHV ([3]).	15 years
TYPE 2: Hybrid Power Plants	A power plant that generates electric power from both a renewable energy source and a fossil fuel source.	To meet the requirement of plant availability, a fossil fuel generating source is required for those periods when power from the renewable energy source is not available or sufficient. The fossil fuel source enables the usage of renewable energy in the hybrid plant, thereby achieving a significant carbon reduction compared with standard fossil fuel plant.	Model 1: Two separate generation sources: one Renewable Energy and one fossil fuel. Project shall be designed such that at least 50 % of its projected total annual energy output originates from the plant's renewable energy source. Model 2: Single generation source using the combination of renewable and fossil fuel. The project shall be designed such that at least 75 % of the useful energy produced is derived from the renewable source.	15 years
Project Class C: Energy Efficiency				
TYPE 1: Combined Heat & Power projects	Simultaneous generation of multiple forms of energy (electrical, mechanical and thermal) in a single integrated system. Output of the CHP plant shall include electric or mechanical energy and heat for commercial industrial and/or residential use.	Up to two thirds of the primary energy used to generate electricity in conventional thermal power plants is lost in the form of heat. Combined heat and power (CHP) generation can therefore be an effective GHG mitigation option. CHP is possible with all heat	Overall efficiency of at least 75 % based on low heating value (LHV) ([5]).	15 years

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Project Class	Definition	Rationale	Standards used	Repayment Terms
		machines and fuels (including biomass and solar thermal) from a few kW-rated to 1 000 MW steam-condensing power plants ([4]).		
TYPE 2: District heating and/or cooling	Network which carries/ distributes thermal energy from energy producing unit to end use.	To improve the efficiency of heating of districts by building piping networks for steam and/or hot water with substantial thermal efficiency, both by minimising losses of piping and converters, and by increasing the amount of utilisation of waste heat. District cooling is an integrative technology that can make significant contributions to reducing emissions of carbon dioxide and air pollution and to increasing energy security *e.g. via* substitution of individual air-conditioners.	The district piping thermal conductivity shall be less than 80 % of the relevant thermal conductivity required by the European standard EN253:2009 (*to be reviewed when this-standard is updated*).	15 years

([1]) In the case of a plant fuelled by natural gas, significantly lower carbon intensity is expected to be achieved.
([2]) Boiler (or steam generator)energy conversion efficiency = (Net heat exported by the steam heat or calorific value [LHV] provided by the fuel)(× 100%).
([3]) Gasifier efficiency(Calorific value of gas per kg of fuel used average net calorific value(LHV) of one kg of fuel)(× 100%).
([4]) IPCC Fourth Assessment Report: Climate Change 2007, http://www.ipcc.ch/publications_and_data/ar4/wg3/en/ch4s4-3-5.html
([5]) The total system efficiency (η_o) of a CHP system is the sum of the net useful power output (W_E) and net useful thermal outputs (ΣQ_{TH}) divided by the total fuel input (Q_{FUEL}), as shown below: $\eta_o = \frac{W_E + \sum Q_{TH}}{Q_{FUEL}}$

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Appendix III

Methodology to be used when determining the eligibility of sectors relating to article 2 of this sector understanding

When proposing that Project Class or Type be added to Appendix II of this Sector Understanding, Participants shall provide a detailed description of the proposed Project Class or Type and information on how such projects fulfil the criteria set out in Article 2 b) of this Sector Understanding; such information shall include:

a) An evaluation of the direct contribution of the Project Class or Type to climate change mitigation, including a comparison of the sector performance, based on measurable data regarding carbon emissions or CO_2 equivalent and/or in high energy efficiency, with conventional and in-use newer technological approaches; this comparison shall, in all cases, be based on quantitative measures, such as a decrease in emissions per unit produced.

b) A description of the technical and performance standards of the Project Class or Type proposed sector, including information on any relevant, existing Best Available Techniques (BAT); if appropriate, this description shall explain how the technology is an improvement on the existing BAT.

c) A description of the financial barriers in the proposed Project Class or Type, including any financial needs and market conditions, and identify the provisions under this Sector Understanding that are expected to enable such projects to proceed.

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Appendix IV

List of definitions

Best Available Techniques: as per the definition of EU Directive 96/61/EC (Article 2.11), "Best Available Techniques" shall mean the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole:

a) "techniques" shall include both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.

b) "available" techniques shall mean those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator.

c) "best" shall mean most effective in achieving a high general level of protection of the environment as a whole.

Greenhouse Gases: greenhouse gases are defined to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

Large Hydro Power Project: as per the definition of the International Commission on Large Dams (ICOLD). ICOLD defines a large dam as a dam with a height of 15 m or more from the foundation. Dams that are between 5 and 15 m high and have a reservoir volume of more than 3 million m^3 are also classified as large dams.

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ANNEX V

INFORMATION TO BE PROVIDED FOR NOTIFICATIONS

The information listed in Section I below shall be provided for all notifications made under the Arrangement (including its Annexes). In addition, the information specified in Section II shall be provided, as appropriate, in relation to the specific type of notification being made.

I. INFORMATION TO BE PROVIDED FOR ALL NOTIFICATIONS

a) *Basic Information*

1. Notifying country

2. Notification date

3. Name of notifying authority/agency

4. Reference number

5. Original notification or revision to previous notification (revision number as relevant)

6. Tranche number (if relevant)

7. Reference number of credit line (if relevant)

8. Arrangement Article(s) under which the notification is being made

9. Reference number of notification being matched (if relevant)

10. Description of support being matched (if relevant)

11. Destination Country

b) *Buyer/Borrower/Guarantor Information*

12. Buyer Country

13. Buyer Name

14. Buyer Location

15. Buyer Status

16. Borrower Country (if different from the buyer)

17. Borrower Name (if different from the buyer)

18. Borrower Location (if different from the buyer)

19. Borrower Status (if different from the buyer)

20. Guarantor Country (if relevant)

21. Guarantor Name (if relevant)

22. Guarantor Location (if relevant)

23. Guarantor Status (if relevant)

▼**M1**

c) *Information on Goods and/or Services Being Exported and the Project*

24. Description of the goods and/or services being exported

25. Description of the project (if relevant)

26. Location of the project (if relevant)

27. Tender closing date (if relevant)

28. Expiry date of credit line (if relevant)

29. Value of contract(s) supported, either the actual value (for all lines of credit and project finance transactions or for any individual transaction on a voluntary basis) or according to the following scale in millions of SDRs:

Category	From	To
I:	0	1
II:	1	2
III:	2	3
IV:	3	5
V:	5	7
VI:	7	10
VII:	10	20
VIII:	20	40
IX:	40	80
X:	80	120
XI:	120	160
XII:	160	200
XIII:	200	240
XIV:	240	280
XV:	280	(*)

(*) *Indicate the number of SDR 40 million multiples in excess of SDR 280 million, e.g. SDR 410 million would be notified as Category XV+3.*

30. Currency of contract(s)

d) *Financial Terms and Conditions of the Official Export Credit Support*

31. Credit value; the actual value for notifications involving lines of credit and project finance transactions or for any individual transaction on a voluntary basis, or according to the SDR scale

