



UNICE

Union of Industrial and Employers' Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

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UNICE Preliminary Position on OECD NEGOTIATIONS ON PROJECT FINANCE

(Revised OECD Proposal on Project Finance - Doc. TD/ECG(97)8 of 23 Oct. 1997)

UNICE considers that the OECD Consensus on export credits is inappropriate on a number of points for the particular features of project finance and that international rules should therefore be drawn up which are more flexible in some cases than those which currently govern medium- and long-term export credits. In addition, it would appear judicious to seek in this area a level playing-field which prevents the most unacceptable distortions of competition.

Therefore, UNICE supports a mandate for the European Commission to negotiate project finance rules within the OECD based on the following negotiating guidelines:

- Secure amendments to the OECD Arrangement on export credits.
- Seek some flexibility on the maximum credit term, profile of repayment schedules and dates on which repayment of principal is made on the understanding that:
 - * the average term of credits (apart from the manufacturing period) could be extended by up to two years or more, as and when necessary, through reinforced procedures for information and consultation,
 - * any extension of the average credit term should go hand in hand with an increase in the premiums collected.
- Seek an agreement which changes neither the Berne Union definitions for credit starting points nor interest rates (except in the case of conventional power stations in the event of extension of the credit term to the term allowed for nuclear power stations, i.e. 12 years).

Lastly, UNICE is in favour of guidelines which:

- * are as simple as possible,
- * give value to the highly promising and highly operational concept of average life of a loan
- * allow efficient management of procedures,

- * preserve the competitive capacity of EU economic operators in the face of non-EU competition.

UNICE would as well appreciate receiving a reply by the Commission to the two questions raised in the annex.

GENERAL ELEMENTS OF FLEXIBILITY

There is a need to lay down a number of criteria in order to arrive at a clear definition accepted at international level of what constitutes project finance eligible for elements of flexibility. On the whole, the criteria set out in the OECD Secretariat's preparatory documents appear to be satisfactory (see "General Description" and "Essential Criteria").

Regarding the elements of flexibility on offer in the OECD Secretariat's documents, UNICE indicates its preference for option 2 bis which implies the following: deferred amortisation, repayment schedule based on average life of a loan plus an additional repayment period of two years.

Lastly, a non-sectoral approach appears to be the best solution in an initial period to give OECD officials three years to collect and digest experience with a view to defining disciplines which are more sector-specific in due course.

SPECIFIC ELEMENTS OF FLEXIBILITY

1. Credit starting points (CSPs)

UNICE suggests to link the definition of CSPs to the time when projects start to generate cash flows.

In an initial period, i.e. the future agreement's three-year transition and observation period, UNICE believes it useful to organise the question of starting points around the following two-pronged arrangement:

- credit repayment period corresponding to "provisional acceptance" in conformity with the Berne Union rules;
- possibility to defer the first repayments within a certain period.

If at the end of the provisional period of x years it proves necessary to envisage a more sectoral approach, UNICE would then make other proposals taking account of the specific features of particular sectors (telecommunications: date of commissioning of the last tranche, CSPs set at the date of financial completion, cases where the project finance involves separate starts where the latest date for CSPs could be the date that each individual party starts or the mean date of those starting points).

2. Premiums and interest rates

Noting that the general level of premiums relating to project finance is too high at the present time and should be adjusted downwards but without this leading to premium dumping¹, as do the

¹ To this end, there should be a standstill obligation on interest rates.

Participants to the OECD Consensus, UNICE is favourable to premium levels linked in principle to the benchmarks approved in the recent OECD Agreement on premiums and which

would vary to reflect the repayment schedule, the range of risks and the quality of cover offered.

The same applies for interest rates, whose level - which would be set on the basis of "normal" Commercial Interest Reference Rates/CIRRs or special sectoral CIRRs - should depend on the average life of a loan, notably when this term exceeds twelve years.

3. Average life concept

UNICE believes that the repayment profile for project finance should be based on the average life of a loan extended by a specified additional period.

If, in an initial period, UNICE believes it important to aim for simplicity in the experimental apparatus put in place, the system should nevertheless be reviewed at the end of the transition period to take account of sectoral peculiarities (bridges, tunnels, etc.).

4. Capitalisation of constructioned interest

UNICE calls for flexibility in this area: have recourse to the capitalisation of constructioned interest and, subject to prior notification, capitalisation of post commissioning constructioned interest under certain exceptional circumstances.

5. Transparency

UNICE believes that there should be greater transparency in notifications from OECD Participants in order to prevent some excesses, e.g. grant of flexible elements to projects that are not in fact project finance or to project finance which does not meet some of the criteria set out in the future agreement.

However, in return for responsible management by ECAs, UNICE would like to avoid the route of prior approval of notified projects by OECD peers, and to make use of prior notifications involving a discussion phase between the Participants on the basis of the criteria contained in the future agreement.

Conclusions

On the basis of these principles and guidelines, UNICE will support the European Commission in the OECD negotiations of project finance. Given that work on this subject is still on-going, the positions expressed in this document may be supplemented at a later stage, and new questions, in addition to those raised in the annex, may occur.

Annex**Questions for clarification by UNICE**

1. Does the revised OECD proposal on project finance include or does it not include host governments from guaranteeing the liabilities of third parties to the project company or host governments from guaranteeing the purchase by itself of third parties of the goods and services generated by the project or a minimum volume of traffic in infrastructure projects and similar situations?
2. Are large scale refurbishment, investment programs and privatisation of existing companies included or not in the definition of project finance?