

COUNCIL DECISION

of 26 January 1965

on consultation procedure in matters of credit insurance, credit guarantees and financial credits

(65/53/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Council Decision¹ of 27 September 1960 setting up a Policy Co-ordination Group for Credit Insurance, Credit Guarantees and Financial Credits;

Having regard to the Council Decision² of 15 May 1962 laying down a procedure for consultation within the Policy Co-ordination Group for Credit Insurance, Credit Guarantees and Financial Credits;

Having consulted the Commission;

Whereas the operation of the Council Decision of 15 May 1962 has shown that certain amendments should be made to the consultation procedure;

HAS DECIDED AS FOLLOWS:

Article 1

For the consultation procedure laid down by the Council on 15 May 1962 there shall be substituted the provisions of the Annex to this Decision.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 26 January 1965.

For the Council

The President

M. COUVE DE MURVILLE

¹ OJ No 66, 27.10.1960, p. 1339/60.

² OJ No 52, 30.6.1962, p. 1561/62.

ANNEX

CONSULTATION PROCEDURE IN MATTERS OF CREDIT INSURANCE, CREDIT GUARANTEES AND FINANCIAL CREDITS

Section I: Scope

1. The granting of export guarantees or credits by the State or by any State body shall be subject to the procedure set out hereinafter in all cases where:

— such granting is linked directly or indirectly to the export of products of the State concerned;
and

— it is proposed to guarantee fully or partially credits having a duration of more than five years calculated from the starting-points as defined by the Berne Union, or to grant such credits, or to depart from any rule or norm adopted by common accord of the Member States of the Community.

2. In accordance with the basic rule laid down in paragraph 1, the present procedure shall apply, in the manner provided for in Section II, in all cases where the State or any State body proposes:

A. to grant a guarantee, whether direct or indirect, full or partial, in respect of:

- any supplier credit;
- any financial credit other than those referred to in paragraph 3 of this Section;
- any line of credit for the supply of products of the State concerned to foreign countries (including cases where the nature of the products has been defined only in general terms) or any individual transaction entered into on the basis of such line of credit;
- any individual transaction entered into on the basis of one of the types of operation set out in paragraph 3 of this Section;

B. to conclude basic agreements concerned solely with the fixing of guarantee limits for supplier credits or for financial credits other than those mentioned in paragraph 3 (A) of this Section, or to grant a guarantee in respect of any individual transaction entered into on the basis of such an agreement.

3. In accordance with the basic rule laid down in paragraph 1, the present procedure shall apply also, in the manner provided for in Section III, in all cases where the State or any State body proposes:

A. to grant a financial credit exclusively out of public funds;

B. to conclude mixed credit agreements, in which public funds are combined with supplier or financial credits from private sources.

Section II: Procedure applicable for operations of the types set out in Section I, paragraph 2

1. *Information to be supplied at the time of consultation*

A. The Group member initiating consultation shall first supply the following items of information:

- (a) country of destination;
- (b) subject matter of the transaction with description giving sufficient details of the operation to permit an appraisal of its nature and size, together with information concerning the value of the transaction compiled by reference to a scale to be drawn up by the Group;
- (c) credit period requested;
- (d) terms and conditions on which the authorities of the exporting country propose to grant credit;
- (e) reasons put forward for granting exceptional terms or conditions.

B. The above information shall be sent as soon as possible after the competent authorities have commenced their consideration of the credit guarantee in question, so that the members of the Group are able to co-ordinate their positions in good time. The exporter or the credit institution concerned shall be asked to consent to the consultation taking place; in the event that such consent is not given the Member States shall undertake to abide, in that particular case, by the practices of the Berne Union or by any rule or norm adopted by common accord of the Member States of the Community.

2. *Recipients of information*

The information required under paragraph 1 of this Section, the comments, if any, submitted by the other members under the provisions of paragraph 3 (A) and the notification provided for in

paragraph 3 (G) shall be transmitted by telex to the recipients designated by each Member State, by the Commission and by the Secretariat of the Councils.

3. *Submission of comments by Group members; consultative meetings*

A. Any Group member having received the initial communication provided for in paragraphs 1 and 2 of this Section may, within seven calendar days:

- request the Group member who communicated the information to provide additional details;
- make comments or reservations;
- request, in the case of an operation which he considers of particular importance, that the problems relating thereto be discussed at a consultative meeting.

