

## **REGULATION OF THE MINISTER OF FINANCE**

of 12 December 2001

### **on the implementation of some provisions of the Act on Interest-Rate Support for Fixed-Rate Export Credits.**

Pursuant to Article 7 paragraph 4 of the Act of June 8, 2001 on Interest-Rate Support for Fixed-Rate Export Credits (Dz. U. No 73, item 762) the following is ordained:

#### Chapter 1

##### **General Provisions**

§ 1. The Regulation sets out:

- 1) a scope of the objects of export contracts and other detailed conditions for export credits and export contracts which have to be fulfilled as a prerequisite for covering an export credit by the DOKE Programme,
- 2) the procedure for submission and examination of the applications for a permission to waive the conditions which have to be fulfilled as a prerequisite for covering an export credit by DOKE Programme,
- 3) the cases when credit extended by the bank with the aim of financing local costs may be covered by DOKE Programme, subject to such costs being related to an export contract covered by the Programme.

#### Chapter 2

##### **A scope of the objects of export contracts and other detailed conditions for export credits and export contracts which have to be fulfilled as a prerequisite for covering an export credit by DOKE Programme**

§ 2. 1. An export credit may be covered by DOKE Programme if all of the following conditions are met:

- 1) the object of the export contract are domestic goods or services within the meaning of Article 2, sub-paragraph 13 and 14 of the Act of June 8, 2001 on Interest-Rate Support for Fixed-Rate Export Credits, henceforth referred to as the "Act",
- 2) the foreign buyer is not a party to the export credit contract with the exclusive aim of obtaining more favourable repayment terms than those he would have otherwise obtained,
- 3) the export credit contract provides, subject to § 3, that:
  - a) credit shall be repaid in equal instalments not less frequently than every six months, with the first instalment to be made not later than six months after the starting point of credit,
  - b) interest shall not be capitalised during the repayment period, but shall be payable not less frequently than every six months, with the first payment to be made not later than six months after the starting point of credit,

- 4) a fixed rate of interest on the export credit shall be equal to CIRR, subject to § 3,
- 5) the maximum repayment term for the export credit, subject to § 3, is:
  - a) five years – if the country of destination of export goods or services is in Category I of the country classification by income, published by the Organisation for Economic Cooperation and Development (OECD) for the purposes of the Arrangement on Guidelines for Officially Supported Export Credits,
  - b) eight-and-a-half years – if the country of destination of export goods or services is in Category I of the classification referred to in letter a), subject to the individual notification of an export credit to be made to the OECD by the minister responsible for public finance not later than ten days before a promise to enter into the DOKE Agreement is given,
  - c) ten years – if the country of destination of export goods or services is in Category II of the classification referred to in letter a),
  - d) twelve years – notwithstanding the category of the country of destination of export goods or services, in the case of delivery of complete power stations, not fuelled by nuclear power, as well as of all components, equipment and services directly required for the construction, installation or commissioning of such non-nuclear power stations, subject to the individual notification of an export credit to be made to the OECD by the minister responsible for public finance not later than ten days before a promise to enter into the DOKE Agreement is given.

2. An export credit may be covered by DOKE Programme on the condition that the starting point of credit, at which the repayment term begins, is the date not later than:

- 1) in the case of export contracts for the construction of building facilities, or parts thereof, where the domestic supplier has no responsibility for commissioning, the date when construction has been completed,
- 2) in the case of export contracts for the supply of services, where the domestic supplier has no responsibility for commissioning, the date when invoices have been submitted or the date when the foreign buyer has accepted the services or, if an export contract is carried out in stages, the weighted mean date of acceptance of services by the foreign buyer,
- 3) in the case of export contracts other than those defined in sub-paragraphs 1 and 2, where the domestic supplier has no responsibility for commissioning the domestic goods, the date when the foreign buyer has taken physical possession of goods or, if the export contract is carried out in stages, the weighted mean date of taking the goods into possession,
- 4) in the case of export contracts for the construction of complete plants or factories, where the domestic supplier has responsibility for commissioning, the date when preliminary tests to ensure that a plant or factory is ready for operation have been completed,
- 5) in the case of export contracts other than those defined in sub-paragraph 4, where the domestic supplier has responsibility for commissioning the domestic goods, the date of commissioning,
- 6) in the case of export contracts involving a separate execution of individual parts of a project under the contracts for the construction of complete plants or factories, the date of the starting point of each separate part or, where the domestic supplier has a contract for an essential part of the project, the date when the project has been completed as a whole.

3. A list of Category I countries under the country classification by income referred to paragraph 1, sub-paragraph 5, letter a) is included in Appendix no. 1 to the Regulation.

4. A list of Category II countries under the country classification by income referred to paragraph 1, sub-paragraph 5, letter a) is included in Appendix no. 2 to the Regulation.