32. Currency of credit

33. Down payment (percentage of the total value of the contracts supported)

34. Local Costs (percentage of the total value of the contracts supported)

▼**M1**

35. Starting point of credit and reference to the applicable sub-paragraph of Article 10

36. Length of the repayment period

37. Interest rate base

38. Interest rate or margin

II. ADDITIONAL INFORMATION TO BE PROVIDED, AS APPROPRIATE, FOR NOTIFICATIONS MADE IN RELATION TO SPECIFIC PROVISIONS

a) *Arrangement, Article 14 d) 5*

1. Repayment profile

2. Repayment frequency

3. Length of time between the starting point of credit and the first repayment of principal

4. Amount of interest capitalised before the starting point of credit

5. Weighted average life of the repayment period

6. Explanation of the reason for not providing support according to Article 14 paragraphs a) through c)

b) *Arrangement, Articles 24, 27, 30 and 31*

1. Country risk classification of the obligor's country

2. Selected buyer risk category of the obligor

3. Length of the disbursement period

4. Percentage of cover for political (country) risk

5. Percentage of cover for commercial (buyer) risk

6. Quality of cover (*i.e.* below standard, standard, above standard)

7. MPR based on the country risk classification of the obligor's country absent any third party guarantee, involvement of a multilateral/regional institution ,risk mitigation and/or buyer risk enhancements

8. Applicable MPR

9. Actual premium rate charged (expressed in MPR format as a percentage of the principal)

c) *Arrangement, Article 24 c) third tiret*

1. Benchmark(s) applied (see Annex XIII).

d) *Arrangement, Article 24 e) first tiret*

1. Country risk classification of the guarantor's country

2. Selected buyer risk classification of the guarantor

▼**M1**

3. Confirmation that all of the criteria listed in Annex VII have been met.

4. Percentage of the total amount at risk (*i.e.* principal and interest) that is covered by the guarantee (*i.e.* total or partial amount)

5. Indication as to whether any financial relationship exists between the guarantor and the obligor

6. In the case that there is a relationship between the guarantor and the obligor:

   — The type of relationship (*e.g.* parent-subsidiary, subsidiary-parent, common ownership)

   — Confirmation that the guarantor is legally and financially independent and can fulfil the obligor's payment obligation

   — Confirmation that the guarantor would not be affected by events, regulations or sovereign intervention in the obligor's country

e) *Arrangement, Article 27 e)*

1. Selected buyer risk category of the obligor

2. Accredited CRA foreign currency rating(s)

3. Rationale for buyer risk category better than accredited CRA rating

f) *Arrangement, Article 30*

1. Country risk mitigation technique used

2. Confirmation that the criteria listed in Annex VIII have been met

3. For Technique 1, the applicable country risk classification resulting from the use of the technique.

4. For Technique 2:

   — the local currency used

   — the value of the LCF applied

g) *Arrangement, Article 31*

1. The BRCE(s) applied

2. The CEF applied for each credit enhancement

3. The total CEF to be applied

h) *Arrangement, Articles 49 and 50*

1. Form of tied aid (*i.e.* development aid or premixed credit or associated finance)

2. Overall concessionality level of the tied and partially untied aid financing calculated in accordance with Article 40

3. DDR used for concessionality calculation

▼**M1**

4. Treatment of cash payments in the calculation of the concessionality level

5. Restrictions on use of credit lines

i) *Annex II, Article 8*

1. Enhanced description of the export contract, *i.e.* new nuclear power station, modernisation of an existing nuclear power plant, supply of nuclear fuel and enrichment, or provision of spent fuel management.

2. Repayment of principal and payment of interest according to: Article 3 a) 1), Article 3 a) 2) or Article 3 c) of Annex II.

3. Where official support is provided in accordance with Article 3 c) of Annex II, please provide:

— Repayment profile

— Repayment frequency

— Length of time between the starting point of credit and the first repayment of principal

— Amount of interest capitalised before the starting point of credit

— Weighted average life of the repayment period

— Explanation of the reason for not providing support in accordance with Articles 3 a) and b).

4. Minimum interest rate applied in accordance with Article 4 of Annex II.

j) *Annex IV, Article 9*

1. Enhanced description of the project:

— New renewable energies and water plant, or modernisation of an existing renewable energies and water plant, including the specific sector as listed in Appendix I of Annex IV, or

— If a hydro-power project, whether a new large hydro-power project (as defined in Appendix IV of Annex IV), or

— For projects falling in the Project Classes listed in Appendix II of Annex IV, a demonstration of how the project complies with the criteria for support, as set out in Article 2 b) of Annex IV.

2. Repayment profile of principal and payment of interest according to: Article 5 a) 1), Article 5 a) 2) or Article 5 c) of Annex IV.

3. Where official support is provided in accordance with Article 5 c) of Annex IV, please provide:

— Repayment profile

— Repayment frequency

▼**M1**

— Length of time between the starting point of credit and the first repayment of principal

— Amount of interest capitalised before the starting point of credit

— Weighted average life of the repayment period

— Explanation of the reason for not providing support in accordance with Articles 5 a) and b).

4. Minimum interest rate applied in accordance with Article 6 of Annex IV.

k) *Annex X, Article 5*

1. Explanation of why project finance terms are being provided

2. Contract value in relation to turnkey contract, portion of sub-contracts, etc.

3. Enhanced project description

4. Type of cover provided prior to the starting point of credit

5. Percentage of cover for political risk prior to the starting point of credit

6. Percentage of cover for commercial risk prior to the starting point of credit

7. Type of cover provided after the starting point of credit

8. Percentage of cover for political risk after the starting point of credit

9. Percentage of cover for commercial risk after the starting point of credit

10. Length of the construction period (if applicable)

11. Length of the disbursement period

12. Weighted average life of the repayment period

13. Repayment profile

14. Repayment frequency

15. Length of time between the starting point of credit and the first repayment of principal

16. Percentage of principal repaid by the mid-point of credit

17. Amount of interest capitalised before the starting point of credit

18. Other fees received by the ECA, *e.g.* commitment fees (optional, except in the case of transactions with buyers in High Income OECD Countries)

▼**M1**

19. Premium rate (optional, except in the case of projects in High Income OECD Countries)

20. Confirmation (and explanation as necessary) that the transaction involves/is characterised by:

— The financing of a particular economic unit in which a lender is satisfied to consider the cash flows and earnings of that economic unit as the source of funds from which a loan will be repaid and to the assets of the economic unit as collateral for the loan.

— Financing of export transactions with an independent (legally and economically) project company, *e.g.* special purpose company, in respect of investment projects generating their own revenues.

— Appropriate risk-sharing among the partners of the project, *e.g.* private or creditworthy public shareholders, exporters, creditors, off-takers, including adequate equity.

— Project cash flow sufficient during the entire repayment period to cover operating costs and debt service for outside funds.

— Priority deduction from project revenues of operating costs and debt service.

— A non-sovereign buyer/borrower with no sovereign repayment guarantee

— Asset-based securities for proceeds/assets of the project, *e.g.* assignments, pledges, proceed accounts;

— Limited or no recourse to the sponsors of the private sector shareholders/sponsors of the project after completion

l) *Annex X, Article 5, for projects in High Income OECD Countries*

1. Total debt syndication amount for the project, including official and private lenders

2. Total amount of the debt syndication from private lenders

3. Percentage of the debt syndication provided by the Participants

4. Confirmation that:

— In respect of participation in a loan syndication with private financial institutions that do not benefit from official export credit support, the Participant is a minority partner with *pari passu* status throughout the life of the loan.