B. Where by the date of expiry of the aforementioned period no comment has been made, the Group member who instituted the consultation may assume that the other members of the Group have no objection to the terms and conditions proposed for the operation.

C. Where comments or requests for additional details are in fact made, the Group member who instituted the consultation shall provide the additional information or reply to the comments. This must normally be done within the aforementioned period of seven days.

D. Where, before expiry of the said period, a majority corresponding to the number of Member States consulted minus one expresses an unfavourable opinion on the operation with which consultation is concerned, the consulting Member State shall, except in urgent cases, undertake to defer its decision on such operation until a consultative discussion can be held.

E. The procedure for consultative meetings shall be as follows:

Consultative meetings, which shall take place in a committee of limited size may be held on the occasion of any meeting of the Group or of its subgroups. Meetings shall also be convened, if any Group member so requests, between meetings of the Group or of its subgroups, at the seat of the Secretariat of the Councils.

Group members shall communicate to the recipients referred to in paragraph 2 of this section, if possible four calendar days before the consultative meeting, lists of the matters which they intend to submit for discussion.

F. Without prejudice to the seven-day time limit provided for in A and C or to the undertaking required under D, the Group member who instituted a consultation in respect of which discussion at a consultative meeting was requested shall nevertheless be entitled, as an exceptional measure, to take an immediate decision on the operation proposed, should he consider that such a decision can no longer be delayed.

G. In all cases, the final decision taken in respect of each operation shall be made known to the other members of the Group; where any unfavourable opinions expressed by the Member States consulted were not followed, the notification of such decision shall be accompanied by a statement of the reasons for which the consulting Member State found itself unable to take account of those opinions.

Section III: Procedure applicable for operations of the types set out in Section I, paragraph 3

1. *Prior information*

A. A Member State proposing to grant a financial credit exclusively out of public funds or to conclude a mixed credit agreement shall inform the other Member States and the Commission thereof in advance, such information to include in particular the following items:

- (a) third country concerned;
- (b) description giving the basic terms and conditions of the financial credit or mixed credit agreement which it is proposed to grant or conclude;
- (c) general context of operation.

- B. This information shall be sent as soon as possible after the competent authorities have commenced their consideration of the proposed financial credit or mixed credit agreement.

The information shall be transmitted by telex to the Secretariat of the Councils by the office of the permanent representative of the Member State concerned; the Secretariat of the Council shall forthwith forward such information, also by telex, to the permanent representatives of the other Member States and to the Commission.

2. Consultation

- A. Any Member State or the Commission may, within seven calendar days of receipt of the information required under paragraph 1 of this Section, request oral consultation.

- B. The transmission of such requests shall be effected as provided in paragraph 1 (B) of this Section.

Where oral consultation is requested, it shall take place within the Committee of permanent representatives, and at the first meeting of the Committee held after a lapse of four calendar days from the lodging of such a request.

3. Exceptional cases

- A. Where, in exceptional cases, the granting of a financial credit exclusively out of public funds or the conclusion of a mixed credit agreement is so urgent that it is impossible to apply the procedure laid down in paragraph 1 of this Section, the Member State concerned shall give notification after the event.

Such notification shall be given immediately after the granting of the credit or the conclusion of the mixed credit agreement and may be followed by oral consultation, the procedure for which shall be similar to that laid down in paragraph 2 of this Section.

- B. Where, following the communication of prior information required under paragraph 1 of this Section, a request for oral consultation is made in accordance with the provisions of paragraph 2, such request for consultation shall not oblige the Member State which supplied the information to defer its decision if it considers that in this exceptional instance the decision cannot be delayed.

4. Notification of final decisions

The final decision in respect of the granting of any financial credit exclusively out of public funds within the meaning of this Section or the conclusion of any mixed credit agreement within the meaning of this Section shall be communicated by the Member State concerned, if such notification has not already been given in the exceptional case provided for in paragraph 3 (A).

The communication of this information and its transmission to the other Member States and to the Commission shall be effected as provided in paragraph 1 (B) of this Section.