

ROADMAP

Roadmaps aim to inform citizens and stakeholders about the Commission's work in order to allow them to provide feedback and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have.

TITLE OF THE INITIATIVE	Public export subsidies (short-term export credit insurance) – extension of EU rules
LEAD DG – RESPONSIBLE UNIT	DG COMP - D3-4-5
LIKELY TYPE OF INITIATIVE	Communication of the Commission
INDICATIVE PLANNING	Q4-2018
ADDITIONAL INFORMATION	https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ:C:2012:392:TOC

This Roadmap is provided for information purposes only and its content might change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Roadmap, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context

The Short-term Export Credit-insurance Communication¹ ("the Communication") aims to give Member States detailed guidance about the principles on which the Commission bases its interpretation of Articles 107 and 108 of the Treaty and their application to export-credit-insurance with a risk period of less than two years ("short-term export credit"). To that end, it lays down a set of conditions that must be fulfilled when State insurers wish to enter the short-term export credit-insurance market for marketable risks.

The rules help to ensure that State aid does not distort competition among private and public or publicly supported export-credit insurers and to create a level-playing field among exporters. The current Communication states that there is a functioning market for insuring commercial and political risks towards buyers located in the countries listed in the Annex to the Communication (so-called "marketable risk countries"; i.e. all EU Member States, AUS, CAN, ICE, JPN, NZ, NOR, CH, US).

The current Communication expires on 31 December 2018.

Problem the initiative aims to tackle

When a producer signs a contract with a foreign buyer and does not ask full payment at the moment of the signature, it runs a credit risk towards the foreign buyer from the moment the production starts until the goods or services are fully paid by the buyer. The current Communication provides guidance about when and under what conditions Member States (public insurers or publicly-supported insurers) can offer insurance against credit risks towards foreign buyers.

The Communication considers that there is a functioning market for insuring "marketable" risks. Hence, the Communication does not allow Member States to offer such insurance products at favourable terms. If a Member State wants to offer such export-credit-insurance, it has to do so on market terms, as defined in the Communication. If Export Credit Agencies behave as market operators and do not enjoy State support, the Communication does not require notification from the Member States when they offer insurance cover for marketable risks.

Conversely, when the Communication considers that there is no functioning market for such products, it allows Member States to offer short-term export-credit-insurance for exports towards other countries (so-called "non-marketable" risks) without any limitation and without any notification requirement.

¹ Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short-term export-credit insurance, OJ 2012/C 392/01. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ:C:2012:392:TOC>

The initiative will not change the current rules, but proposes to prolong them by two years. A two-year prolongation will give the Commission sufficient time for running an evaluation that needs to be conducted for a possible modification of the Communication in 2020.

The two-year prolongation will offer legal certainty to Member States and stakeholders (including export credit agencies) while ensuring level-playing field amongst exporters. The two-year prolongation will also provide the necessary time to evaluate the current framework.

Basis for EU intervention (legal basis and subsidiarity check)

The Treaty provides the Commission with exclusive competences to enforce EU competition rules necessary for the functioning of the internal market (Art. 3.1. (b) of the Treaty). To meet its obligations, the Commission sets out and enforces State aid rules on the basis of Articles 107 and 108 of the Treaty.

The Communication clarifies the rules for export-credit transactions with a credit risk shorter than two years. The basic rule is that, for exports towards another Member State or towards high-income OECD countries, Member States can offer insurance only at market terms since there are several commercial insurers offering such cover. For credit risks related to exports to other countries, the Communication does not impose any limitations on the insurances which can be offered by Member States.

B. What does the initiative aim to achieve and how

The prolongation of the Communication by two years would offer legal certainty to public and private export insurers, as well as to exporters, and continue to ensure that the State-supported insurers do not crowd out commercial insurers for the types of products which the latter are offering. During the prolongation, an evaluation of the Communication will be conducted and the evaluation process will be completed by the end of 2020.

C. Better regulation

Consultation of citizens and stakeholders

Given the limited scope and potential effects of the initiative (a two-year prolongation of the existing Communication), and in view of the fact that no changes are foreseen in the substantive criteria, the Commission does not plan to carry out a full public consultation. However, stakeholders are invited to provide feedback to this Roadmap.

Moreover, in the context of the evaluation process referred to above, a targeted consultation will be planned in order to obtain the view and the experiences of the stakeholders directly involved in short-term export-credit transactions.

Evidence base and data collection

In addition to the Commission's overall experience from its case practice, this prolongation will be based on evidence gathered in the application of the Communication. Over the past years, the Commission has regularly consulted the public on the functioning of the Communication in the context of amending the list of marketable risk countries in the annex in case a country temporarily becomes non-marketable. That mechanism has been used to exclude credit risk related to exports to Greece from the list of marketable risks since 2013. The regular prolongations of the exclusion of Greece involved each time a public consultation. In reply to these consultations, the Commission did not receive any negative feedback as to the general functioning of the Communication. In order to verify and update the evidence base, the Commission plans to carry out an evaluation of the Communication by 2020.