— The premium rate reported under item *k)* 19 above does not undercut available private market financing and is commensurate with the corresponding rates being charged by other private financial institutions that are participating in the syndication.

▼M1

ANNEX VI

CALCULATION OF THE MINIMUM PREMIUM RATES

MPR Formula

The formula for calculating the applicable MPR for an export credit involving an obligor/guarantor in a country classified in Country Risk Categories 1-7 is:

$$MPR = \{[(a_i * \max(PCC, PCP)/0,95 * HOR + b_i) * (1 - LCF)] + c_{in} * (PCC/0,95) * HOR * (1 - CEF)\} * QPF_i * PCF_i * BTSF$$

where:

a_i = country risk coefficient in country risk category *i* (*i* = 1-7)

c_{in} = buyer risk coefficient for buyer category *n* (*n* = SOV+, SOV/CCO, CC1-CC5) in country risk category *i* (*i* = 1-7)

b_i = constant for country category risk category *i* (*i* = 1-7)

HOR = horizon of risk

PCC = commercial (buyer) risk percentage of cover

PCP = political (country) risk percentage of cover

CEF = credit enhancements factor

QPF_i = quality of product factor in country risk category *i* (*i* = 1-7)

PCF_i = percentage of cover factor in country risk category *i* (*i* = 1-7)

BTSF = better than sovereign factor

LCF = local currency factor

Applicable Country Risk Classification

The applicable country risk classification is determined according to Article 24 e), which in turn determines the country risk coefficient (a_i) and constant (b_i) that are obtained from the following table:

	1	2	3	4	5	6	7
a	0,090	0,200	0,350	0,550	0,740	0,900	1,100
b	0,350	0,350	0,350	0,350	0,750	1,200	1,800

Selection of the Appropriate Buyer Risk Category

The appropriate buyer risk category is selected from the following table, which provides the combinations of country and buyer risk categories that have been established and the agreed concordance between buyer risk categories CC1-CC5 and the classifications of accredited CRAs. Qualitative descriptions of each buyer risk category (SOV+ to CC5) have been established to facilitate the classification of obligors (and guarantors) and are provided in Annex XII.

▼M1

Country Risk Category						
1	2	3	4	5	6	7
SOV+	SOV+	SOV+	SOV+	SOV+	SOV+	SOV+
SOV / CC0	SOV / CC0	SOV / CC0	SOV / CC0	SOV / CC0	SOV / CC0	SOV / CC0
CC1 AAA to AA–	CC1 A+ to A–	CC1 BBB+ to BBB–	CC1 BB+ to BB	CC1 BB–	CC1 B+	CC1 B
CC2 A+ to A–	CC2 BBB+ to BBB–	CC2 BB+ to BB	CC2 BB–	CC2 B+	CC2 B	CC2 B– or worse
CC3 BBB+ to BBB–	CC3 BB+ to BB	CC3 BB–	CC3 B+	CC3 B	CC3 B– or worse	
CC4 BB+ to BB	CC4 BB–	CC4 B+	CC4 B	CC4 B– or worse		
CC5 BB– or worse	CC5 B+ or worse	CC5 B or worse	CC5 B– or worse			

The selected buyer risk category, in combination with the applicable country risk category determines the buyer risk coefficient (c_{in}) that is obtained from the following table:

Buyer Risk Category	Country Risk Category						
	1	2	3	4	5	6	7
SOV+	0,000	0,000	0,000	0,000	0,000	0,000	0,000
SOV / CC0	0,000	0,000	0,000	0,000	0,000	0,000	0,000
CC1	0,110	0,120	0,110	0,100	0,100	0,100	0,125
CC2	0,200	0,212	0,223	0,234	0,246	0,258	0,271
CC3	0,270	0,320	0,320	0,350	0,380	0,480	n/a
CC4	0,405	0,459	0,495	0,540	0,621	n/a	n/a
CC5	0,630	0,675	0,720	0,810	n/a	n/a	n/a

Horizon of Risk (HOR)

The Horizon of Risk (HOR) is calculated as follows:

For standard repayment profiles (*i.e.* equal semi-annual repayments of principal):

$$\text{HOR} = (\text{length of the disbursement period} * 0,5) + \text{the length of the repayment period}$$

For non-standard repayment profiles:

$$\text{HOR} = (\text{length of the disbursement period} * 0,5) + (\text{weighted average life of the repayment period} - 0,25)/0,5$$

In the above formulas, the unit of measurement for time is years.

Percentage of Cover for Commercial (Buyer) Risk (PCC) and Political (Country) Risk (PCP)

The Percentages of Cover (PCC and PCP) expressed as a decimal value (*i.e.* 95 % is expressed as 0,95) in the MPR formula.

▼M1

Buyer Risk Credit Enhancements

The value of the credit enhancement factor (CEF) is 0 for any transaction that is not subject to any buyer risk credit enhancements. The value of the CEF for transactions that are subject to buyer risk credit enhancements is determined according to Annex VIII (subject to the restrictions set out in Article 31 c) of the Arrangement and may not exceed 0,35.

Quality of Product Factor (QPF)

The QPF is obtained from the following table:

Product Quality	Country Risk Category						
	1	2	3	4	5	6	7
Below Standard	0,9965	0,9935	0,9850	0,9825	0,9825	0,9800	0,9800
Standard	1,0000	1,0000	1,0000	1,0000	1,0000	1,0000	1,0000
Above Standard	1,0035	1,0065	1,0150	1,0175	1,0175	1,0200	1,0200

Percentage of Cover Factor (PCF)

The PCF is determined as follows:

For (max(PCC, PCP) ≤ 0,95, PCF = 1)

For (max(PCC, PCP) > 0,95, PCF = 1 + ((max(PCC, PCP) − 0, 95)/0, 05) ∗ (percentage of cover coefficient)

The percentage of cover coefficient is obtained from the following table:

	Country Risk Category						
	1	2	3	4	5	6	7
Percentage of cover coefficient	0,00000	0,00337	0,00489	0,01639	0,03657	0,05878	0,08598

Better than Sovereign Factor (BTSF)

When an obligor is classified in the better than sovereign (SOV+) buyer risk category, BTSF = 0,9, otherwise BTSF = 1.

Local Currency Factor (LCF)

For transaction making use of local currency country risk mitigation, the value of the LCF may not exceed 0,2. The value of the LCF for all other transactions is 0.

▼M1

ANNEX VII

CRITERIA AND CONDITIONS GOVERNING THE APPLICATION OF A THIRD PARTY REPAYMENT GUARANTEE AND THE CLASSIFICATION OF MULTILATERAL OR REGIONAL INSTITUTIONS

PURPOSE

This Annex provides the criteria and conditions that govern the application of third party repayment guarantees, including the repayment guarantee of a classified multilateral or regional institution according to Article 24 e) of the Arrangement. It also provides the criteria by which multilateral or regional institutions should be assessed when determining if an institution should be classified in connection with Article 28 of the Arrangement.

