

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT

Measures to strengthen export credit insurance,
investment protection and promotion
concerning the countries of central and eastern Europe

Proposal for a

COUNCIL REGULATION (EEC)

concerning the establishment of a
reinsurance pool for export credits to
Central and Eastern European countries

(presented by the Commission)

1. Document title

Measures to strengthen export credit insurance, investment protection and promotion concerning the countries of central and eastern Europe

2. Calendar

- a) Discussion in the Commission 7 November 1990.
- b) Transmission to the Council immediately afterwards.
- c) Initial discussion in the General Affairs Council in November 1990.

3. Justification of the calendar

This communication responds to a request put forward by the European Council and should accompany the Communication on negotiating directives for association agreements with the countries concerned.

4. Effects on SME

The measures proposed should be of particular benefit to small and medium enterprises, notably in the area of investment promotion.

5. Financial impact

The reinsurance pool concerns resources allocated by the Member States within the framework of national budgets. Associated administrative expenses for the Commission will be minimal and can be financed from existing budgetary allocations. Investment promotion will be developed within the PHARE framework and, subsequently, within the budgetary provisions for the implementation of cooperation within the framework of the associations agreements.

INTRODUCTION

The European Council at its meeting in Dublin on 28 April 1990 invited the Commission to examine possibilities for appropriate measures to encourage the transfer of private capital to the countries of central and eastern Europe, e.g. through reinsurance or guarantees. In the Commission's Communication to the Council of 27 August 1990, providing a general outline of future association agreements with these countries, reference was made to export credit and to investment promotion and protection as means to stimulate economic reconstruction. The present Communication provides more detailed orientations on these questions and a proposal for a Council regulation concerning the establishment of a reinsurance pool for credits covering exports to central and east European countries.

The Community is committed to supporting the process of economic stabilisation and structural adjustment in the countries of central and eastern Europe both through its own activities and through the coordination of assistance from the Group of Twenty Four.

Recent developments, notably the collapse of the Comecon economic and trade system, the decision to move to hard currency payments among Comecon members, the loss of the GDR market for exports which cannot easily be sold elsewhere, and the Gulf crisis have widened the gap in the external finances of the countries concerned. This gap should be closed, to the greatest extent possible, by flows of direct investment, bringing new technology, business know-how, increased productivity and potential exports. Imports of capital equipment needed to boost production should be increased. But political and economic uncertainties, associated with the transition process, exacerbated by external economic shocks, have restricted trade and investment flows.

A certain number of instruments exist in the Member States to diminish the risks associated with exports and investment by their own enterprises. But in the present climate, which is likely to persist for some time, existing schemes for export credit insurance and for the protection and the promotion of investment have been insufficient to stimulate the flows of trade and investment which are needed for economic reconstruction.

The export credit insurance market in the Community is partitioned, with agencies in each Member State authorised to provide cover only for enterprises established in that Member State. Coordination between national agencies providing export credit insurance is extremely limited. The use of overall resources available in the Community for export credit insurance is, therefore, far from optimal. This increases the price and reduces the availability of cover for exporters and thus distorts competition. In many cases, political and economic risks are judged too great, especially by smaller firms, to induce them to venture into new markets. For this reason, Community exporters may miss potentially profitable business opportunities while enterprises in central and eastern Europe are either deprived of the new equipment they need or obtain it from other sources.

With regard to investment, a network of investment protection agreements, concluded by Member States with the countries of central and eastern Europe, provides a legal framework offering general assurances to potential investors. On this basis, public or private insurers in the Member States are able to cover political risks. But this network is incomplete, putting enterprises in certain Member States at a disadvantage.

Political risk protection is the subject of the convention establishing the Multilateral Investment Guarantee Agency (MIGA), under the auspices of the World Bank, which is intended to supplement national programmes through coinsurance and reinsurance. MIGA provides guarantees against non-commercial risk associated with currency transfer, expropriation, war, revolution and civil disturbance and breach of contract by the host government.

While certain inadequacies in available investment insurance exist, the excess capacity of national agencies, the development of MIGA's operations, and increased competition among private insurers indicate that Community enterprises seeking new ventures in central and eastern Europe can generally obtain the necessary cover. Efforts by the Community to stimulate the flow of direct investment should, therefore, be concentrated on investment promotion. These efforts should complement and reinforce schemes for this purpose underway in the Member States. They should be coordinated with relevant activities of the industrialised countries, the World Bank and other organisations through the Group of Twenty Four.

