



Room Document No. 6

9TH INFORMAL CONSULTATION BETWEEN THE OECD WORKING PARTY ON EXPORT CREDITS AND CREDIT GUARANTEES AND CIVIL SOCIETY ORGANISATIONS

BIAC VIEWS ON THE REVIEW OF THE RECOMMENDATION

29 (morning) May 2006 (starting at 10.00)

Salle des Nations, Tour Europe, La Défense, Paris



29 May 2006

**BIAC Submission to
OECD Consultation on the Review of the Recommendation on the Common
Approaches for Export Credits and the Environment**

BIAC Views on the Review of the Recommendation

I. Introduction

1. OECD businesses are committed to taking into account the environmental aspects of their project-related export and investment activities. Companies from OECD countries are the leading providers of environment friendly technologies and services. In addition, many multinationals have committed themselves to credible approaches towards voluntary corporate responsibility, including environment protection, in all countries in which they are operating.

2. Thus, BIAC regards it as important that OECD countries adequately address environmental concerns in the area of export credits and through this contribute to sustainable development in non-OECD countries.

3. In BIAC's view the OECD Recommendation on Common Approaches have proved effective in deterring Export Credit Agencies (ECAs) from supporting projects that have significantly adverse environmental impacts. We note from ECG(2005)11 that 56 Cat A projects were reported in 2004, and 103 Cat B projects. Assuming similar volume of reported projects in 2005 and 2006, this experience should provide a good basis for the ECG's forthcoming Review. On present evidence, we do not see any need for major changes to the Recommendation aimed at pursuing environmental policy goals, and we hope for a further period of stability in the Common Approaches. It takes several years to plan larger projects. Thus, business needs stability regarding the terms, conditions and requirements associated with export credits. Companies' ability to plan may be seriously affected if the Common Approaches would be changed significantly after just two years. We also believe that future review periods should be extended in order to gather more practical experience and to ensure a better evaluation.

4. BIAC would, however, support the Export Credit Group (ECG) if it believes that some procedural changes should be undertaken in order to ensure that the Common Approaches are applied in a more transparent and less bureaucratic way than is currently practice in some countries. Any changes in the Recommendation need to be made in a credible and practical manner to preserve the efficiency of officially supported export credits as a tool to promote exports, to contribute to an international level playing field for business, and to enhance the possibility for developing countries to develop projects that are beneficial to their economy with little adverse effect on their environment.

5. BIAC believes that in addition to the Review of the Recommendation on the Common Approaches, the Participants to the Arrangement should consider making changes in the Arrangement in order to bring the repayment terms for environmentally-friendly projects into line

with those now available for renewable energy projects. We have addressed this in a separate paper.¹

II. Practicability and competitiveness: Central Criteria for the Review

6. Ensuring the practicability of officially supported export credits and preserving the competitiveness of export credit guidelines in OECD countries compared to conditions offered ECAs in non-member countries with a rapidly expanding capital goods export sector (e.g. Brazil, China and India), should be the central guiding principles for the Review of the Common Approaches.

7. Export credits are first and foremost an instrument for export promotion and this must remain their principal objective of officially supported export credits. Officially supported export credits are important to a number of internationally active OECD companies, including many SMEs. Through the risk coverage that they provide, officially supported export credits make exports and investment in developing countries possible which would often not be feasible without this instrument. For developing countries as the recipient countries of the exports, export credits play a useful role in complementing the flows of direct investments and official aid to developing countries, sometimes co-financing MDBs' projects or supplementing soft loans in mixed credits. Many important infrastructure and development projects would be impossible without the support from export credits. Thus, for BIAC it is imperative that the practicability of officially supported export credits as a means to promote exports will be preserved.

8. The issue of practicability also needs to be seen in the context of global competitiveness. For BIAC it is important that any steps undertaken to further enhance the application of the Common Approaches within the OECD area do not contribute to the already un-level playing-field between OECD and non-OECD businesses with regard to export credits. BIAC members have voiced concern that ECAs of some major non-OECD countries, which have become strong capital goods exporters, do very little to ensure that companies applying for export credits comply with internationally recognized environmental standards. This may give companies from these countries an unfair competitive edge over OECD businesses.