APPLICATION

Case 1: Guarantee for the Total Amount at Risk

When security in the form of a repayment guarantee from an entity is provided for the total amount at risk (*i.e.* principal and interest), the applicable Country Risk Classification and Buyer Risk Category may be that of the guarantor when the following criteria are met:

— The guarantee covers the entire duration of the credit.

— The guarantee is irrevocable, unconditional and available on-demand.

— The guarantee is legally valid and capable of being enforced in the guarantor country's jurisdiction.

— The guarantor is creditworthy in relation to the size of the guaranteed debt.

— The guarantor is subject to the monetary control and transfer regulations of the country in which it is located.

For classified Multilateral or Regional Institutions acting as guarantors, the following criteria apply:

— The guarantee covers the entire duration of the credit.

— The guarantee is irrevocable, unconditional and available on-demand.

— The guarantor is legally committed for the total amount of the credit.

— The repayments are made directly to the creditor.

If the guarantor is a subsidiary/parent of the guaranteed entity, Participants shall, on a case-by-case basis, determine whether: (1) in consideration of the relationship between the subsidiary/parent and the degree of legal commitment of the parent, the subsidiary/parent is legally and financially independent and could fulfil its payment obligations; (2) the subsidiary/parent could be affected by local events/regulations or sovereign intervention; and (3) the Head Office would in the event of a default regard itself as being liable.

Case 2: Guarantee Limited in Amount

When security in the form of a repayment guarantee from an entity is provided for a limited amount at risk (*i.e.* principal and interest), the applicable Country Risk Classification and Buyer Risk Category may be that of the guarantor for the portion of the credit subject to the guarantee, providing that all other criteria listed under Case 1 are met.

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For the unguaranteed portion, the applicable Country Risk Classification and Buyer Risk Category is that of the obligor.

Classification of Multilateral or Regional Institutions

Multilateral and regional institutions shall be eligible for classification if the institution is generally exempt from the monetary control and transfer regulations of the country in which it is located. Such institutions shall be classified in Country Risk Categories 0 through 7 on a case-by-case basis according to an assessment of the risk of each on its own merits and in consideration of whether:

— the institution has statutory and financial independence;

— all of the institution's assets are immune from nationalisation or confiscation;

— the institution has full freedom of transfer and conversion of funds;

— the institution is not subject to government intervention in the country where it is located;

— the institution has tax immunity; and

— there is an obligation of all its Member countries to supply additional capital to meet the institution's obligations.

The assessment should also take into consideration the historical payment record in situations of country credit risks default either in the country where it is located or in a obligor’s country; and any other factors which may be deemed appropriate in the assessment process.

The list of classified multilateral and regional institutions is not closed and a Participant may nominate an institution for review according to the above-listed considerations. The classifications of multilateral and regional institutions shall be made public by the Participants.

▼M1

ANNEX VIII

CRITERIA AND CONDITIONS GOVERNING THE APPLICATION OF COUNTRY RISK MITIGATION TECHNIQUES AND BUYER RISK CREDIT ENHANCEMENTS

PURPOSE

This Annex provides detail on the use of country risk mitigation techniques listed in Article 30 a) of the Arrangement and the buyer risk credit enhancements listed in Article 31 a) of the Arrangement; this includes the criteria, conditions and specific circumstances which apply to their use as well as the impact on the MPRs.

COUNTRY RISK MITIGATION TECHNIQUES

1. ***Offshore Future Flow Structure Combined with Offshore Escrow Account***

Definition:

A written document, such as a deed or a release or trustee arrangement, sealed and delivered to a third party, *i.e.* a person not party to the instrument, to be held by such third party until the fulfilment of certain conditions and then to be delivered by him to the other party to take effect. If the following criteria are satisfied subject to consideration of the additional factors listed, this technique can reduce or eliminate the transfer risks, mainly in the higher risk country categories.

Criteria:

The escrow account is related to a foreign exchange-earning project and the flows into the escrow account are generated by the project itself and/or by other offshore export receivables.

The escrow account is held offshore, *i.e.* located outside of the country of the project where there are very limited, transfer or other country risks (*i.e.* a country classified in Category 0).

The escrow account is located in a first class bank which is not directly or indirectly controlled by interests of the obligor or by the country of the obligor.

The funding of the account is secured through long-term or other appropriate contracts.

The combination of the sources of revenues (*i.e.* generated by the project itself and/or the other sources) of the obligor flowing through the account are in hard currency and can reasonably be expected to be collectively sufficient for the service of the debt for the entire duration of the credit, and come from one or more creditworthy foreign customers located in better risk countries than the country in which the project is located (*i.e.* normally countries classified in Category 0).

The obligor irrevocably instructs the foreign customers to pay directly into the account (*i.e.* the payments are not forwarded through an account controlled by the obligor or through its country).

The funds which have to be kept within the account are equal to at least six months of debt service. Where flexible repayment terms are being applied under a project finance structure, an

amount equivalent to the actual six months debt service under such flexible terms are to be kept within the account; this amount may vary over time depending on the debt service profile.

▼M1

— The obligor has restricted access to the account (*i.e.* only after payment of the debt service under the credit).

— The revenues deposited in the account are assigned to the lender as direct beneficiary, for the entire life of the credit.

— The opening of the account has received all the necessary legal authorisations from the local and any other appropriate authorities.

— The escrow account and contractual arrangements may not be conditional and/or revocable and/or limited in duration.

Additional Factors to be taken into Consideration:

The technique applies subject to a case-by-case consideration of the above characteristics and, *inter alia*, with regard to:

— the country, the obligor (*i.e.* either public or private), the sector, the vulnerability in relation to the commodities or services involved, including their availability for the entire duration of the credit, the customers;

— the legal structures, *e.g.* whether the mechanism is sufficiently immune against the influence of the obligor or its country;

— the degree to which the technique remains subject to government interference, renewal or withdrawal;

— whether the account would be sufficiently protected against project related risks;

— the amount which will flow into the account and the mechanism for the continuation of appropriate provision;

— the situation with regard to the Paris Club (*e.g.* possible exemption);

— the possible impact of country risks other than the transfer risk;

— the protection against the risks of the country where the account is located;

— the contracts with the customers, including their nature and duration; and

— the global amount of the expected foreign earnings in relation to the total amount of the credit.

Impact on the MPR

The application of this country risk mitigation technique may result in a one category improvement in the applicable country risk classification for the transaction, except for transactions in Country Risk Category 1.

2. ***Local Currency Financing***

Definition:

Contract and financing negotiated in convertible and available local, other than hard, currencies and financed locally that eliminates or mitigates the transfer risk. The primary debt obligation in local currency would, in principle, not be affected by the occurrence of the first two country credit risks.

▼M1

Criteria:

— The ECA liability and claims payment or the payment to the Direct Lender are expressed/ made throughout in local currency.

— The ECA is normally not exposed to the transfer risk.

— In the normal course of events, there will be no requirement for local currency deposits to be converted into hard currency.

— The borrower's repayment in his own currency and in his own country is a valid discharge of the loan obligation.

— If a borrower's income is in local currency the borrower is protected against adverse exchange rate movements.

— Transfer regulations in the borrower's country should not affect the borrower's repayment obligations, which would remain in local currency.

