

## **ST Operational Guidelines**

*Adopted at the Short Term Committee meeting in Banff, Canada, 13-14 October 2008*

### **Introduction**

The Berne Union Short Term Committee brings together the key players in the short term export credit insurance business with cutting edge experience in a variety of markets and a variety of products. Members are official export credit agencies of developed and developing economies as well as private market insurers. This synergy attracts many newly established export credit agencies which tap the Berne Union as a first contact to raise their awareness and know-how.

In an increasingly integrated market for goods, services and financial transactions, members are progressively interacting with each other in rendering support, fostering cooperation, partnerships and the development of innovative trade insurance solutions.

It is an important objective of the Berne Union, as noted in its Statutes, to “provide for the exchange of information, assistance, expertise and advice in relation both to the commercial and political risks involved in export credit insurance, to the political risks involved in foreign investment insurance and to the range of associated matters relating thereto”.

As expressed by their Value Statement, Berne Union Members “are committed to operate in a professional manner that is financially responsible, respectful of the environment and which demonstrates high ethical values - all in the best interest of the long-term success of our industry”.

In the framework set by its Statutes and Value Statement, the Berne Union has identified ten Guiding Principles for the activities of its membership in three areas of business: Short term export credit insurance (ST), medium/long term export credit insurance/lending (MLT), and investment insurance (INV). The ten Guiding Principles have been further developed into operational guidelines for the ST field, as set out in this paper. For the purpose of these operational guidelines, ST export credit terms are defined as less than 2 years. The operational guidelines are not legally binding obligations; they reflect and illustrate the behaviours and practices followed by Members pursuant to the Guiding Principles. While the Guiding Principles represent an enduring commitment, the operational guidelines will continue to be monitored, revised, improved and communicated.

## **Guiding Principle 1**

*We conduct our business in a manner that contributes to the stability and expansion of global trade and investment on a sound basis that is in accordance with applicable laws and relevant international agreements.*

### **ST operational guidelines**

- Members are respectful of national and international laws and agreements that affect specific elements of their programmes.
- Members with a government mandate act within the specific mandate/authorisation received from their respective governments and under the auspices of their guardian authorities. Their programmes are defined by their national laws and rules.
- Members with a government mandate adhere to the stipulations of the WTO Agreement on Subsidies and Countervailing Measures which restricts the usage of subsidies in officially supported export credits and credit guarantees.

### **Framework**

Members with a government mandate are bound by the WTO Agreement on Subsidies and Countervailing Measures (ASCM). The general objective of the ASCM is to prevent market distortion and this equally applies to officially supported export credits and credit guarantees. The ASCM makes it a prohibition for agencies running credit guarantee or insurance programmes, to charge premiums which would be inadequate to cover the long term operating costs and losses of the programmes. The ASCM also prohibits official export credits and credit guarantees provided at conditions which would confer a benefit.

Export credit activities are also regulated by other, more specific, sets of international agreements and legislation, key amongst which are those falling within the realm of state support programmes.

## Guiding Principle 2

*We carefully review and manage the risks we undertake.*

### **ST operational guidelines**

- Members review and manage risks starting with careful underwriting, using the best available information on the buyers/borrowers/guarantors/countries, and appropriate risk assessment techniques (i.e. scoring and rating systems).
- Members actively monitor and manage risks in their portfolio through increasingly sophisticated monitoring systems and through the use of reinsurance and/or other risk sharing alternatives. They may also maintain special reserves to cover potential losses and contingent liabilities.

### **Framework**

Assessment, underwriting and management of risks constitute the core business of members, who are continuously refining their risk assessment and risk management techniques in all relevant segments: country and political risk, commercial risk, market risk, operational risk, reputational risk, legal and documentary risk.

Once underwritten, members monitor and measure portfolio risks; they also manage the risks actively, whether they remain on their own books, on their government's accounts or on other stakeholders' accounts. Many members rely upon the use of advanced techniques such as value-at-risk; seek to reinsure their exposure with each other or with re-insurers; protect their exposure through real (or notional) economic capital and reserves, an approach that is also instrumental to constantly measuring the value of their contingent liability and the associated risks (i.e. potential losses).

## **Guiding Principle 3**

*We promote export credit and investment insurance terms that reflect sound business practices.*

### **ST operational guidelines**

- Members apply terms and conditions that reflect best market practices and are conducive to sound underwriting. The Berne Union has defined a set of specific guidelines as listed in the Annex.
- Members support credit terms that take into account the nature of the goods and their economic life / end use, together with generally accepted terms of trade in the respective export market.

