COUNCIL WORKING PARTY ON SHIPBUILDING

SECTOR UNDERSTANDING ON EXPORT CREDITS FOR SHIPS: PROPOSED AMENDMENTS

This document is submitted to Delegates for consideration and decision at the meeting of the Council Working Party on Shipbuilding to be held on 18 a.m., December 2006.

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SECTOR UNDERSTANDING ON EXPORT CREDITS FOR SHIPS:
PROPOSED AMENDMENTS

BACKGROUND

1. At its 102nd meeting on 24 July 2004 the WP6 considered two specific proposals to amend the Sector Understanding on Export Credits for Ships (SSU) in order to bring it more into line with the current version the “Arrangement on Officially Supported Export Credits” (the Arrangement) to which it is attached. The proposals were contained in document C/WP6(2006)4.

2. With the exception of the EU, all other Delegation approved the incorporation of a modified version of the proposals contained in C/WP6(2006)4. However, the EU placed a holding reservation on that decision and advised that it would confirm its position in writing to the Secretariat.

3. The EU has since advised the Secretariat of its position with respect to the proposals contained in C/WP6(2006)4, and as this position was different to the decision taken by other WP6 Delegations, the proposals will have to be further reconsidered.

OUTCOME OF DISCUSSION ON 24 JULY

4. Following the consideration of the proposals in C/WP6(2006)4, Delegations (with the exception of the EU) agreed to the following amendments to the SSU:

Issue 1: New Article 6 in the SSU

5. The first outcome was that there was support by all but the EU for the addition of a new Article in the SSU covering the payment of interest. This would mirror the late Article 14 of the Arrangement and would read as follows:

Payment of Interest

   a) Interest shall not normally be capitalised during the repayment period.

   b) Interest shall be payable not less frequently than every six months and with the first payment to be made no later than six months after the starting point of credit.

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

1) Any payment by way of premium or other charge for insuring or guaranteeing supplier credits or financial credits. \( \text{[Where official support is provided by means of direct credits/financing or refinancing, the premium either may be added to the face value of the interest rate or may be a separate charge; both components are to be specified separately to the Participants]} \).

2) Any other 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.”

6. A corollary to outcome was Annex V of the Arrangement, on “Information to be provided for Notifications”, would then also need to be amended to refer to prior notification procedures mentioned in the new Article 6 of the SSU.

**Issue 2: New Article on Project Finance in the SSU**

7. The second outcome which was agreed to by all Delegations with the Exception of the EU, was that a new Article on project finance would be added to Chapter II of the SSU and would read as follows:

Project Finance

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

8. The review of the provisions on the Project Finance Understanding annexed to the Arrangement would then be added to the Commitments for Future Work Attachment of the SSU.

**ALTERNATIVE EU PROPOSAL**

9. At the 24 July meeting the Delegate of the EU placed a holding reservation on the decision taken by the WP6, so that it could consider its position in more detail after the meeting. The EU submitted an alternative proposal to the WP6 Secretariat, and this is reflected below.

**First Issue: Repayment of principal and repayment of Interest**

10. In place of the wording shown earlier in this document under the heading “**Decision 1**”, the EU has proposed the alternative of replacing the existing Article 5 in the SSU, with the following wording, which reflects a proposal considered by the Participants to the Arrangement in 2005 (but never considered by the WP6).²

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¹ It was proposed by the Delegation of Japan, and all other Delegations with the exception of the EU, that the second sentence, shown in italics, would be deleted.

² The Trade Directorate document reference for the original proposal is TD/PG(2005)24.
Article 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 that 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) and c) shall give prior notification at least ten calendar days before issuing any commitment, in accordance with Annex V.

Related Issue

11. When considering Issue 1 (see above) at its 24 July 2006 meeting, the WP6 (with the exception of the Delegation of the EU) agreed to a proposal by the Delegation of Japan to delete the second sentence of paragraph d. 1) contained in document C/WP6(2006)4 – this deleted paragraph is show in italics in Issue 1 above.

12. The EU proposed addition to the SSU does not contain an equivalent clause to that which was proposed for deletion by the Delegation of Japan. However, the EU has suggested that the parallel, existing Article 15, Paragraph b) of the Arrangement would apply to the SSU, so that if the EU proposal is accepted then the effect of the Japanese proposal discussed and largely accepted in July 2006 would be negated.

Second Issue: Project finance flexibility

13. The EU does not support the application of the flexible terms for project finance in Annex X of the Arrangement to the SSU. For clarity the EU has proposed that the shipbuilding industry be added to the exclusion sectors listed in Article 7.b) on the main body of the Arrangement, which would then read as follows:

Article 7: Project Finance

a) Unchanged.

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

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3 The EU noted that the information to be provided for notifications would also have to be amended in Annex V of the Arrangement.

4 This proposal would also have to be agreed to by the Participants the Arrangement on Officially Supported Export Credits.
14. On this second issue, the difference between the EU proposal, and the proposal accepted by all WP6 Delegations with the exception of the EU in July 2006, is that project finance would not apply to the SSU, whereas the July 2006 proposal would mean that the project finance would not apply to the SSU until those provisions had been further examined by the WP6 and a final decision made.

**ACTION REQUIRED**

15. At its 24 July 2006 meeting, the WP6 noted that during its period of inactivity (when its resources were totally directed towards the Shipbuilding Agreement negotiations), the Sector Understanding on Export Credits for Ships had not been regularly re-examined to ensure that it remained consistent with amendments made to the “Arrangement on Officially Supported Export Credits”.

16. The WP6 also noted that several potential inconsistencies had developed, and that minimal maintenance of the SSU had to be undertaken in order to minimise the chance of problems arising in the application of the two instruments. Because no decision could be taken during the meeting, nor during subsequent written exchanges, the need for some action on the part of the WP is still necessary.

17. Delegates are therefore requested to consider making a decision to either:

   a) Confirm the decision taken at its 24 July meeting to adopt the proposals contained in document C/W6(2006)4 [including the removal of the second sentence of paragraph d) 1) as proposed by Japan], or

   b) Accept the alternative proposed by the Delegation of the EU and reflected in this document; or

   c) Some other solution, perhaps involving elements of both proposals.