

**Chair's Reference Paper<sup>1</sup>**

**Rev.1<sup>2</sup>**

EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES

**Structure for Discussion**

***Introduction***

The previous Reference Paper on export credits, export credit guarantees or insurance programmes set out a possible structure for further discussion by Members on the basis of developing disciplines for individual elements of export credits, export credit guarantees or insurance programmes (hereafter referred to as export credits).

At the open-ended informal consultations that I convened on 19 April 2006, we had a constructive discussion regarding that paper. On that occasion, some Members offered new drafting suggestions or indicated specific points which needed to be further reflected upon. After that meeting it was my intention to revise the Reference Paper to take this discussion into account. At that meeting, I did not detect any disagreement with the approach that we were taking to this issue – namely a "rules" based approach that sought to apply disciplines to various elements of export credit programmes that would have the effect of ensuring that there was no inherent export subsidy element of such programmes (and therefore being consistent with our mandate to phase out all forms of export subsidies).

However, since the date of our last discussion on this issue, two new proposals on export credits have been submitted – JOB(06)/119 and JOB(06)/121. While the former of these two proposals is structured along the approach we have been discussing to-date, albeit with some modifications, the latter takes a very different approach to dealing with this issue than that which we have been working from. Unfortunately, due to time constraints we have not been able to meet as a negotiating group since these new proposals were submitted and for me to hear your thoughts on them, particularly with respect to the newly proposed approach. As such, I am not in a position to make any significant amendments to where we currently stand on this issue. That said, I can not simply ignore this new approach either.

Given the degree of potential change of approach, I do believe that Members must decide quickly on whether the existing approach should be continued or whether to change track. Therefore, in order to provide some sense of how the two approaches differ, in relevant sections I have indicated what the changes would amount to, without attempting to pass judgment. I strongly suggest that Members refer back to both submissions to understand the full detail and implications of both approaches. I would hope to be in a position to convene a meeting specifically on export credits in the near future from which I would hope to hear your views on which track we should be developing, but I cannot stress enough that we must decide quickly.

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<sup>1</sup> The headings used in this reference paper are indicative only.

<sup>2</sup> This is a revision of the Chair's Reference Paper issued on 13 April 2006, under n°2810.

***General***

1. Subject to the provisions of this Article, Members shall not, directly or indirectly, provide support or enable support to be provided for or in connection with, the financing of exports of

*charged, and a determination of the self-financing period. I suggest that Members refer to the actual proposal itself, JOB(06)/121.*

*Alternatively, as set out in JOB(06)/119, should we continue with the existing approach, which includes developing specific disciplines for all relevant elements of export credit programmes which could be considered to convey some form of export subsidy, then as outlined in the previous Reference Paper, we would need to consider the following elements and disciplines set out in paragraph 4*

(e)

*treatment provisions, including, in particular, with respect to the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, provisions for exceptional circumstances and the linkages to existing Agreement on Agriculture provisions relating to export financing (i.e. the provisions of Articles 3.1, 3.3, 8, 10.1 and 10.3) and/or other additional specific anti-circumvention provisions.*

*Of these issues, transparency and notification procedures and exceptional circumstances were discussed in the most recent discussion. I believe that the following needs further consideration.*

***Transparency and notification procedures***

*To this end, it was commented by one delegation that there needs to be a distinction made (within the context of special and differential treatment) between those Members that use export credits, those that receive export credits, and special circumstances. In terms of flexibility for NFIDCs, two possible options were put forward – (i) complete exemption; or (ii) flexibility in the disciplines based on filters (e.g. for basic foodstuffs, the application of a trigger based notification system when a negative effect is occurring, and transparency and notification procedures). Again, we need to have a more detailed discussion of these, and possibly other options so that we can begin to move to something more operational. It is also worth bearing-in-mind that the proponents of this flexibility are quite clear that they themselves do not want to open up a large loophole. Indeed, only a tiny percentage of credits actually go the Members concerned at present and it is therefore important not to lose a sense of perspective on the issue and perhaps unduly over-rate the risk of a "loophole" as a practical matter. Furthermore, I believe that notification and monitoring can go a long way to allaying concerns that provisions would lead to unintended consequences.*

### ***Special Circumstances***

11. More favourable terms for export financing support in respect of exports to developing and least-developed country Members may be provided in exceptional circumstances and in accordance with the following provisions:

In exceptional circumstances where it has been confirmed by [to be developed] that