5. The manner of calculating the weighted mean date referred to in paragraph 2, sub-paragraphs 2 and 3 is set out in Appendix no. 3 to the Regulation.

§ 3. Detailed conditions for the export contracts and the export credits relating to:

- 1) new sea-going ships or any conversion of such ships are set out in Appendix no. 4 to the Regulation,
- 2) complete nuclear power plants as well as all components, equipment and services directly required for the construction, installation or commissioning of such nuclear power plants are set out in Appendix no. 5 to the Regulation,
- 3) new civil aircraft, helicopters, spare engines and spare parts are set out in Appendix no. 6 to the Regulation.

### Chapter 3

#### **The procedure for submission and examination of the applications for a permission to waive the conditions which have to be fulfilled as a prerequisite for covering an export credit by DOKE Programme**

§ 4.1. The Bank Gospodarstwa Krajowego shall apply to the minister responsible for public finance for granting of a permission referred to in Article 7 paragraph 3 of the Act (henceforth the “permission”) as soon as the application for giving of a promise to conclude the DOKE Agreement has been examined and found to require no amendments or corrections by the domestic supplier, the foreign buyer or the bank.

2. In the application referred to in Article 7 paragraph 3 of the Act (application for a permission), the Bank Gospodarstwa Krajowego shall specify the conditions which may be waived subject to obtaining a permission.

3. The Bank Gospodarstwa Krajowego shall enclose, to the application for a permission, a statement from the domestic supplier, the foreign buyer or the bank, in which the grounds for the application are given.

§ 5. If the requirements set out in § 4 are not fulfilled, the minister responsible for public finance shall call the Bank Gospodarstwa Krajowego to amend the application for a permission within 14 calendar days.

§ 6. The minister responsible for public finance shall:

- 1) refer the complete application for a permission to the minister responsible for the economy promptly after its receipt,
- 2) take the appropriate steps resulting from the international agreements binding on the Republic of Poland.

§ 7. The minister responsible for public finance shall examine the application for a permission within 30 days from the submission of a complete application.

## Chapter 4

### **The cases when credit extended by the bank with the aim of financing local costs may be covered by DOKE Programme, subject to such costs being related to an export contract covered by the Programme**

§ 8. 1. A credit extended by the bank to finance local costs relating to an export contract under DOKE Programme may be covered by DOKE Programme if all of the following conditions are met:

- 1) the country of destination of export goods or services is on the list included in Appendix no. 2 to the Regulation,
- 2) a fixed rate of interest on the credit extended with the aim of financing local costs is not lower than a fixed rate of interest on the export credit covered by DOKE Programme,
- 3) the repayment term for the credit extended with the aim of financing local costs is not longer than the repayment term for the export credit covered by DOKE Programme.

2. If a credit for the financing of local costs is repaid in instalments, a condition for covering such credit by DOKE Programme is to stipulate, in the credit contract, that the credit shall be repaid in equal instalments not less frequently than stipulated in the contract relating to the export credit covered by DOKE Programme.

3. A credit for the financing of local costs may be covered by DOKE Programme only up to the amount of advance payment referred to in Article 3 paragraph 2 of the Act, as stipulated in the contract relating to the export credit covered by DOKE Programme.

## Chapter 5

### **Final provision**

§ 9. The Regulation shall enter into force 14 days after its promulgation.

The Minister of Finance: M. Belka

**LIST OF CATEGORY I COUNTRIES ACCORDING TO THE OECD CLASSIFICATION OF  
COUNTRIES BY INCOME**

Andorra	Guam	Republic of Korea
Anguilla	Hong Kong	Reunion
Antigua and Barbuda	Iceland	Qatar
Argentina	Ireland	Samoa (American)
Aruba	Isle of Man	San Marino
Australia	Israel	Saudi Arabia
Austria	Italy	Seychelles
Azores	Japan	Singapore
Bahamas	Kuwait	Slovenia
Bahrain	Libya	Spain
Barbados	Liechtenstein	St. Kitts and Nevis
Belgium	Luxembourg	St. Pierre and Miquelon
Bermuda	Macao	Sweden
Brunei	Madeira	Switzerland
Canada	Malta	Taiwan
Cayman Islands	Martinique	Turks and Caicos Islands
Cook Islands	Mayotte	United Arab Emirates
Cyprus	Monaco	United Kingdom
Denmark	Montserrat	United States
Faroe Islands	Nauru	Uruguay
Finland	Netherlands	Vatican
France	Netherlands Antilles	Virgin Islands (U.K.)
French Guyana	New Caledonia	Virgin Islands (U.S.)
French Polynesia	New Zealand	
Germany	Northern Marianas	
Greece	Norway	
Greenland	Portugal	
Guadeloupe	Puerto Rico	