9. BIAC urges the OECD to encourage non-OECD countries to apply the OECD Environmental Common Approaches. In order to be effectively applied in non-OECD countries, the Common Approaches must be practical, straightforward and transparent. The OECD should invite major countries including Brazil, China, and India to contribute their views to the discussion on the environmental approaches, and take account of the practicability and efficiency of those measures for both OECD and non-OECD countries, with a view to progressively reducing any gap in the standards presently applied.

10. Furthermore, the OECD also needs to take adequately into account the difficult competitive environment OECD exporters may find themselves faced with when competing with local suppliers for whom the domestic environmental standards are relevant while OECD exporters must comply with the higher OECD guidelines. The OECD common approaches must not lead to a situation where the guidelines to be respected by OECD companies are out of line with the standards applicable to local suppliers and competitors from major non-OECD countries. If the existing gaps between the guidelines applied in OECD countries and those applied outside the OECD increase further, this would reduce the international competitiveness of OECD capital goods exporters and limit developing countries' access to high quality capital goods.

¹ BIAC Submission "Ensuring a Coherent Approach Towards Environmentally Friendly Goods," 29 May 2006

III. Specific issues and requests regarding the Review of the Recommendation

11. Business experience with the application of the Common Approaches in the past two years indicates that in some countries environmental concerns have gradually superseded financial issues and export promotion issues. There is a danger that, if this trend continues, ECAs will lose sight of their prime function, which is to promote exports.

Limit EIAs to Category A projects

12. Approval procedures have become significantly longer in some countries. While this is justified for particularly environmentally-sensitive projects, we think it is not necessary for less sensitive projects. In our view, Environmental Impact Assessment Reports and Resettlement Action Plans should not be mandatory for Category B projects, so that more time and effort can be devoted to the assessment of Category A projects.

Safeguard commercially sensitive information

13. Whilst BIAC welcomes the trend towards greater openness and transparency, we believe that arrangements must be improved for ECAs to safeguard commercially sensitive information for as long as it remains sensitive.

14. Furthermore, information requested under the Common Approaches should be limited to issues that are relevant for the assessment of environmental impacts. Information on social, human rights and broader development issues falls outside the scope of the Common Approaches. The proposal by NGOs to request disclosure of extractive sector revenues² aims at curbing corruption and has in our view no direct relevance to environmental issues. Therefore, we believe that the proposal falls outside the scope of the Review of the Recommendation.

Limit the gap between OECD Recommendation and non-OECD countries' practices

15. When a project is public and the customer is a state organization, then it can be difficult for an exporter (or his ECA) to convince the host government that their own standards are inadequate. The debate about standards would be more productively held between governments at a multilateral level, rather than antagonizing the country in question by repeatedly raising the matter in connection with ECA support for particular projects. There could also be competition implication for exporters if ECAs did not have a consistent approach.

16. These considerations also need to be taken into account in any discussion regarding the consultation and participation of affected communities. OECD companies appreciate processes that involve affected stakeholders, including local communities, in the decision making related to projects. Adequate stakeholder involvement can help prevent unnecessary complications and changes in the design, implementation and management of projects. Therefore, the OECD business community would be pleased if non-member countries would establish similarly efficient stakeholder consultation processes as are in place in most OECD countries. However, OECD exporters and ECAs have little influence on the consultations rules which are governed by the host country. Thus, consultation-related obligations for OECD exporters under the Common Approaches should give greater recognition to the rules and regulations of the host country. If the ECAs would ask significantly more from OECD companies, they would put exporters into an increasingly difficult competitive situation compared to local suppliers and exporters from non-OECD countries which apply different standards.