Additional Factors to be taken into Consideration:

The technique applies on a selective basis in respect of convertible and transferable currencies, where the underlying economy is sound. The Participant ECA should be in a position to meet its obligations to pay claims expressed in its own currency in the event that the local currency becomes either 'non-transferable' or 'non-convertible' after the ECA takes on liability. (A Direct Lender would however carry this exposure.)

Impact on the MPR

The application of this risk mitigation technique may result in a discount of no more than 20 % to the country credit risk portion of the MPR (*i.e.* a local currency factor [LCF] with a value of no more than .2).

BUYER RISK CREDIT ENHANCEMENTS

The following table provides definitions of the buyer risk credit enhancements that may be applied, along with their maximum impact on the applicable MPRs through the CEF in the MPR formula.

Credit Enhancement	Definition	Maximum CEF
Assignment of Contract Proceeds or Receivables	In the event a borrower has contracts with strong off-takers, whether offshore or local, a legally enforceable assignment of the contract provides rights to enforce the borrower's contracts and/or make decisions under major contracts in the place of the borrower after a default under the loan. A direct agreement with a third party in a transaction (a local government agency in a mining or energy transaction) allows Lenders to approach a government to seek remedies for expropriation or other violation of contractual obligations related to the transaction. An existing company operating in a difficult market or sector may have receivables related to the sale of production with a company or companies located in a more stable environment. Receivables would generally be in a hard currency but may not be the subject of a specific contractual relationship. Assignment of these receivables could provide asset security in the accounts of the Borrower, giving the Lender a preferential treatment in the cash flow generated by the Borrower.	0,10

▼M1

Credit Enhancement	Definition	Maximum CEF
Asset Based Security	Control of an asset shown by: (1) mortgage on very mobile and valuable piece of property and (2) property that has entire value in itself. An asset based security is one that can be reacquired with relative ease such as a locomotive, medical equipment or construction equipment. In valuing such a security, the ECA should take into consideration the legal ease of recovery. In other words, there is more value when the security interest in the asset is perfected under an established legal regime and less value where the legal ability to recover the asset is questionable. The precise value of an asset-based security is set by the market, with the relevant "market" being deeper than a local market because the asset can be moved to another jurisdiction. NOTE: The application of an asset based security credit enhancement applies to the buyer risk, where the asset based security is held internally within the country in which the transaction is domiciled.	0,25
Fixed Asset Security	A fixed asset security is most typically component equipment which may be constrained by its physicality such as turbine or manufacturing machinery integrated into an assembly line. The intent and value of the fixed asset security is to provide the ECA with more leverage over the use of the asset in recouping losses in the event of default. The value of a fixed asset security varies dependant on economic, legal, market and other factors.	0,15
Escrow Account	Escrow accounts involve debt service reserve accounts held as security for the lenders or other forms of cash receivable accounts held as security for the lenders by a party not controlled or sharing common ownership with the buyer/obligor. The escrowed amount must be deposited or escrowed in advance. The value of such security is nearly always 100 % of the nominal amount in such cash accounts. Permits greater control over use of cash, ensures that debt is serviced before discretionary spending. NOTE: The application of an escrow account credit enhancement applies to the buyer risk, where the escrow account is held internally within the country in which the transaction is domiciled. Cash security significantly diminishes the risk of default for the covered instalments.	escrowed amount as % of credit up to a maximum of 0,10

▼M1

ANNEX IX

CHECKLIST OF DEVELOPMENTAL QUALITY

Checklist of developmental quality of aid-financed projects

A number of criteria have been developed in recent years by the DAC to ensure that projects in developing countries that are financed totally or in part by Official Development Assistance (ODA) contribute to development. They are essentially contained in the:

— DAC Principles for Project Appraisal, 1988;

— DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance, 1987; and

— Good Procurement Practices for Official Development Assistance, 1986.

CONSISTENCY OF THE PROJECT WITH THE RECIPIENT COUNTRY'S OVERALL INVESTMENT PRIORITIES (PROJECT SELECTION)

Is the project part of investment and public expenditure programmes already approved by the central financial and planning authorities of the recipient country?

(Specify policy document mentioning the project, *e.g.* public investment programme of the recipient country.)

Is the project being co-financed with an international development finance institution?

Does evidence exist that the project has been considered and rejected by an international development finance institution or another DAC Member on grounds of low developmental priority?

In the case of a private sector project, has it been approved by the government of the recipient country?

Is the project covered by an intergovernmental agreement providing for a broader range of aid activities by the donor in the recipient country?

PROJECT PREPARATION AND APPRAISAL

Has the project been prepared, designed and appraised against a set of standards and criteria broadly consistent with the DAC Principles for Project Appraisal (PPA)? Relevant principles concern project appraisal under:

a) Economic aspects (paragraphs 30 to 38 PPA).

b) Technical aspects (paragraph 22 PPA).

c) Financial aspects (paragraphs 23 to 29 PPA).

In the case of a revenue producing project, particularly if it is producing for a competitive market, has the concessionary element of the aid financing been passed on to the end-user of the funds? (paragraph 25 PPA).

a) Institutional assessment (paragraphs 40 to 44 PPA).

b) Social and distributional analysis (paragraphs 47 to 57 PPA).

c) Environmental assessment (paragraphs 55 to 57 PPA).

▼**M1**

PROCUREMENT PROCEDURES

What procurement mode will be used among the following? (For definitions, see Principles listed in Good Procurement Practices for ODA).

a) International competitive bidding (Procurement Principle III and its Annex 2: Minimum conditions for effective international competitive bidding).

b) National competitive bidding (Procurement Principle IV).

c) Informal competition or direct negotiations (Procurement Principles V A or B).

Is it envisaged to check price and quality of supplies (paragraph 63 PPA)?

▼M1

ANNEX X

TERMS AND CONDITIONS APPLICABLE TO PROJECT FINANCE TRANSACTIONS

CHAPTER I

General provisions

1. SCOPE OF APPLICATION

a) This Annex sets out terms and conditions that Participants may support for project finance transactions that meet the eligibility criteria set out in Appendix 1.

b) Where no corresponding provision exists in this Annex, the terms of the Arrangement shall apply.

CHAPTER II

Financial terms and conditions ([1])

2. MAXIMUM REPAYMENT TERMS

The maximum repayment term is 14 years.

3. REPAYMENT OF PRINCIPAL AND PAYMENT OF INTEREST

The principal sum of an export credit may be repaid in unequal instalments, and principal and interest may be paid in less frequent than semi-annual instalments, as long as the following conditions are met:

a) No single repayment of principal or series of principal payments within a six-month period shall exceed 25 % of the principal sum of the credit.

b) The first repayment of principal shall be made no later than 24 months after the starting point of credit and no less than 2 % of the principal sum of the credit shall have been repaid 24 months after the starting point of credit.

c) Interest shall be paid no less frequently than every 12 months and the first interest payment shall be made no later than six months after the starting point of credit.

d) The weighted average life of the repayment period shall not exceed seven-and-a-quarter years.

e) The Participant shall give prior notification according to Article 5 of this Annex.

([1]) a) The financial terms and conditions set out in Articles 2 and 3 d) shall apply to transactions for which a final commitment is issued on or before 31 December 2013.

b) After 31 December 2013, the financial terms and conditions set out in Articles 2 and 3 d) shall be discontinued unless the Participants agree otherwise.

c) If discontinued, the provisions of Articles 2 and 3 d) will be replaced by the following:

Article 2 - The maximum repayment term is 14 years, except when official export credit support provided by the Participants comprises more than 35 % of the syndication for a project in a High Income OECD country, the maximum repayment term is ten years.