**LIST OF CATEGORY II COUNTRIES ACCORDING TO THE OECD CLASSIFICATION  
OF COUNTRIES BY INCOME**

Afghanistan	Gibraltar	Palau
Albania	Grenada	Panama
Algeria	Guatemala	Papua New Guinea
Angola	Guyana	Paraguay
Armenia	Guinea	Peru
Azerbaijan	Guinea-Bissau	Philippines
Bangladesh	Haiti	Pitcairn Islands
Belarus	Honduras	Ross Dependency
Belize	Hungary	Russia (Russian Federation)
Benin	India	Rwanda
Bhutan	Indonesia	Saint Helena
Bolivia	Iran	Saint Lucia
Bosnia and Herzegovina	Iraq	Saint Vincent and the Grenadines
Botswana	Jamaica	Salvador
Brazil	Jordan	Samoa
British Indian Ocean Territory	Kazakhstan	Sao Tome and Principe
Bulgaria	Kenya	Senegal
Burkina Faso	Kiribati	Sierra Leone
Burundi	Korea, Dem Rep.	Slovakia
Cambodia	Kyrgyzstan	Solomon Islands
Cameroon	Laos	Somalia
Cape Verde Islands	Latvia	South Africa
Central African Republic	Lebanon	Sri Lanka
Chad	Lesotho	Sudan
Chile	Liberia	Surinam
China	Lithuania	Swaziland
Colombia	Macedonia	Syria
Comoros	Madagascar	Tajikistan
Congo, Dem. Rep.	Malaysia	Tanzania
Congo, Rep.	Malawi	Thailand
Costa Rica	Maldives	Togo
Cote d'Ivoire	Mali	Tokelau
Croatia	Marshall Islands	Tonga
Cuba	Mauritania	Trinidad and Tobago
Czech Republic	Mauritius	Tunisia
Djibouti	Mexico	Turkey
Dominica	Micronesia	Turkmenistan
Dominican Republic	Moldova	Tuvalu
Ecuador	Mongolia	Uganda
Egypt	Morocco	Ukraine
Equatorial Guinea	Mozambique	Uzbekistan
Eritrea	Namibia	Wallis and Futuna
Estonia	Myanmar (Burma)	West Bank and Gaza
Ethiopia	Nepal	Vanuatu

Falkland Islands  
Fiji  
Gabon  
Gambia  
Georgia  
Ghana

Nicaragua  
Niger  
Nigeria  
Niue  
Oman  
Pakistan

Venezuela  
Vietnam  
Yugoslavia  
Yemen, Rep.  
Zambia  
Zimbabwe

**THE MANNER OF CALCULATING THE WEIGHTED MEAN DATE OF THE TAKING OF GOODS AND SERVICES BY THE FOREIGN BUYER IN THE CASE OF AN EXPORT CONTRACT CARRIED OUT IN STAGES**

To determine the weighted mean date of the taking of goods and services by the foreign buyer in the case of an export contract carried out in stages, the following parameters shall be used:

- 1) the signing date of the export contract,
- 2) the number of days that have elapsed from the signing date to the day when the foreign buyer took possession of goods and services, such number of days being calculated in accordance with the following formula:

$$KW = \frac{\sum_{i=1}^n (T_i * W_i)}{\sum_{i=1}^n W_i}$$

where:

*KW* means the weighted mean number of days that have elapsed from the signing date of the export contract carried out in stages to the starting point of credit,

*T<sub>i</sub>* means the number of days that have elapsed from the signing date of the export contract to the day of delivery *i* of goods or services,

*W<sub>i</sub>* means the value of delivery *i* of goods or services,

*n* means the number of deliveries of goods or services,

*i* means the serial number of each delivery of goods and services (*i* = 1, 2, ..., *n*).

The weighted mean date of the taking of goods and services falls on the *KW*-th day after the signing date of the export contract.



**DETAILED CONDITIONS FOR THE EXPORT CONTRACTS AND EXPORT CREDITS  
RELATING TO NEW SEA-GOING SHIPS OR ANY CONVERSION OF SUCH SHIPS**

The export credit relating to the delivery of new sea-going ships or the conversion of such ships may be covered by DOKE Programme if all of the following conditions are met:

- 1) the foreign buyer is required under the export contract to pay cash advance of not less than twenty per cent of the export contract value before the starting point of credit,
- 2) the export contract meets the conditions laid down in § 2 paragraph 1, sub-paragraphs 1 and 2 of the Regulation,
- 3) the export credit contract provides that:
  - a) credit shall be repaid in equal instalments not less frequently than every twelve months, with the first instalment to be made not later than twelve months after the starting point of credit,
  - b) interest shall not be capitalised during the repayment period, but shall be payable not less frequently than every twelve months, with the first payment to be made not later than twelve months after the starting point of credit,
  - c) a fixed rate of interest on the export credit in the currency for which Commercial Interest Reference Rates (CIRRs) are published shall be equal to eight per cent,
- 4) the maximum repayment term for the export credit is eight-and-a-half years except for vessels transporting liquefied natural gas, for which the repayment term is increased up to ten years, with the option of extending these terms up to twelve years if a permission referred to in Article 7 paragraph 3 of the Act is obtained,
- 5) the conversion concerns a ship of more than 1.000 GRT on condition that conversion operations entail radical alterations to the cargo plan, the hull or the propulsion system.

