The London Coalition

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Practice Note: Restructuring of Export Credit Agency Backed Private Sector Sovereign Loans ('ECA Practice Note')

The London Coalition – Non-Bond Working Group

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Executive Summary

Background

In its 4th Cochairs Report, the Global Sovereign Debt Roundtable ('GSDR') noted that (as compared with debt in the form of bonds) the restructuring of non-bond commercial debt (typically, held by commercial banks), can be lengthy. GSDR participants therefore began to explore ways to facilitate earlier restructuring of non-bond commercial debt and this resulted in discussions with the London Coalition with a view to identifying how sovereign debtors could organize earlier the non-bond commercial debt restructuring process. The non-binding NBWG Implementation Guide to Restructuring Private Sector Sovereign Loans (the 'Implementation Guide'), was welcomed by the GSDR (and referred to in the GSDR Sovereign Debt Restructuring Playbook) and published by the London Coalition in April 2026 with a view to facilitating timely restructuring of commercial bank loans (and other non-bond commercial debt).

The topic of ECA backed loans was referred to in the Implementation Guide and discussions have been held between the official creditor community, the International Monetary Fund ('IMF'), World Bank, the NBWG and other private sector representatives including the Institute of International Finance ('IIF') in connection with the process of sovereign debt restructuring of ECA backed loans[1]. As part of an information gathering exercise associated with these discussions, UK Export Finance ('UKEF') sent out an ECA questionnaire to 27 ECAs globally with a view to deepening the London Coalition's understanding of ECA practices in sovereign debt restructurings[2]. Three broad themes were addressed in the questionnaire, namely: institutional status of the ECAs; types of cover provided; and decision making in a default scenario. In addition, the Paris Club convened a meeting in March 2026 with representatives of the Paris Club, London Coalition, UKEF and with the IIF to discuss ECA backed loans in sovereign debt financings and restructurings.

Overview

Drawing upon those discussions, this Practice Note has been produced to highlight relevant issues for (i) commercial bank personnel with responsibility for ECA backed loans which are brought within a sovereign debt restructuring process; (ii) sovereign debtors and their financial advisers; and (iii) ECAs or others who may have a role in relation to ECA backed loans in co-ordinating responses of other participants in connection with sovereign debt restructurings. It is assumed that the reader has reviewed the Implementation Guide or is otherwise familiar with the areas it covers.

In this sovereign debt restructuring context, the following very broadly based points are worthy of note at the outset (these are all discussed more fully in the detailed descriptions which follow): (i) most ECA-covered commercial claims (whether in the nature of guarantees, insurance or direct lending) will end up being classified by the ECA host country as official claims in a restructuring context (while some ECAs/relevant ECA host countries may not take this approach); (ii) for the ECAs whose covered commercial claims would end up being classified as official, the guaranteed/insured portions of ECA backed commercial loans are classified as official claims when the guarantee/insurance is triggered (which is typically the case in a sovereign debt restructuring); and (iii) in respect of the unguaranteed/uninsured portions of ECA backed commercial loans, the position is diverse as some ECAs and their ECA host country treat these claims as forming part of the Paris Club or Official Creditor Committee Common Framework process[3] while other ECAs and their applicable host country instead requires them to be treated as part of the private sector restructuring.

[1] For the avoidance of doubt, in this Practice Note, references to ECA backed loans do not extend to any financing: (i) with an original maturity of less than one year; or (ii) which constitutes short term trade finance, as both such financings are typically excluded from sovereign debt restructurings.

[2] Responses to the questionnaire were received from 22 ECAs, from both OECD and non-OECD countries.

[3] ttps://clubdeparis.org/en/sites/clubdeparis/accueil/dettes-traitements/traitements/reechelonnement-et-annulations/cadre-commun-et-lecons-tirees.html

This Practice Note does not seek to constrain or standardize how debtor countries, the ECAs (through their respective official bilateral creditors), commercial loan lenders and others seek to restructure export credit backed commercial loans but rather to provide some general guidance based on input from market participants. Whilst it is understood that each country debt restructuring may differ case to case, it is anticipated that this Practice Note will assist in improving efficiency, access to relevant information, co-ordination across creditor groups and participation rates. This Practice Note may need to be refined in the future to take into account further evolution in practice in this field.