## **Guiding Principle 4**

*We aim to generate adequate revenues to sustain long-term operations reflective of the risks we undertake.*

## **Guiding Principle 5**

*We manage claims and recoveries in a professional manner, while at all times recognising the insureds' and obligors' rights.*

### **ST operational guidelines**

- Members maintain open relations with their policyholders on claim and recovery matters and meet all justified obligations in a prompt and satisfactory manner.
- Members, subject to any confidentiality restrictions, share information with each other on exposure, payment delays, defaults and general recovery approaches.
- Members cooperate in sharing information, experiences and best practices in claims handling and recoveries.

### **Framework**

The Berne Union has over the years developed close cooperation on sharing information regarding delayed payments, defaults, claims paid and recoveries, and has established an early warning system. Members, on occasions, benefited from their Berne Union membership which better protected them and their clients from potential default.

Claim payments follow the application of rules defined by individual members. These rules are set in accordance with the conditions of the guarantee/insurance policies of each respective member. In their recovery activities, members act often on behalf of policyholders, in circumstances where the latter have retained an uncovered portion of the risk, thus providing an additional benefit to such policyholders. Members strive to communicate openly with policyholders in order to secure fair, quick and diligent processing of any claim presented.

Subject to any confidentiality restrictions, members share experience, and promote cooperation and new approaches in handling recoveries with a view to being both expeditious and cost effective in their actions, while aiming to secure the best result possible. In recovery situations, members are aware of the different permutations that might arise in a default scenario such as the presence and ranking of various creditors; or international efforts to tackle debt issues, and endeavour to act in a manner that is both protective of their own rights but at the same time acknowledges the need to coordinate with other parties.

## **Guiding Principle 6**

*We are sensitive about environmental issues and take such issues into account in the conduct of our business.*

## **Guiding Principle 7**

*We support international efforts to combat corruption and money laundering.*

### **ST operational guidelines**

- Members conduct their business in an ethical manner and in a way that is intended to deter and discourage unlawful behaviour.
- Members contribute to international efforts to combat bribery of foreign public officials in transactions which they insure.

### **Framework**

The main international agreements regulating corruption matters are the UN Convention on Bribery, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the OECD Recommendation on Bribery that has come into effect at the beginning of 2007, and whose major aim is to raise awareness in combating bribery in international business transactions. In each country, dedicated institutions in accordance with national legislation are active in implementing/pursuing anti-money laundering policies. Specific modalities and efforts depend on national laws and regulations and are applied in different ways depending on the nature of the various members (e.g. banks or companies).

## Guiding Principle 8

*We promote best practices through exchange of information on our activities, policies and procedures, and through the development of relevant agreements and standards, where these are deemed necessary to govern the provision of export credit and investment insurance.*

### **ST operational guidelines**

- Members promote the development and implementation of best practices in the field of export credit insurance in several ways which support and reinforce each other as set out under each respective Guiding Principle.
- Modalities for promoting best practices include:
  - (i) holding meetings for members to explore and exchange information, experiences and views on the full range of professional issues in the business field and establishing an Intranet for the same purposes;
  - (ii) developing agreements and standards such as the Value Statement and the Guiding Principles and reviewing their application and validity over time;
  - (iii) if asked, giving technical input and advice to national regulatory authorities or guardian authorities.

### **Framework**

The practice of the exchange of information has been built up over many years. In the last few years, the Intranet has been established as a main tool for these exchanges. In addition, meetings – general or specialised – provide important forums for face-to-face exchanges between Berne Union members.

Similarly, the history of developing agreements and standards goes back many years. The General Understanding was first established in the 1970s and subsequently amended and expanded several times. The overarching Value Statement was crafted and adopted in 2004, followed in 2006 by the more concrete Guiding Principles in which 10 main Principles are defined. These three documents apply to all Berne Union Members, whether public or private, whether engaged in short or medium/long term export credit insurance or lending or in investment insurance. In addition, when adopting the Guiding Principles for the Berne Union as a whole, it was also agreed to develop specific operational guidelines within each of the business areas – short term export credit insurance (ST), medium/long term export credit insurance/lending (MLT), and investment insurance (INV) – thus replacing the General Understanding.

## **Guiding Principle 9**

*We are committed to furthering transparency amongst members and in the reporting of our overall business activities, reflective of international practices and respectful of the confidentiality of third party information.*

### **ST operational guidelines**

- Members, subject to any confidentiality restrictions, provide information as agreed between them, taking all reasonable steps to ensure that all information given is truthful and complete and supplied in a timely manner.
- Members respect the confidentiality of information and do not divulge it outside the Berne Union without specific prior approval from the member(s) who provided the information. As a matter of principle, only members who provide information may have access to corresponding information from other members.
- All information exchanged is used by members strictly in the pursuit of their activities.
- Members undertake, individually as well as collectively through the Berne Union, to provide information externally to the extent reasonably possible taking into account obligations of confidentiality. As a basic principle, the Berne Union and individual members may only publicise information on an aggregated level, i.e. not detailing data for individual members.
- Members comply with relevant antitrust and competition laws. Information exchange within the Berne Union shall not be used in any way inconsistent with full and fair competition.