**DETAILED CONDITIONS FOR THE EXPORT CONTRACTS AND EXPORT CREDITS  
RELATING TO COMPLETE NUCLEAR POWER PLANTS AS WELL AS  
COMPONENTS, EQUIPMENT AND SERVICES REQUIRED FOR THE  
CONSTRUCTION, INSTALLATION OR COMMISSIONING OF  
SUCH POWER PLANTS**

1. The export credit relating to the construction of complete nuclear power plants, or parts thereof, the supply of components and equipment for such power stations as well as the provision of required services may be covered by DOKE Programme if all of the following conditions are met:

- 1) the export contract meets the conditions laid down in § 2 paragraph 1, sub-paragraphs 1 and 2 of the Regulation,
- 2) the export credit contract meets the conditions laid down in § 2 paragraph 1, sub-paragraph 3 of the Regulation,
- 3) the export credit contract provides that:
  - a) the maximum repayment term shall be fifteen years,
  - b) a fixed rate of interest on the export credit shall be equal, subject to letter c), to CIRR plus 75 basis points (one hundred basis points being equal to one per cent), and in the case of export credits in the Japanese yen – plus 40 basis points,
  - c) a fixed rate of interest on the export credit relating to the supply of equipment for nuclear power plants with the repayment term of 10 years shall be equal to CIRR.

2. If there is more than one CIRR for the currency depending on the repayment terms for an export credit, the CIRR for the longest maturity shall be used for the purposes set out in paragraph, 1 sub-paragraph 3, letters b) and c).

3. The conditions laid down in the Appendix do not apply to:

- 1) a credit for the financing of costs associated with:
  - a) land development, roads, construction village, power lines and water supply,
  - b) shunting stations (except for switchyards associated with nuclear power plants),
  - c) official permits and fees,
- 2) a separate credit for the financing of substations, transformers and transmission lines.

**DETAILED CONDITIONS FOR THE EXPORT CONTRACTS AND EXPORT CREDITS  
RELATING TO NEW CIVIL AIRCRAFT, HELICOPTER, SPARE ENGINES AND SPARE  
PARTS**

1. The export credit relating to the delivery of new aircraft or helicopters may be covered by DOKE Programme if all of the following conditions are met:

- 1) the export contract meets the conditions laid down in § 2 paragraph 1, sub-paragraphs 1 and 2 of the Regulation,
- 2) the export credit contract meets the conditions laid down in § 2 paragraph 1, sub-paragraph 3 of the Regulation and provides that the maximum repayment term for export credit shall be:
  - a) ten years for turbine powered aircraft and helicopters with between 30 to 70 seats,
  - b) seven years for turbine powered aircraft and helicopters with less than 30 seats,
  - c) five years for aircraft and helicopters other than those defined in letters a) and b),
- 3) a fixed rate of interest on the export credit is equal to CIRR.

2. An export credit relating to the delivery of new aircraft or helicopters, including new spare engines or new spare parts to such aircraft or helicopters, may be covered by DOKE Programme if all of the conditions laid down in paragraph 1 are met and the price of engines or spare parts is not higher than fifteen per cent of the price of the exported aircraft or helicopters. Where as a result of the contract completion the foreign buyer will have become the owner of more than five aircraft or helicopters of one type, the price of spare engines and parts for the sixth and subsequent aircraft or helicopter of that type may not be higher than ten per cent of the price of such aircraft or helicopter.

3. The export credit contract relating exclusively to new spare engines to aircraft and helicopters may be covered by DOKE Programme if all of the following conditions are met:

- 1) the export contract meets the conditions laid down in § 2 paragraph 1, sub-paragraphs 1 and 2 of the Regulation,
- 2) the export credit contract meets the conditions laid down in § 2 paragraph 1, sub-paragraph 3 of the Regulation and provides that the maximum repayment term shall be:
  - a) eight years where the credit is related to the transaction with a value of more than US \$20 million or that concerning a delivery of a minimum of four new spare engines,
  - b) five years in cases other than those defined in letter a),
- 3) a fixed rate of interest on credit is equal to CIRR.