

**Committee on Agriculture
Special Session**

**CAIRNS GROUP¹ PROPOSAL ON EXPORT CREDITS, EXPORT CREDIT GUARANTEES
OR INSURANCE PROGRAMMES**

The following communication, dated 21 May 2007, is being circulated at the request of the Cairns Group.

**POSSIBLE NEW ARTICLE 10.2 OF THE AGREEMENT ON AGRICULTURE
EXPORT CREDITS, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMMES**

1. General Provisions

1. Subject to the provisions of this Agreement and other WTO Agreements, Members shall not, directly or indirectly, provide support or enable support to be provided for, or in connection with, the financing of exports of agricultural products, including the credit and other risks associated therewith, otherwise than on the following terms and conditions. Nor shall export financing support confer a benefit to the recipient. In implementing these disciplines, each Member will ensure conformity with its exports subsidy commitments as specified in its schedule.

2. Forms and Providers of Export Financing Support Subject to Discipline

2. For the purpose of this Article, the term "export financing support" includes any of the following forms of support for, or in connection with, the financing of exports of agricultural products:

- (a) direct financing support, comprising direct credits/financing, refinancing, and interest rate support;
- (b) risk cover, comprising export credit insurance or reinsurance and export credit guarantees;
- (c) government-to-government credit agreements covering the imports of agricultural products exclusively from the creditor country under which some or all of the risk is undertaken by the government of the exporting country; and
- (d) any other form of governmental export credit support, direct or indirect, including deferred invoicing and foreign exchange risk hedging².

3. The provisions of this Article shall apply to export financing support provided by or on behalf of the following entities, hereinafter referred to as "export financing entities", whether such entities are established at the national or at the sub-national level:

- (a) government departments, agencies, or statutory bodies;

¹ Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand, Uruguay.

² [Definition to be established].

- (b) any financial institution or entity engaged in export financing in which there is governmental participation by way of equity, provision of loans or underwriting of losses; and
- (c) any bank or other private financial, credit insurance or guarantee institution which acts on behalf of or at the direction of governments or their agencies.

3. Terms and Conditions

4. Export financing support shall not be provided so as to confer a benefit to the recipient. Nor shall export financing support be provided otherwise than in conformity with terms and conditions set out below.

- (a) **Maximum repayment term:** The maximum repayment term of export financing support, the period beginning at the starting point of credit³ and ending on the contractual date of the final payment, shall be no more than 180 days⁴ without exception:
- (b) **Payment of interest:** Interest shall be payable. "Interest" excludes premiums and other charges for insuring or guaranteeing supplier or financial credits, banking fees or commissions relating to the export credit, and withholding taxes imposed by the importing country. Each of these components are to be specified separately in the transaction documentation.
- (c) **Minimum interest rate⁵:** The applicable Libor (London Interbank Offered Rate) for the currency in which the export financing support is denominated (not inclusive of and separate from risk-premium, addressed in sub-paragraph (d) below, which is reflective of, as the case may be, the buyer/commercial, country/political and sovereign credit risks covered) plus a fixed margin of 50 basis points to cover the administrative cost of extending such financing shall be applicable in respect of export financing support and in respect of invoiced amounts benefiting from deferred payment under an export contract.

³ The "starting point of a credit" shall be no later than the weighted mean date or actual date of the arrival of the goods in the recipient country for a contract under which shipments are made in any consecutive six-month period.

⁴ In case of non-payment within the agreed re-payment period the exporter shall be entitled to claim indemnification from the export credit agency only within a fixed period of time which shall not exceed [4] months.

⁵ Comment: This paragraph does not yet address the application of this parameter to both credits with fixed and credits with floating interest rates. This issue shall be further elaborated.

- (d) **Premiums in respect of coverage of risks of non-repayment under export financing support:** Premiums shall be charged, shall not be below private market premia, shall fully compensate for the credit risks assumed and shall be adequate to cover operating costs⁶ and losses⁷. Premiums⁸ shall be expressed in percentages of the outstanding principal value of the credit and shall be payable in full at the date of issuance of cover or no later than the end of the month following the month in which the exports are made. Premium rebates shall not be accorded.
- (e) **Risk sharing:** Export financing support shall not exceed 95 per cent of the value of a transaction.
- (f) **Foreign exchange risk:** Export credits, export credit insurance, export credit guarantees, and related financial support shall be provided in freely traded currencies. Foreign exchange exposure deriving from credit that is repayable in the currency of the importer shall be fully hedged, such that the market risk and credit risk of the transaction to the supplier/lender/guarantor is not increased. The cost of the hedge shall be incorporated into and be in addition to the premium rate determined in accordance with this paragraph.
- (g) **Self-Financing:** Export financing support programmes or parts thereof which are subject to the provisions of this Article shall be self-financing. Self-financing shall be considered as the ability of such programmes, or parts thereof, to operate in a manner by which the premiums charged cover all operating costs and losses⁹ over a period of 2 years.
- (h) **Loss preventative measures:** Other than as may be agreed in multilateral *pari passu*, rescheduled debt, debts shall not be rescheduled or otherwise restructured in a manner that results in circumvention of the terms and conditions of this Article.

