Energy Transition
INSIGHTS
SULLIVAN & CROMWELL LLP

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OECD Modernisation of the Arrangement on Export Credits

On March 31, 2023, the Organisation for Economic Co-operation and Development (the "OECD") announced that a landmark modernisation package reforming the Arrangement on Officially Supported Export Credits (the "Arrangement") had been agreed in principle by the participating countries.

The Arrangement is self-described as a "gentlemen's agreement" among its participants – Australia, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland, Türkiye, the United Kingdom and the United States (the "Participants") – that regulates the financing terms and conditions (*e.g.*, repayment terms and minimum premium and interest rates) upon which export credit agencies ("ECAs") from the Participants provide officially supported export credits and tied aid. The objective of the arrangement is to provide a level playing field in order to encourage competition among exporters based on quality and prices of goods rather than on the most favourable officially supported export credits or tied aid provided by ECAs.[1]

Reform of the Arrangement has been widely anticipated by industry participants, particularly as ECAs from the Participants have been called on to play a bigger role in supporting the energy transition and achievement of the UN Sustainable Development Goals.[2]

In an official statement, the Participants stated that the aim of the reform is to (i) create further incentives for supporting a wider range of climate-friendly and green transactions; and (ii) make the Arrangement more flexible to better face challenges posed by the financial needs of projects and the increasing competition from suppliers of export finance of non-Participants such as Brazil, China, India and Russia. The reform is expected to come into effect later this year to allow the Participants time to complete their internal decision-making processes and agree to the new text of the Arrangement.

Key Aspects

Industry participants globally, including sponsors, borrowers, investors and commercial banks, will be interested in the following key aspects of the proposed changes to the Arrangement:

- **Expansion of the scope of "green" projects eligible for longer repayment terms**. The Participants agreed in principle that the scope of projects eligible for longer repayment terms under the Climate Change Sector Understanding ("CCSU") will be expanded to cover (i) environmentally sustainable energy production; (ii) CO_2 capture, storage and transportation; (iii) transmission, distribution and storage of energy; (iv) clean hydrogen and ammonia; (v) low emissions manufacturing; (vi) zero and low emissions transport; and (vii) clean energy minerals and ores. The description of increased scope of CCSU-eligible projects in the official statement is particularly wide. Interested parties will need to wait for the final language in the revised Arrangement to gauge more accurately the impact of the proposed changes.
- **Introduction of more flexible financing terms and conditions**. The maximum repayment term for CCSU-eligible projects will be increased to 22 years for eligible projects (from 18 years), and to 15 years for most other projects (from 8.5-12 years currently). In addition, the reform will introduce scope for further repayment flexibility and the adjustment of minimum premium rates for credit risk for longer repayment terms. These changes are expected to promote development in sectors currently impeded by the existing limitations on the maximum repayment period, such as water, wind and solar sectors.
- **Overhaul of procedure and structure**. The reform package is also intended to involve a simplification of the Arrangement text through streamlined provisions, and a more robust transparency regime and review procedure. No details have yet been provided on the content of these potential reforms.

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ENDNOTES

1 *See* https://www.oecd.org/trade/topics/export-credits/arrangement-and-sector-understandings/ (last accessed on April 14, 2023).

2 *See* the International Chamber of Commerce, Business at OECD and the European Banking Federation's paper: "*Joint Business Position on the Modernization of the OECD Arrangement*", dated November 2019 (https://www.ebf.eu/wp-content/uploads/2019/11/Final-version-Joint-business-position-on-Future-of-OECD-Arrangement.pdf, last accessed on April 6, 2023). *See also* S&C Memo "*Export Finance Updates*", dated March 25, 2022 (https://www.sullcrom.com/files/upload/sc-publication-recent-sustainability-developments-export-financing.pdf, last accessed on April 13, 2023).

Questions regarding the matters discussed in this publication may be directed to Stewart Robertson, Jon Hannah, Sam Saunders, Silvia Brünjes or any Sullivan & Cromwell LLP lawyer with whom you have consulted in the past on similar matters. Additional S&C resources about energy transition matters may be found here. This publication is provided by Sullivan & Cromwell LLP as a service to clients and colleagues. The information contained in this publication should not be construed as legal advice.