Within the host countries, the need to improve the investment climate has been widely recognised and efforts are being made to revise investment codes and the broader legal framework for investment. But there is a certain reluctance to offer conditions which would enable foreign investors to acquire assets freely until convertibility and price reform have brought the value of these assets more into line with those prevailing in the industrialised countries.

Under these circumstances, there is scope for the Community to reinforce efforts underway in the Member States to increase the availability of export credit insurance and to strengthen instruments for investment protection and promotion. The forthcoming negotiation of Europe Agreements, establishing association between the Community and the countries concerned, will provide a framework within which these efforts can be developed further.

With respect to export credit insurance, several approaches could be envisaged. The development of a new Community instrument for reinsurance would offer certain advantages but, at the same time, would be difficult to achieve while respecting the principle of subsidiarity. It would also be desirable for export credit agencies in the Member States to bring their cover policies and premiums more into line. But such harmonisation would be difficult to bring about through legislation and should, rather, be the result of increased cooperation. General liberalisation of rules limiting to enterprises established in a particular Member State access to export credit insurance provided by its official export credit agency should be our eventual objective. In the interest of speed, however, and because the immediate requirement is to increase the availability of cover to a group of countries with specific needs, it would be prudent to proceed through a more limited initiative at this stage.

For these reasons, the present Communication puts forward a proposal for a regulation providing for the establishment of a Community reinsurance pool, which respects the principle of subsidiarity and which will bring immediate advantages. Under the terms of this proposal forty per cent of risks to be reinsured will be shared by agencies throughout the Community. In this way risks can be spread, available resources used more efficiently across the Community and the availability of cover increased.

This pool, which responds to the immediate needs for increased trade with the countries of central and eastern Europe, should be a first step towards the further opening of the export credit insurance market in the Community. The Communication refers to a number of additional initiatives which should be further explored with this end in view.

In the area of investment protection, the Community will use the opportunities provided by the present trade and cooperation agreements, and by the Europe Agreements shortly to be negotiated, to press our partners in central and eastern Europe to complete their networks of investment protection agreements with all Member States wishing to conclude them. This will complement the protection provided through MIGA. The present Communication outlines ways in which investment protection and promotion can be further developed, notably through actions by the Community by means of programmes and projects in the PHARE framework.

EXPORT CREDIT INSURANCE

1. Objectives

First, the scope of export credit insurance coverage should be increased, thus extending the possibilities for export financing to the countries concerned. Through the pooling and better diversification of risks borne at present by individual Member States, the range of potentially profitable business opportunities acceptable for insurance cover will increase.

Secondly, risk assessment should be improved. Decentralisation and privatisation in central and eastern Europe, while necessary to achieve economic recovery, make it more difficult for insurers to assess risks properly. Until now only sovereign risks existed, but the reforms bring commercial risks into existence. Under these conditions, reliable information on the financial structure of a given undertaking in central and eastern Europe is difficult to obtain. To tackle this problem, the establishment of improved information systems between national credit insurers is necessary.

Thirdly, export credit insurance should facilitate industrial cooperation within the Community. This is desirable in itself and necessary both to respond to changes in the host countries and to maintain the competitiveness of Community exporters. Better interaction between the insurance systems in different Member States will reduce the administrative costs for enterprises involved in putting together multinational projects.

Fourthly, better cooperation between export credit insurers should help to bring cover policies more into line, thus reducing the competitive disadvantages facing exporters in Member States pursuing more restrictive policies.

2. A Community reinsurance pool

Several of these objectives can be attained through the creation of a Community pool for the reinsurance of credits for exports to central and east European countries. This pool will enable all official credit insurers or insurers acting on behalf of the State in the Community to

- share a given risk with insurers from the other Member States so that coverage can be obtained more easily,
- pool part of the official credit insurers' risk portfolios so that a better spread is achieved within the risk exposure of each national budget,
- coordinate national cover policies as regards the position towards recipient countries and towards individual projects,
- facilitate the extension of cover to consortia formed by Community exporters from different Member States.

This pool, in which all official credit insurers or insurers acting on behalf of the State should participate, will reinsure medium and long term risks assumed by national insurance agencies. Risk sharing will bring about a better spread of risks within each national portfolio. Agencies will swap part of their risk exposure towards an individual country for a pro rata share in the risk. Once the pool is functioning, consideration could be given to the participation in it of private reinsurers.