Summary of the Note

This Practice Note is divided in six parts, as follows:

- **ECA backed loans** – primarily describing the main products offered by ECAs, the split between the different portions of an ECA supported export contract and the differences in documentary approach and related implications.
- **How IMF policies interact with ECA backed loans** – in particular the clarification of ECA backed claims and the implications of the IMF's financing assurances and lending into arrears policies.
- **Approval of the Paris Club and the Official Creditor Committee ('OCC') for Common Framework countries to the restructuring of ECA backed loans** – in particular the approach to covered and uncovered portions of ECA backed loans, the implications of triggering ECA cover and comparability of treatment.
- **Issues for private sector lenders where ECA backed loans are subject to a sovereign debt restructuring** – and in particular process steps to be taken by such lenders and supporting engagement with ECAs and the debtor.
- **Transparency in connection with ECA backed financings**
- **Documentation and market practice considerations**

1. ECA backed Loans

1.1 What are ECAs?

ECAs are institutions whose principal objective is to support domestic companies in exporting goods and services by reducing financial and political risks of international trade by providing financing, loan guarantees or insurance in additionality to the private market. There is no uniformity as to how ECAs are constituted. They may be constituted as government departments, while others may take the form of quasi-governmental institutions or, in some cases, private companies operating with state support. However, whilst their precise status varies from country to country, most ECAs are state owned or regarded as part of the official sector of the country whose exports they promote (the 'host country').[4]

1.2 Purpose of ECA Support/Involvement

ECA support can be used to: (i) defer payment – enabling an importer/buyer to pay for the relevant goods/services over time rather than on delivery; and (ii) enhance bankability and liquidity – improving the availability and affordability of financing by transferring the underlying risk to the ECA, thereby enabling transactions to proceed on terms that may not otherwise be achievable in the commercial market. ECA support can also address two main structural risks arising in the context of exporting arrangements where appropriate:

- Commercial risk – protecting the exporter/supplier (and lenders) against the risk of non-payment as a result of an event regarding the importer/buyer (e.g. payment default, insolvency, …).
- Political risk – protecting the exporter/supplier (and lenders) against the risk of non-payment as a result of the occurrence of political risks in the importing country (e.g. expropriation risk or political violence).

While the treatment of such risks varies across ECAs, and in some cases may already fall within existing commercial or political risk frameworks, climate-related risks and other risks of events beyond the reasonable control of the importer/buyer which may affect its repayment capacity in export financing arrangements may also be addressed by ECA support.

1.3 Overview: Main ECA Products

There is a considerable variety in the actual products provided by ECAs and the manner in which the applicable support is provided. ECA products address different financing and risk needs arising in international export transactions, such as protecting exporters against payment risk, supporting banks by guaranteeing loans or providing direct lending. The purpose of this Practice Note is not to provide guidance in relation to the manner in which each product provided by each ECA will be treated in a sovereign debt restructuring process, rather it is to draw out the main themes of relevance in the context of a sovereign debt restructuring where ECA backed arrangements are involved.

At a general level, ECAs can offer both 'tied' financing support (i.e. financing linked to a supply of goods or services from the ECA's country) and 'untied' financing support which is not conditional on the procurement of goods or services from the ECA's home country. Over the years many ECAs have entered into multilateral understandings in connection with the ECA products and cover provided in relation to tied financings with a view to providing a level playing field for official support linked to the promotion of host country exports. The most important is the OECD Arrangement on Officially Supported Export Credits (the 'OECD Arrangement'), which became effective in 1978. Its most recent version, of 26 January 2026, is available through the following link: https://one.oecd.org/document/TAD/PG(2026)1/en/pdf.

[4] As mentioned in the 6th GSDR Cochairs Report, a notable specific case is Sinosure for which the Chinese authorities have clarified that, whilst Sinosure is wholly state-owned, Sinosure-backed commercial loans are assessed as commercial, including for the portion that is guaranteed.

The OECD Arrangement has been the main multilateral framework regulating officially supported export credits.

1.4 The split between the different portions of an ECA supported export contract

Risk-sharing mechanisms are commonly associated with ECA support, including minimum downpayment requirements, uncovered portions of the exposure, and other forms of risk retention by market participants. These mechanisms are commonly found in transactions which are both subject to, and not subject to, the OECD Arrangement.