Article 3 d) - The weighted average life of the repayment period shall not exceed seven-and-a-quarter years, except when official export credit support provided by the Participants comprises more than 35 % of the syndication for a project in a High Income OECD country, the weighted average life of the repayment period shall not exceed five-and-a-quarter years.

▼M1

4. MINIMUM FIXED INTEREST RATES

Where Participants are providing official financing support for fixed rate loans:

a) For repayment terms of up to and including 12 years, Participants shall apply the relevant Commercial Interest Reference Rates (CIRRs) constructed in Accordance with Article 20 of the Arrangement.

b) For repayment terms in excess of 12 years, a surcharge of 20 basis points on the CIRR shall apply for all currencies.

CHAPTER III

Procedures

5. PRIOR NOTIFICATION FOR PROJECT FINANCE TRANSACTIONS

A Participant shall notify all Participants of the intent to provide support according to the terms and conditions of this Annex at least ten calendar days before issuing any commitment. The notification shall be provided in accordance with Annex V of the Arrangement. If any Participant requests an explanation in respect of the terms and conditions being supported during this period, the notifying Participant shall wait an additional ten calendar days before issuing any commitment.

▼**M1**

Appendix 1

Eligibility criteria for project finance transactions

I. BASIC CRITERIA

The transaction involves/is characterised by:

a) The financing of a particular economic unit in which a lender is satisfied to consider the cash flows and earnings of that economic unit as the source of funds from which a loan will be repaid and to the assets of the economic unit as collateral for the loan.

b) Financing of export transactions with an independent (legally and economically) project company, *e.g.* special purpose company, in respect of investment projects generating their own revenues.

c) Appropriate risk-sharing among the partners of the project, *e.g.* private or creditworthy public shareholders, exporters, creditors, off-takers, including adequate equity.

d) Project cash flow sufficient during the entire repayment period to cover operating costs and debt service for outside funds.

e) Priority deduction from project revenues of operating costs and debt service.

f) A non-sovereign buyer/borrower with no sovereign repayment guarantee (not including performance guarantees, *e.g.* off-take arrangements).

g) Asset-based securities for proceeds/assets of the project, *e.g.* assignments, pledges, proceed accounts;

h) Limited or no recourse to the sponsors of the private sector shareholders/ sponsors of the project after completion.

II. ADDITIONAL CRITERIA FOR PROJECT FINANCE TRANSACTIONS IN HIGH INCOME OECD COUNTRIES

The transaction involves/is characterised by:

a) Participation in a loan syndication with private financial institutions that do not benefit from Official Export Credit Support, whereby:

   1) The Participant is a minority partner with *pari passu* status throughout the life of the loan and;

   2) Official export credit support provided by the Participants comprises less than 50 % of the syndication.

b) Premium rates for any official support that do not undercut available private market financing and that are commensurate with the corresponding rates being charged by other private financial institutions that are participating in the syndication.

▼**M1**

ANNEX XI

LIST OF DEFINITIONS

For the purpose of the Arrangement:

a) **Commitment:** any statement, in whatever form, whereby the willingness or intention to provide official support is communicated to the recipient country, the buyer, the borrower, the exporter or the financial institution.

b) **Common Line:** an understanding between the Participants to agree, for a given transaction or in special circumstances, on specific financial terms and conditions for official support. The rules of an agreed Common Line supersede the rules of the Arrangement only for the transaction or in the circumstances specified in the Common Line.

c) **Concessionality Level of Tied Aid:** in the case of grants the concessionality level is 100 %. In the case of loans, the concessionality level is the difference between the nominal value of the loan and the discounted present value of the future debt service payments to be made by the borrower. This difference is expressed as a percentage of the nominal value of the loan.

d) **Decommissioning:** closing down or dismantling of a nuclear power plant.

e) **Export Contract Value:** the total amount to be paid by or on behalf of the purchaser for goods and/or services exported, *i.e.* excluding local costs as defined hereafter; in the case of a lease, it excludes the portion of the lease payment that is equivalent to interest.

f) **Final Commitment:** for an export credit transaction (either in the form of a single transaction or a line of credit), a final commitment exists when the Participant commits to precise and complete financial terms and conditions, either through a reciprocal agreement or by a unilateral act.

g) **Initial Fuel Load:** the initial fuel load shall consist of no more than the initially installed nuclear core plus two subsequent reloads, together consisting of up to two-thirds of a nuclear core.

h) **Interest Rate Support:** an arrangement between a government and banks or other financial institutions which allows the provision of fixed rate export finance at or above the CIRR.

i) **Line of Credit:** a framework, in whatever form, for export credits that covers a series of transactions which may or may not be linked to a specific project.

j) **Local Costs:** expenditure for goods and services in the buyer's country that are necessary either for executing the exporter's contract or for completing the project of which the exporter's contract forms a part. These exclude commission payable to the exporter's agent in the buying country.

k) **Pure Cover:** official support provided by or on behalf of a government by way of export credit guarantee or insurance only, *i.e.* which does not benefit from official financing support.

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l) **Repayment Term:** the period beginning at the starting point of credit, as defined in this Annex, and ending on the contractual date of the final repayment of principal.

m) **Starting Point of Credit:**

1) *Parts or components (intermediate goods) including related services*: in the case of parts or components, the starting point of credit is not later than the actual date of acceptance of the goods or the weighted mean date of acceptance of the goods (including services, if applicable) by the buyer or, for services, the date of the submission of the invoices to the client or acceptance of services by the client.

2) *Quasi-capital goods, including related services - machinery or equipment, generally of relatively low unit value, intended to be used in an industrial process or for productive or commercial use*: in the case of quasi-capital goods, the starting point of credit is not later than the actual date of acceptance of the goods or the weighted mean date of acceptance of the goods by the buyer or, if the exporter has responsibilities for commissioning, then the latest starting point is at commissioning, or for services, the date of the submission of the invoices to the client or acceptance of the service by the client. In the case of a contract for the supply of services where the supplier has responsibility for commissioning, the latest starting point is commissioning.

3) Capital goods and project services - machinery or equipment of high value intended to be used in an industrial process or for productive or commercial use:

In the case of a contract for the sale of capital goods consisting of individual items usable in themselves, the latest starting point is the actual date when the buyer takes physical possession of the goods, or the weighted mean date when the buyer takes physical possession of the goods.

In the case of a contract for the sale of capital equipment for complete plant or factories where the supplier has no responsibility for commissioning, the latest starting point is the date at which the buyer is to take physical possession of the entire equipment (excluding spare parts) supplied under the contract.

If the exporter has responsibility for commissioning, the latest starting point is at commissioning.

For services, the latest starting point of credit is the date of the submission of the invoices to the client or acceptance of service by the client. In the case of a contract for the supply of services where the supplier has responsibility for commissioning, the latest starting point is commissioning.

4) *Complete plants or factories – complete productive units of high value requiring the use of capital goods:*

In the case of a contract for the sale of capital equipment for complete plant or factories where the supplier has no responsibility for commissioning, the latest starting point of credit is the date when the buyer takes physical possession of the entire equipment (excluding spare parts) supplied under the contract.