The annex to this Communication contains a proposal for a regulation to establish the reinsurance pool.

3. Areas for further action

The Council is also invited to approve the following orientations for action to reinforce the above-mentioned proposal:

- The consultation procedure established in 1973⁽¹⁾ should be strengthened, notably by regular reports from Member States on the amounts available for insurance cover and export financing to particular countries.
- Reporting on creditworthiness of potential importers in central and eastern Europe should be improved. The Commission will explore with the authorities of these countries possible joint initiatives to this effect.
- Community rules intended to facilitate industrial cooperation in export business, i.e. rules on subcontracting⁽²⁾ and joint insurance⁽³⁾ should be strengthened.

(1) Council decision 73/391/EEC

(2) Council decision 82/854/EEC

(3) Council directive 84/568/EEC

DIRECT INVESTMENT

1. Objectives

The flow of direct investment from enterprises in the Community to the countries of central and eastern Europe should be increased in order to help overcome their external financing difficulties, to bring new technology and business know-how and to increase productivity and potential exports. Direct investment should also limit further deterioration in the indebtedness of the countries concerned. This form of financing does not increase country debt levels and, more than any other form of support, it directly contributes to the emergence and development of private sector initiatives. In this way, it can help build an entrepreneurial culture adapted to production techniques, industrial standards and business practices in the Community.⁽¹⁾

2. Investment protection

The table attached to this Communication indicates that the network of investment protection agreements between the Member States and the countries of central and eastern Europe is not yet complete. Hitherto, the countries concerned may not have attached a high priority to concluding agreements with Member States with which business contacts were relatively limited. This, however, can create a vicious circle as cover may not be obtainable from state agencies or from private insurers in the absence of such agreements. In the present, more open climate in which investment from all sources is welcome, it should be possible to overcome this problem.

The Community should take full advantage of the fora provided by the cooperation and future association agreements to encourage the countries concerned to complete their network of agreements with all Member States wishing to conclude them.

(1) In this context see also the communication to the Council and the European Parliament on Industrial Cooperation with central and eastern Europe, SEC (90) 1213, 11 July 1990

3. Promotion of insurance and guarantee schemes

Existing facilities to protect direct investment, whether at the Member State or multilateral level, are not always known to enterprises which might have an interest in them. This is particularly the case for small and medium size enterprises (SMEs) not previously active in the markets in question. The Community should, therefore, promote insurance and guarantee schemes through contacts with their potential users.

4. Joint ventures

Although it is becoming increasingly possible for Community enterprises to become majority shareholders or outright owners of firms in central and eastern Europe, the joint venture has particular advantages especially for smaller firms lacking experience in the country concerned. For this reason, the Commission is developing a scheme to be implemented within the PHARE framework, to support such enterprises in

- the identification of possible projects and potential partners
- the preliminaries to establishing a joint venture (feasibility studies, seed money for pilot projects, the construction of prototypes, etc.)
- capital requirements (support for financial institutions which may take shares in joint ventures)
- technical assistance.

5. Strengthening financial services in host countries

Schemes such as those referred to under (4) above can help build up financial institutions and capital markets by channeling resources through financial bodies in the host countries. More generally, Community assistance should focus on the creation of modern banking and insurance services and on the development of stock markets through which equity can be raised. In this way, the investment climate can be improved by providing potential business partners with the services they require.

6. The legal framework for investment

Community businesses considering investment in the countries of central and eastern Europe face uncertainty arising from the macroeconomic environment. But they are also preoccupied by the uncertain state of company law and relevant legislation concerning taxation, the repatriation of profit, property rights and the protection of intellectual property, etc. The Community should provide technical assistance and training in these areas in order to overcome legal obstacles to direct investment.

7. Improved information on business opportunities

The Community has considerable experience in diffusing information among potential business partners, notably SMEs, about investment opportunities. Urgent consideration should be given to the extension of these activities to the countries of central and eastern Europe. This concerns especially fairs and exhibitions, business weeks and data banks on firms seeking partners, and support for chambers of commerce active in these areas. Wherever possible, chambers of commerce from different Member States should be encouraged to work together.

8. Sub-contracting

The countries of central and eastern Europe should be encouraged to adopt the Community's sub-contracting terminology. This will facilitate the search for potential partners within particular sectors.