As an example, under the OECD Arrangement, in broad terms, the participants agree that purchasers of goods and services, which are subject to ECA support, must make downpayments of a minimum of 15% of the export contract value at or before the starting point of credit (as defined in the OECD Arrangement). Further, subject to certain exceptions, the participants also agree not to provide ECA support for finance facilities exceeding 85% of the export contract value[5]. Official support for the 15% downpayment is strictly limited and cannot extend to financing the downpayment itself. As a result, the funding of the downpayment, which is financed by an uncovered commercial lender, falls outside the scope of ECA coverage and should be analysed as part of the borrower's broader financing structure.

Moreover, although ECA cover can extend up to 100% of the 85% limit on the export contract value, more commonly in practice this cover ranges from between 90% to just below 100% of the 85% ECA backed component. As a result, even within an ECA backed loan, there is typically a residual uncovered portion retained by the lender. As this residual uncovered portion does not benefit from the ECA cover, it is particularly relevant to commercial lenders during a restructuring process and is referred to in this Practice Note as "Residual Uncovered Portions of the 85% Amounts".

Accordingly, in export credit backed arrangements associated with a single export contract where banks provide all the financing, there may be an ECA backed loan (through, say, an ECA guarantee or ECA insurance) as to 85% of the export contract value (with between 90% to just below 100% of ECA coverage) and a non ECA backed element typically provided through a dedicated commercial loan as to 15% of the export contract value (which is often drawn to cover the downpayment amounts).

In this Practice Note, the non-ECA supported part of such a transaction corresponds to the 15% downpayment falling outside the scope of the ECA (these are referred to as the "15% Downpayment Amount"), while the uncovered portion of the ECA backed loan corresponds to the Residual Uncovered Portion of the 85% Amount that is not covered by the ECA guarantee or insurance.

1.5 Main types of ECA Support

The main types of products provided by ECAs for importers/exporters which have material impact in sovereign debt restructurings include the following:

- Buyer credit – providing financing support to importers/buyers to allow them to purchase the exported goods/services. Whilst an ECA may itself provide finance directly to the importer/buyer, it is more usual for an ECA to provide a guarantee or insurance in favour of commercial bank lenders that provide finance to the importer/buyer.
- Supplier credit – providing financing support to exporters. Often in this case the export contract would provide for deferred payment through the issuance and discounting of bills of exchange or promissory notes (payable at future specified dates) where the obligor is the importer/buyer. Those bills or notes would most of the time then be purchased by the exporter's bank and the ECA would add its guarantee (or even purchase the bills/notes).
- Political risk cover (generally in the form of insurance).

[5] For example, as an exception, countries categorised by the OECD as Low-Income Countries benefitted from a temporary scheme between 2021 and 2024 under the OECD Arrangement, which allowed the increase of the ECA backed financing up to 95% and therefore reduced the minimum required non ECA backed element to 5%.

In addition, there are other products provided by ECAs which tend not to have a material bearing on sovereign debt restructurings. That includes an interest rate subsidy on any loan (or provision of credit) taken on in connection with the exporting arrangements. Broadly, this would involve the ECA compensating the commercial bank lenders for any difference between the interest rate under the loan agreement and the commercial rate. As the focus in a sovereign debt restructuring process is on the obligations of the sovereign debtor (and its public sector), these types of interest subsidy arrangements tend not to fall within the remit of sovereign debt restructurings.

1.6 Documentary Approach

The documentary approach used by an ECA can have significant implications in circumstances where a sovereign debt restructuring proves to be necessary. ECA cover may be structured in the form of a guarantee or insurance.

In the case of a buyer credit arrangement, where commercial bank lenders provide a loan to the importer which is used to fund payments under the contract between the importer/buyer and the exporter, the loan itself may be structured on either:

(i) a disbursement basis (where each drawdown of the loan is paid by the lenders directly to the exporter); or

(ii) a reimbursement basis (where each drawdown of the loan is made to the importer only after the importer has paid the exporter/supplier under the contract).

Each drawdown notice under the loan must typically be accompanied by a qualifying certificate which will confirm that the loan is being drawn to pay for the agreed proportion of the goods/services provided under the underlying export contract between the importer and the exporter/supplier. All such loans will have contractual provisions under which drawdowns are conditional upon no events of default occurring.