▼**M1**

In case of construction contracts where the contractor has no responsibility for commissioning, the latest starting point is the date when construction has been completed.

In the case of any contract where the supplier or contractor has a contractual responsibility for commissioning, the latest starting point is the date when he has completed installation or construction and preliminary tests to ensure it is ready for operation. This applies whether or not it is handed over to the buyer at that time in accordance with the terms of the contract and irrespective of any continuing commitment which the supplier or contractor may have, *e.g.* for guaranteeing its effective functioning or training local personnel.

Where the contract involves the separate execution of individual parts of a project, the date of the latest starting point is the date of the starting point for each separate part, or the mean date of those starting points, or, where the supplier has a contract, not for the whole project but for an essential part of it, the starting point may be that appropriate to the project as a whole.

For services, the latest starting point of credit is the date of the submission of the invoices to the client or the acceptance of service by the client. In the case of a contract for the supply of services where the supplier has responsibility for commissioning, the latest starting point is commissioning.

n) **Tied Aid:** aid which is in effect (in law or in fact) tied to the procurement of goods and/or services from the donor country and/or a restricted number of countries; it includes loans, grants or associated financing packages with a concessionality level greater than zero percent.

This definition applies whether the tying is by formal agreement or by any form of informal understanding between the recipient and the donor country, or whether a package includes components from the forms set out in Article 31 of the Arrangement that are not freely and fully available to finance procurement from the recipient country, substantially all other developing countries and from the Participants, or if it involves practices that the DAC or the Participants consider equivalent to such tying.

o) **Untied Aid:** aid which includes loans or grants whose proceeds are fully and freely available to finance procurement from any country.

p) **Weighted Average Life of the Repayment Period:** the time that it takes to retire one-half of the principal of a credit. This is calculated as the sum of time (in years) between the starting point of credit and each principal repayment weighted by the portion of principal repaid at each repayment date.

▼M1

ANNEX XII

BUYER RISK CATEGORIES QUALITATIVE DESCRIPTIONS

Better than Sovereign (SOV+)

This is an exceptional classification. The entity achieving such a classification is one with an exceptionally strong credit profile which could be expected to fulfil its payment obligations during a period of sovereign debt distress or even default. International Credit Rating Agencies issue regular reports listing Corporate and Counterparty Ratings that exceed the Sovereign's Foreign Currency Rating. Except when the risk sovereign has been identified through the Sovereign Risk Assessment Methodology as being significantly higher than country risk, Participants proposing that an entity be classified as better than sovereign shall reference such better than sovereign ratings in support of their recommendation. In order to be classified as better than its host sovereign, an entity would be expected to display several or normally a majority of the following characteristics or equivalents:

— A strong credit profile;

— substantial foreign exchange earnings relative to its currency debt burden;

— production facilities and cash generation ability from subsidiaries or operations offshore, especially those domiciled in highly rated sovereigns, *i.e.* multinational enterprises;

— a foreign owner or a strategic partner which could be relied on as a source of financial support in the absence of a formal guarantee;

— a history of preferential treatment of the entity by the sovereign, including exemption from transfer and convertibility constraints and surrender requirements for export proceeds, and favourable tax treatment;

— committed credit lines from highly rated international banks, especially credit lines without a material adverse change (MAC) clause which enable banks to withdraw committed facilities in the event of a sovereign crisis or other risk events; and

— assets held offshore, especially liquid assets, often as a result of rules allowing exporters to trap and maintain cash balances offshore that are available for debt service.

Normally the SOV+ buyer risk category is not applicable to:

— Publicly owned entities and utilities, sub-sovereigns as line ministries, regional governments, etc;

— financial institutions domiciled in the sovereign’s jurisdiction; and

— entities primarily selling to the domestic market in local currency.

▼M1

Sovereign (SOV)

Sovereign obligors/guarantors are entities that are explicitly legally mandated to enter into a debt payment obligation on the behalf of the Sovereign State, typically Ministry of Finance or Central bank [1]. A risk designated as sovereign is one where:

— the obligor/guarantor is legally mandated to enter into a debt payment obligation on behalf of the Sovereign and thereby commits the full faith and credit of the sovereign; and

— in the event of rescheduling of sovereign risk, the debt in question would be included in the rescheduling and payment obligations acquired by the sovereign by virtue of the rescheduling.

Equivalent to the Sovereign (CC0): Exceptionally Good Credit Quality

The equivalent to sovereign category embraces two basic types of obligors/guarantors:

— Public entities where due diligence reveals that either the buyer has the implicit full faith and credit/support of the sovereign or that the likelihood of sovereign liquidity and solvency support is very high, both in relation to recovery prospects as well as default risk. Non-sovereign public entities equivalent to the sovereign would also include companies owned by the government with a monopoly or near monopoly on operations in a sector (*e.g.* power, oil, gas).

— Corporate entities with an exceptionally strong credit profile, displaying features in terms of both default and recovery prospects which indicate that the risk could be seen as being equivalent to sovereign. Candidates could include strong blue chip corporates or very important banks for which the likelihood of sovereign liquidity and solvency support is high.

Exceptionally good credit quality implies that the risk of payment interruption is expected to be negligible and that the entity has an exceptionally strong capacity for repayment and this capacity is not likely to be affected by foreseeable events. The credit quality is typically manifested in a combination of some, if not all, of the following characteristics of the entity's business and financial profile:

— exceptionally good to very good cash and income generation

— exceptionally good to very good liquidity levels

— exceptionally low to very low leverage

— excellent to very strong business profile with proven and very strong management abilities

The entity is also characterised by a high quality of financial and ownership disclosure, unless there is a very high likelihood of support from a parent (or sovereign) with a buyer risk classification that is equal to or better than what corresponds to this buyer risk category.

[1] Most typically this would be a risk on the central bank or Ministry of Finance. For central government entities other than the finance ministry, due diligence shall be undertaken to affirm that the entity commits the full faith and credit of the sovereign.

▼M1

Depending on the classification of the country in which the obligor/guarantor is domiciled, it is likely that an obligor/guarantor classified in buyer risk category CC0 would be rated between AAA (Country Category 1) and B (Country Category 7) by accredited CRAs.

Very Good Credit Quality (CC1)

The risk of payment interruption is expected to be low or very low. The obligor/guarantor has a very strong capacity for repayment and this capacity is not likely to be affected by foreseeable events. The obligor/guarantor has a limited or very limited susceptibility to adverse effects of changes in circumstances and economic conditions. The credit quality is typically manifested in a combination of some, if not all, of the following characteristics of the business and financial profile:

— very good to good cash and income generation

— very good to good liquidity levels

— very low to low leverage

— very strong business profile with proven management abilities and very strong business profile

The entity is also characterised by a high quality of financial and ownership disclosure, unless there is a very high likelihood of support from a parent (or sovereign) with a buyer risk classification that is equal to or better than what corresponds to this buyer risk category.

Depending on the classification of the country in which the obligor/guarantor is domiciled, it is likely that an obligor/guarantor classified in buyer risk category CC1 would be rated between AAA (Country Category 1) and B (Country Category 7) by accredited CRAs.