² see Room document No. 4 „Promoting Revenue Transparency in the Extractive Industries“

No inclusion of additional political criteria

17. In order to ensure the practicability of export credits, the Common Approaches should not include additional political criteria. As an instrument for export promotion, export credits are hardly suited to pursue developmental, human rights, social policy, energy policy or other policy goals. Including further political/social criteria would mean tasking ECAs with more functions that they are neither competent nor legitimized to execute. In addition, the decision procedures would become more bureaucratic which would reduce the value of the instrument for exporting companies. An overly bureaucratic administration of export credits as a result of the inclusion of political criteria would be in the interest of neither OECD business nor developing countries.

Ex-post monitoring and compliance mechanisms

18. BIAC supports monitoring regarding environmental standards and their implementation in approved projects. Effective monitoring is a pre-requisite for the evaluation and sharing of experiences.

19. As to improving compliance mechanisms as proposed by NGOs³, BIAC would like to point out that it may be very difficult to ensure that host countries comply with environmental standards, in particular when the OECD ECA is not directly financing the project but only providing guarantees or insurance cover, which is often the case. In any case, we would strongly resist any suggestion that exporters and/or banks should be penalized (e.g. through withdrawal of cover) in the event that a host country failed to comply with its environmental promises and obligations.

International obligations of national governments

20. We would like to draw attention to the difficulties and administrative burden that ECAs would face if they were assigned the task of monitoring compliance with international obligations of national governments on environmental protection. In our view ECAs should not be asked to check national governments' international commitments ECAs cannot be a substitute for any inadequacy in the compliance mechanisms for international environmental agreements. It would also be unreasonable to expect OECD companies to identify and check all relevant international agreements of the host countries before entering into a bidding process or to substitute for the gap between national legislation and international best practice.

Preserve flexibility and ensure transparency regarding standards

21. With respect to international standards, the Common Approaches must preserve the flexibility at the disposal of the individual ECAs to undertake their particular cover decisions. Especially when it comes to customers in developing countries BIAC feels that there can be no "one-size-fits-all approach". Companies must very often pursue their projects in a highly demanding and difficult environment. Profits are often long-term and the political environment is frequently unstable. This is why many ECAs have established over the years together with industry a balanced and careful evaluation process, which takes into account all of the many aspects involved in a project-related export transaction in order to come to a specific assessment of each project.

22. BIAC members reported that the rigid application of World Bank standards is sometimes not transparent. In addition, requests for compliance with international standards tend to increase during the assessment of the projects. This is unsatisfactory as it leads to unnecessarily long assessment periods and increased costs for the project parties. BIAC asks the ECG to adequately address this issue during the Review of the Recommendation with a view to ensuring full

³ see Room document No. 2 „Initial Comments on the Revision of the OECD Recommendation On Common Approaches on Environment and Officially Supported Export Credits: Letter Dates 6 January 2006”

transparency regarding the standards applied for the project assessments, and then to establish a standardized regime for operation by all ECAs which can remain unchanged for several years.

23. Any standards promoted by the Recommendation should relate only to environmental issues, for the reasons mentioned in para 16 of this submission. Furthermore, BIAC urges the ECG not to promote standards in its Recommendation that are mainly designed to be applied in the context of limited-recourse project finance transactions while most of the projects supported by OECD ECAs relate to the exportation of capital goods under a more conventional financing structure.

Reduce administrative burden for environmental due diligence

24. BIAC urges the ECG to reduce administrative burden associated with environmental due diligence in the case of multi-sourcing projects, in particular those involving re-insurance arrangements between ECAs. In our view, the lead ECA should be given full responsibility for the environmental due diligence process, and the re-insuring ECAs should accept the lead ECA's decision without attempting to duplicate the process. This approach would help eliminating unnecessary administration and through this shorten the time needed for due diligence as well as eliminating the high additional costs (e.g. translation costs) that may be associated with the due diligence by re-insurers.

No exclusion of particular sectors

25. It is important to BIAC that the Review of the Recommendation will not lead to any outright exclusion of particular sectors or technologies from officially supported export credits. In our view there would be no justification for such a move. Instead, each individual project must be judged on its own merits.