4. Non-conforming Financing Support and Implementation

5. Export financing support, which does not conform with all the provisions of paragraph 3.4 of this Article or which is provided in circumstances as may otherwise be allowable under Article 3.3 and Article 10 of this Agreement, hereinafter referred to as "non-conforming export financing", constitute export subsidies for the purposes of this Agreement and are therefore to be eliminated within the binding levels of Members' export subsidies elimination Schedules.

5. Transparency

6. Members, excluding least-developed country Members, who operate export financing programmes or parts thereof which are subject to the provisions of this Article shall comply with the following transparency requirements:

- (a) No later than three months after the entry into force of this Article, each Member shall notify the Committee on Agriculture of the following information, for each entity (and programme, if an entity operates more than one export credit programme) providing export financing support. Financing provided in a currency other than the Member's national currency shall be converted to the Member's national currency

⁶ Operating costs shall include administrative costs, the costs of establishing reserves for contingent liabilities and a margin to cover profit

⁷ Operating losses shall include claims paid net of recoveries and shall include restructured and rescheduled debt.

⁸ On all export financing support, including direct credits.

⁹ Operating costs and losses are defined in footnotes 6 and 7 above.

using prevailing market exchange rates at the time the funds were received or disbursed. This notification shall include the following information, by entity (and programme, if applicable): all the measures establishing the export finance programmes, the products to which export financing support may be extended; the maximum repayment period; description of the starting point of credit; identification of applicable minimum interest rates; description of how premium rates are determined and premiums are collected; and description of maximum risk sharing available. Any changes to this information must be notified promptly on an ad hoc basis.

- (b) On an annual basis, for the previous year, by entity (and programme, if applicable), information on (i) the total amounts of export financing support provided and all information necessary to demonstrate compliance with the terms and conditions at paragraphs 3.4(a) to 3.4(h) above and (ii) the total amount of revenue earned from premiums charged; and the total amount of operating costs and losses, as defined in paragraph 3.4(g). If a Member's annual notification for any entity providing export financing support reflects that the total amount of revenue earned from premiums charged is less than the total of operating costs and losses, then the Member shall provide an explanation of the causes of the net loss and planned actions taken towards ensuring that the programme shall be self-financing in accordance with paragraph 3.4(g). In this case, the notification shall include information on specific actions taken to increase premiums, reduce risk exposure, reduce operating costs and/or recover losses. This notification requirement does not diminish the requirement for an export financing programme to comply with the self-financing discipline as specified in paragraph 3.4(g).
- (c) On an annual basis, during the implementation period, [shall be developed in light of the treatment of non-conforming credit during the implementation period in relation to the limits of the Member's export subsidy commitments]
- (d) Notification procedures for export financing support, pursuant to the terms of paragraph 8, provided to Least-Developed and Net Food-Importing Developing Countries shall be as follows: [shall be developed]
- (e) Notification procedures in relation to any more favourable export financing support provided in exceptional circumstances, pursuant to paragraph 9, shall be as follows: [shall be developed]

6. Special and Differential Treatment

7. Special and differential treatment for developing country providers of export credits [shall be developed].

8. Least-developed countries and net food-importing developing countries as listed in G/AG/5/Rev.8 shall be accorded differential and more favourable treatment comprising:

in situations where the Member is experiencing short-term difficulties in financing normal levels of commercial imports of basic foodstuffs, the requirement in 3.4(f) to incorporate the costs of the relevant foreign exchange hedge into the premium rate charged on exports to the Member shall be waived.

9. More favourable terms for export financing support in respect of exports of basic foodstuffs to developing and least-developing country Members may be provided in exceptional circumstances

where there is no private market operating and commercial export finance is not available and the developing country Member's import of basic foodstuffs cannot be covered adequately by food aid, commercial export finance and preferential international financing facilities, the WTO Committee on Agriculture shall review requests¹⁰ against objective criteria¹¹ which must be met in order to decide to waive any of the conditions in paragraphs 3.4(b) to 3.4(g) for a limited period of time. Members shall provide ex ante notifications on the more favourable terms provided in such exceptional circumstances. The maximum repayment term for temporary government financing arrangements in such exceptional circumstances shall not exceed 180 days.

¹⁰ Consultation and review processes for assessing such requests [shall be developed].

¹¹ Objective criteria are as follows: [shall be developed].