CONCLUSION

On this basis, the Commission invites the Council to

- approve the orientations contained in the present Communication
- adopt the attached draft regulation.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Community is assisting the process of economic reform in the countries of Central and Eastern Europe,

Whereas this implies the encouragement of capital and trade flows to the countries concerned,

Whereas export credit insurance influences international trade flows and therefore constitutes a powerful instrument of commercial policy,

Whereas differences between the export credit insurance systems in the Member States affect competition between operators in different Member States, and prevent available resources from being used optimally,

Whereas export credit insurance in the Community has therefore to be organised in such a way as to result, through economies of scale and an optimal distribution of risks, in the largest possible availability of insurance for projects eligible for cover according to sound insurance principles,

Whereas it is necessary to base measures aimed at this result on the export credit insurance schemes operating in the Member States on behalf or with the support of the State,

Whereas it is appropriate to improve cooperation between these schemes by establishing a reinsurance pool which shall provide reinsurance for a substantial part of the risks stemming from export transactions with the countries in Central and Eastern Europe,

Whereas such a pool should be operated by the Commission in close cooperation with such credit insurance agencies in the Member States,

HAS ADOPTED THE FOLLOWING REGULATION

Article 1

Export credit insurance, reinsurance and guarantees for exports to countries in Central and Eastern Europe⁽¹⁾ shall be provided according to the modalities laid down in this Regulation.

Article 2

In cases where :

- (a) an export credit insurance agency in a Member State (hereinafter called "agency") grants insurance or reinsurance or provides guarantees for export credits with a duration longer than two years concerning contracts for exports of goods or services, and
- (b) the insurance or reinsurance or the provision of guarantees is carried out on behalf of the Member State or with its support,

40 % of all risks resulting from such operations for the agency shall be redistributed proportionally to such agencies in all Member States according to a formula to be established in accordance with the procedure laid down in Article 5 paragraph 3 and shall be reinsured jointly by all these agencies (European Pool for Export Credit Insurance, the "Pool").

Article 3

- (1) Agencies shall apply for approval of reinsurance as soon as insurance, reinsurance or the provision of guarantees on behalf or with the support of the Member State where the agency is established, is considered for transactions described in Article 2. The application shall be addressed to the Commission and to such agencies in all other Member States.
- (2) An application for reinsurance in accordance with paragraph 1 shall be considered to be approved unless the Commission notifies the agency concerned, within fifteen working days from receiving the application, that this raises serious doubts as to its compatibility with the Community's common commercial policy or sound insurance principles. Before deciding to raise the objections, the Commission may request the observations of the agencies or the competent authorities of the Member States on the application concerned. Likewise, the agencies or the competent authorities of the Member States may also submit to the Commission, at their own initiative, observations or objections on the application concerned. In such a case, the final decision on the application in question shall be taken in accordance with the procedure laid down in article 5, paragraph 2.
- (3) The agency shall refrain from insuring, reinsuring or guaranteeing the portion of the risks not accepted for reinsurance in accordance with the procedure provided for in paragraph 2.
- (4) The detailed rules of procedure to implement this article, the information that the application should contain as well as the cases where reinsurance according to article 2 can be granted without prior approval as set out in paragraph 2 of this article shall be determined in accordance with the procedure laid down in article 5, paragraph 3.

(1) Bulgaria, Czechoslovakia, Hungary, Poland, Romania, Yugoslavia.

Article 4

The agency shall continue to perform all tasks of risk management in relation to the risks for which reinsurance has been approved in accordance with the procedure of article 3, paragraph 2, unless it is otherwise decided in specific cases according to the procedure laid down in article 5, paragraph 3.

Article 5

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event :

The Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication ;

The Council acting by a qualified majority may take a different decision within the time limit referred to in the previous paragraph.

3. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 6

This regulation shall not prejudice the automatic inclusion of certain subcontracts in export credit insurance cover by export credit agencies of the Member States pursuant to Council Decision 82/854/EEC⁽¹⁾, nor the reciprocal obligations of export credit insurance organizations of the Member States acting on behalf of the Member State or with its support, or of public departments acting in place of such organizations, in the case of joint guarantees for a contract involving one or more subcontracts in one or more Member States of the European Communities pursuant to Council directive 84/568/EEC⁽²⁾.

Article 7

This regulation shall enter into force on the 30th day following its publication in the Official Journal of the European Communities. It shall apply from 1 July 1991.

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

(1) OJ L 357, 18.12.1982, p.20

(2) OJ L 314, 4.12.1984, p.24