

Unofficial translation

Act on the State's Export Credit Guarantees

(422/2001)

In accordance with a resolution passed by Parliament, the following is enacted:

Section 1 - Purpose of export credit guarantee activities

The purpose of export credit guarantee activities is to strengthen Finland's economic development by promoting exports and the internationalisation of enterprises.

Section 2 - Scope of application

This Act contains provisions on the conditions and principles to be applied to the State's export credit guarantee activities.

Export credit guarantees are granted against the risk of loss arising from exports or from investments carried out abroad.

Section 3 - Definitions

For the purposes of this Act:

(1) *export* means the production, delivery, transport or leasing of goods or services to a foreign buyer or lessee; the transfer of manufacturing rights, industrial rights or copyrights abroad; and the implementation of a planning, installation or building project, or some other work or service or storage of goods, abroad;

(2) *investment* means equity or some other type of financing, production equipment or methods, and other comparable economic interests, which are invested in enterprise activities in the host country;

(3) *export credit guarantee* means an agreement or a commitment undertaken by the State with respect to exports or an investment carried out abroad; such agreement or commitment may take the form of direct insurance or reinsurance, guarantee as for own debt, deficiency guarantee, or some other liability commitment.

Section 4 - Risks to be covered in exports

An export credit guarantee may be granted to compensate for a loss arising from exports in the event that:

- (1) a party to an agreement, the issuer of a commitment or a beneficiary – other than the guarantee holder – acts against, or fails to comply with, the conditions of the agreement or commitment or becomes insolvent.
- (2) an exceptional situation beyond the control of the parties to the agreement, the issuer of the commitment and the beneficiary – such as a statute, a decision or an action taken by the authorities, or a force majeure – prevents a party to the agreement or the issuer of the commitment from meeting the obligations specified in the agreement or commitment.

Section 5 - Risks to be covered in investments carried out abroad

An export credit guarantee may be granted to compensate for a loss arising from investments carried out abroad in the event that an exceptional situation beyond the control of the parties to the agreement, the issuer of the commitment, the beneficiary, the party carrying out the investment, and the project enterprise – such as a statute, a decision or an action taken by the authorities, or a force majeure – prevents a party to the agreement or the issuer of the commitment from meeting the obligations specified in the agreement or commitment or prevents the party carrying out the investment from utilising the investment.

In the case of an investment carried out abroad, an export credit guarantee may, for special reasons, be granted to compensate for a loss arising from financing or guarantees in the form of liabilities, if the loss results from a situation where a party to an agreement, the issuer of a commitment or a beneficiary – other than the guarantee holder – acts against, or fails to comply with, the conditions of the agreement or commitment or becomes insolvent.

Section 6 - Special risk taking

By virtue of authorisation given by the Government for special considerations, an export credit guarantee may also be granted when the risks involved in the export or investment project carried out abroad, in the related financing schemes or in the host country are so great that no export credit guarantee would be granted on the basis of regular risk assessment, or when an export credit guarantee would be granted under exceptional conditions in view of the risk assessment.

Section 7 - Factors to be taken into account when export credit guarantees are granted

The following factors shall be taken into account when export credit guarantees are granted and when the terms and conditions of the guarantees are confirmed:

- (1) international rules and regulations applied to export credit guarantees and binding on Finland;
- (2) international competition factors;
- (3) the environmental impact of the project to be guaranteed, as part of the total risk assessment of the project.

In addition to the provisions of subsection 1, it should be noted that one of the objectives of export credit guarantees is to correct any deficiencies that may exist on the financial market.

Section 8 - Fees

A handling fee may be charged for decisions concerning export credit guarantees. In determining the fee, attention shall be paid to the amount of work and expenses incurred in the handling process.

A premium is charged for export credit guarantees. In determining the premium, attention shall be paid to the duration of the risk period, the creditworthiness of the project enterprise, the credit standing of the host country, other factors affecting the risk to be covered, as well as competition factors.

Section 9 - Hedging arrangements

In order to safeguard the State's interests against the risk of loss arising from the export credit guarantee activities referred to in this Act, provision may be made by means of insurance, security, liability swap agreements and other arrangements (*hedging arrangements*).

Section 10 - Limits on outstanding commitments

The combined liability for export credit guarantees and hedging arrangements shall not exceed 7,900 million euros. However, the liability for the export credit guarantees referred to above in section 6 shall not exceed 700 million euros and the liability for the investment guarantees referred to in section 5(2) shall not exceed 200 million euros.

The liability referred to above in subsection 1 is calculated as follows: the guarantee liability resulting from endorsed export credit guarantees shall be taken into account in full insofar as the guaranteed principal is concerned, without any other sums that might fall due for indemnification, and half of the guarantee liability stemming from binding guarantee offers shall similarly be taken into account insofar as the guaranteed principal is concerned. The liability resulting from hedging arrangements is taken into account at its net value, as laid down in the relevant decree of the Ministry of Trade and Industry.

To calculate the liability referred to above in subsection 1, the currency specified in the guarantee agreement shall be converted to euros by using the rate of exchange quoted by the European Central Bank for the currency in question on the day when the export credit guarantee was granted.

Section 11 - Granting and management of export credit guarantees

The export credit guarantees referred to in this Act are granted and managed by the company referred to in the Act on the State-Owned Specialised Financing Company (443/1998). The company also ratifies the general terms and conditions applied to export credit guarantees, concludes the agreements and commitments referred to in section 3(3), and makes the necessary hedging arrangements.

While handling and managing export credit guarantees, the company shall comply with the provisions of the Act on Administrative Procedure (598/1982) and the Language Act (148/1922).

Section 12 - Publicity and confidentiality

The provisions of the Act on the Publicity of the Authorities' Activities (621/1999) and the provisions in section 5 of the Act on the State-Owned Specialised Financing Company shall apply to the publicity of the company's activities referred to in this Act.

Section 13 - Further provisions

Further provisions on the principles to be followed in export credit guarantee activities shall be issued by Government decree. These principles apply to:

- (1) definition of what is meant by promoting Finland's economic development, as referred to in section 1 (existence of a Finnish interest);
- (2) the prerequisites for covering the commercial risk referred to in section 5(2), insofar as investments carried out abroad are concerned;
- (3) assessment of the environmental impact of export credit guarantee projects;
- (4) fees to be charged for export credit guarantees; and
- (5) other general outlines pertaining to export credit guarantee products, risks and pricing.

Further provisions on the implementation of this Act may be given by Government decree.

Section 14 - Entry into force

This Act enters into force on 1 July 2001.

This Act repeals the Export Guarantee Act (479/1962) issued on 14 September 1962, as amended.

The provisions that were in force when this Act came into effect shall be applied to export credit guarantees granted before the entry into force of this Act.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.