Good to Moderately Good Credit Quality, Above Average (CC2)

The risk of payment interruption is expected to be low. The obligor/guarantor has a good to moderately good capacity for repayment and this capacity is not likely to be affected by foreseeable events. The obligor/guarantor has a limited susceptibility to adverse effects of changes in circumstances and economic conditions. The credit quality is typically manifested in a combination of some, if not all, of the following characteristics of the business and financial profile:

— good to moderately good cash and income generation

— good to moderately good liquidity levels

— low to moderately low leverage

— moderately strong business profile with proven management abilities and very strong business profile

The entity is also characterised by a high quality of financial and ownership disclosure, unless there is a very high likelihood of support from a parent (or sovereign) with a buyer risk classification that is equal to or better than what corresponds to this buyer risk category.

Depending on the classification of the country in which the obligor/guarantor is domiciled, it is likely that an obligor/guarantor classified in buyer risk category CC2 would be rated between A+ (Country Category 1) and B- or worse (Country Category 7) by accredited CRAs.

▼M1

Moderate Credit Quality, Average (CC3)

The risk of payment interruption is expected to be moderate or moderately low. The obligor/guarantor has a moderate or moderately good capacity for repayment. There is a possibility of credit risk developing as the obligor/guarantor faces major ongoing uncertainties or exposure to adverse business, financial or economic conditions which could lead to inadequate capacity to meet timely payments. However, business or financial alternatives may be available to allow financial commitments to be met. The credit quality is typically manifested in a combination of some, if not all, of the following characteristics of the business and financial profile.

— moderately good to moderate cash and income generation

— moderately good to moderate liquidity levels

— moderately low to moderate leverage

— moderate business profile with proven management abilities

The entity is also characterised by an adequate quality of financial and ownership disclosure, unless there is a very high likelihood of support from a parent (or sovereign) with a buyer risk classification that is equal to or better than what corresponds to this buyer risk category.

Depending on the classification of the country in which the obligor/guarantor is domiciled, it is likely that an obligor/guarantor classified in buyer risk category CC3 would be rated between BBB+ (Country Category 1) and B- or worse (Country Category 6) by accredited CRAs.

Moderately Weak Credit Quality, Below Average (CC4)

The risk of payment interruption is expected to be moderately weak. The obligor/guarantor has a moderate to moderately weak capacity for repayment. There is a possibility of credit risk developing as the obligor/guarantor faces major ongoing uncertainties or exposure to adverse business, financial or economic conditions which could lead to inadequate capacity to meet timely payments. However, business or financial alternatives may be available to allow financial commitments to be met. The credit quality is typically manifested in a combination of some, if not all, of the following characteristics of the business and financial profile:

— moderate to moderately weak cash and income generation

— moderate to moderately weak liquidity levels

— moderate to moderately high leverage

— moderately weak business profile with limited track record of management abilities

The entity is also characterised by an adequate quality of financial and ownership disclosure, unless there is a very high likelihood of support from a parent (or sovereign) with a buyer risk classification that is equal to or better than what corresponds to this buyer risk category.

Depending on the classification of the country in which the obligor/guarantor is domiciled, it is likely that an obligor/guarantor classified in buyer risk category CC4 would be rated between BB+ (Country Category 1) and B- or worse (Country Category 5) by accredited CRAs.

▼M1

Weak Credit Quality (CC5)

The risk of payment interruption is expected to be high to very high. The obligor/guarantor has a moderately weak to weak capacity for repayment. The obligor/guarantor currently has the capacity to meet repayments but a limited margin of safety remains. However, there is a likelihood of developing payment problems as the capacity for continued payment is contingent upon a sustained, favourable business and economic environment. Adverse business, financial, or economic conditions will likely impair capacity or willingness to repay. The credit quality is typically manifested in a combination of some, if not all, of the following characteristics of the business and financial profile:

— moderately weak to weak to very weak cash and income generation

— moderately weak to weak liquidity levels

— moderately high to high leverage

— weak business profile with limited or no track record of management abilities

The entity is also characterised by a poor quality of financial and ownership disclosure, unless there is a very high likelihood of support from a parent (or sovereign) with a buyer risk classification that is equal to or better than what corresponds to this buyer risk category.

Depending on the classification of the country in which the obligor/guarantor is domiciled, it is likely that an obligor/guarantor classified in buyer risk category CC5 would be rated between BB- (Country Category 1) and B- or worse (Country Category 4) by accredited CRAs.

▼M1

ANNEX XIII

MARKET BENCHMARKS FOR TRANSACTIONS IN CATEGORY ZERO COUNTRIES

Un-covered Portion of Export Credits or the non-ECA Covered Part of a Syndicated Loan

The price indicated by private banks/institutions with respect to the uncovered portion of the export credit in question (or sometimes as the non-ECA covered part of a syndicated loan) may represent the best match to ECA cover. Pricing on such un-covered portions or non-covered parts should only be used if provided on commercial terms (*e.g.* this would exclude IFI funded portions).

Name-Specific Corporate Bonds

Corporate bonds reflect name specific credit risk. Care should be used in matching in terms of the ECA contract characteristics, such as term of maturity, and currency denomination, and any credit enhancements. If primary corporate bonds (*i.e.* all-in yield upon issuance) or secondary corporate bonds (*i.e.* the option adjusted spread over the appropriate curve, which is usually the relevant currency swap curve) are used, those for the obligor should be used in the first instance; if not available, primary or secondary corporate bonds for comparable borrowers and comparable transactions should be used.

Name-Specific Credit Default Swaps

Credit Default Swaps (CDS) are a form of protection against default. The CDS spread is the amount paid per period by the buyer of the CDS as a percentage of notional principal, and is usually expressed in basis points. The CDS buyer effectively buys insurance against default by making payments to the seller of the CDS for the life of the swap, or until the credit event occurs. A CDS curve for the obligor should be used in the first instance; if not available, CDs curves for comparable borrowers and comparable transactions should be used.

Indexed Credit Default Swaps

An indexed Credit Default Swap is a compilation of registered CDS for an industry sector, or part of it, or for a geographical area. The CDS spreads thus compiled reflects the credit risk of the particular market segment that the index is capturing. Its relevance may be greatest in cases where no name-specific CDS is available or when the market for a name-specific CD is illiquid.

Loan Benchmarks

Primary loan benchmarks (*i.e.* pricing upon issuance) or secondary loan benchmarks (*i.e.* the current yield on the loan expected by the financial institution purchasing the loan from another financial institution). All fees must be known for primary loan benchmarks so that the all-in yield can be calculated. If loan benchmarks are used, those for the obligor should be used in the first instance; if not available, those for comparable borrowers and comparable transactions should be used.

▼M1

Benchmark Market Curves

Benchmark market curves reflect the credit risk of a whole sector or class of buyers. This market information may be relevant when name specific information is not available. In general, the quality of the information inherent to these markets depends upon their liquidity. In any case, one should look for market instruments that provide the closest match in terms of the ECA contract characteristics, such as date, credit rating, term of maturity, and currency denomination.

Weighted Average Cost of Financing Resources (WACFR)

From the buyer's financial statements it may be possible to gauge the WACFR. Care must be taken when using this method to ensure that the average cost of finance resources of a company reflects the real conditions under which the finance has been provided.