### **Framework**

The open and active exchange of information lies at the very heart of the Berne Union. It is one of the main purposes of the Union, as set out in its Statutes.

The exchange of information in the Berne Union serves several purposes: (i) developing best practices for the export credit insurance industry; (ii) monitoring the application and validity over time of best practices, standards, agreements and/or rules; (iii) informing of members' overall business trends and new developments; (iv) broadening members' sphere of experience, identifying members who have special knowledge about specific markets or obligors; (v) providing early warning on problem cases; and (vi) pooling information for external usage. While in the past information exchanges mainly aimed at serving members themselves, more emphasis has been given in recent years on raising the profile of the Berne Union vis-à-vis the outside community.

Information exchanged within the Berne Union consists of (i) underwriting information; (ii) business data reporting; (iii) contributions to Berne Union meetings; and (iv) member scheme and contact details. It is considered essential that members make full use of these opportunities. In particular, every member's full cooperation is needed to ensure that all information available on the Intranet is correct and updated, thus providing members with information which is of high quality and adds real value to members' work.

## Guiding Principle 10

*We encourage cooperation and partnerships with commercial, bilateral, multilateral and other organisations involved in export trade and investment business.*

### **ST operational guidelines**

- Members work towards maintaining constructive relations with stakeholders and seek to enter into discussion or cooperation with other parties among the various stakeholder groups.
- Members look towards market players, IFIs and other private and public organisations as partners in their activities and strive to develop – individually and collectively, for specific transactions or more broadly – a framework for enhanced cooperation.
- Members recognise that the need for partnerships becomes even more crucial at times when the global economy is facing difficulties and coordinated efforts are more valuable.

### **Framework**

The Berne Union and its members work towards maintaining constructive relations with stakeholders. They acknowledge the fact that in many areas members' programmes are unrivalled and need to be made better known to the public. In this respect they also work actively to be more visible and open vis-à-vis stakeholders and the general public. In light of this, the availability and quality of statistics and other information on Berne Union members' activities is of great importance.

The stakeholders of the BU members include the following:

- Governments/ministries;
- Commercial banks and exporting companies;
- The Berne Union Prague Club
- Non-Berne Union Export Credit Agencies or private insurance companies;
- Institutional investors;
- Multilateral organisations, e.g. WTO, OECD;
- IFIs: IMF, the World Bank, regional development banks;
- Industry organisations such as ICISA, PASA and IIF;
- Academic and non profit institutions, NGOs.

## Annex

### ST Members' key underwriting guidelines

For the purpose of these guidelines, short term credit terms are defined as less than 2 years.

#### Starting point of credit

For *raw materials, primary products and semi-manufactures* defined as: materials in their natural or original state prior to processing or manufacture or in an unfinished state prior to further processing or manufacture.

Not later than the actual date of acceptance of the goods/services or the weighted mean date of acceptance of the goods/services by the buyer.

For *consumer goods and consumer services* defined as: goods generally of short economic life intended for consumer consumption and services for consumer use.

Not later than the actual date of acceptance of the goods or the weighted mean date of acceptance of the goods by the buyer; or for services, the date of the submission of the invoices to the client or acceptance of service by the client. There could be a prolonged period over which services are rendered, during which invoices could be submitted or acceptance takes place at regular intervals.

For *consumer durables, including related services* defined as: goods that are intended to remain usable for a relatively long period but are not intended for use in an industrial process.

Also for *parts or components (intermediate goods), including related services* defined as: goods in a finished state which are to be incorporated into quasi-capital or capital goods.

Not later than the actual date of acceptance of the goods or the weighted mean date of acceptance of the goods (including services, if applicable) by the buyer or, for services, the date of the submission of the invoices to the client or acceptance of service by the client. There could be a prolonged period over which services are rendered, during which invoices could be submitted or acceptance takes place at regular intervals.

#### Length of Credit

For *raw materials, primary products and semi-manufactures*: guideline is 6 months but may be longer for certain goods or values.

For *consumer goods and consumer services*: guideline is 6 months but may be longer for certain goods or values.

For *consumer durables, including related services*: guideline is 6 months but may be longer for certain goods or values.

For *parts or components (intermediate goods), including related services*: guideline is 6 months but may be longer for certain goods or values.

#### Downpayments and Repayment Instalments

For credits of less than 2 years, there are no guidelines regarding downpayments and repayment instalments.

For credits 2 years or longer, further guidance can be found in Annex 2 of the MLT Guiding Principles.