Clearly therefore, the use of a disbursement basis vs a reimbursement basis could give rise to different economic outcomes[6] depending on the point at which further drawdowns are suspended. In sovereign debt restructurings of private sector debt, this is often the same as the date on which the sovereign debtor enters into a generalised external debt payment default or announces a moratorium on external debt payments[7]. Also the 'consolidation date' is effectively the starting point of the consolidation period used in the IMF (or, for low-income countries, joint IMF/World Bank) debt sustainability analysis ('DSA') to consolidate the debtor country's total outstanding external debt stock before a sovereign debt restructuring process commences. In general, this process effectively freezes the consolidated external debt stock under consideration for the purposes of a debt treatment. In official bilateral creditors' debt treatments, a cut-off date is generally established during the debtor country's first Paris Club meeting (or the correspondingly first similar meeting under the Common Framework in respect of Common Framework eligible countries). The main purpose is not to deter future lending and, in general, any debt service related to loans (or ECA guarantees/insurance thereof) contracted after the cut-off date is excluded from official bilateral creditor debt treatments. There are obviously advantages in terms of clarity to setting the official bilateral creditor cut-off date and the consolidation period used in the DSA early in the restructuring process.[*]

[6] In general terms, under a disbursement structure, as the timing of each drawdown is typically linked to the delivery schedule, if drawdowns are suspended, the exporter may be left with undelivered goods or services. By contrast, under a reimbursement structure, the importer can only draw funds after it has paid the exporter and so if drawdowns are suspended after it has made (an as yet unreimbursed) payment, the importer will be unable to claim reimbursement.

[7] In any one buyer credit arrangement, the date on which further drawdowns are suspended could be an earlier date if events of default have occurred at an earlier stage.

[*] The concept of cut-off dates is generally only relevant for the official sector's participation in a sovereign debt restructuring process, which is where it impacts ECA backed loans, it may not be relevant for non ECA backed loans or commercial loans more broadly, therefore. Private sector creditors nevertheless typically ask when the cut-off date is.

1.7 Additional Complexity with Project Financing

ECAs may also participate in project financing transactions with other ECAs and other funders (multilateral development agencies for instance). Whilst there are many different structures in this field, the documentary approach used in project financings often follows certain market-based norms which are reflective of the key commercial ingredients in the structure. Classic project financing transactions have limited recourse against the sponsors and therefore lenders (including ECAs) assume all the risks of the project (beyond that limited recourse), whatever their nature. Project financings are often multi-sourced export finance arrangements in which several ECAs participate in the same project alongside other participants (e.g. commercial lenders) (some of whom have no export credit backing). At the centre of a project finance transaction is often a special purpose vehicle ('SPV') in which assets are located and which receives the equity and debt funds needed to finance the project's assets.

The financing documentation will detail the financing terms and conditions agreed between the parties. In this context, typically, at the core of that documentation is the umbrella Common Terms Agreement (setting out in particular the conditions precedent, prepayment conditions, representations and warranties, general undertakings and events of default), complemented by other documents, including the loan facility agreements which contain the individual facility amounts, interest rates and disbursement mechanics, the ECA premium and repayment modalities.

Whatever the debt funding sources (whether there is an ECA loan facility in isolation or whether that ECA loan facility is coupled with some other debt facilities), there is typically a standard security package the form of which may need to reflect the country's legal framework, the industry and other relevant legal, financial or technical parameters. This security package generally includes a security interest over the shares in the SPV, as well as security over the assets of the SPV including the SPV's accounts, contractual rights etc. Recourse against the sponsors is generally limited through the transaction structure.

Generally, it is common practice for all the senior lenders to be dealt with on a pro-rata basis (in relation to repayments for instance) and on a pari-passu basis in relation to the ability to access the security package. The position is different for junior lenders which are subordinated to senior lenders. Most ECAs, would expect to provide their cover in relation to an ECA backed loan facility which forms part of the cohort of senior lenders.

Where a project finance transaction involves several loan facilities, the decision-making process is usually governed by an intercreditor agreement which deals, among other matters, with the ranking of the various facilities' creditors, voting rights of the facilities' creditors (particularly relating to enforcement of security), and the distribution of proceeds. The overall financing may be split for voting purposes into tranches – e.g. a pure commercial bank tranche (not ECA backed), an ECA backed tranche, a project bond tranche etc.

Most such project companies would not fall within the public sector of the country in which the project is taking place (the 'Project Hosting Country'). With respect to some infrastructure projects, particularly in emerging markets, financiers will often require some forms of financial support from a public entity of the Project Hosting Country.

If the economics of such infrastructure projects is based on revenues granted through a concession arrangement entered into by a public authority (such as in Public Private Partnership projects), it is possible for the lenders to obtain recourse against the authority providing the concession and sometimes a comfort letter from the Ministry of Finance (it is very rare for such projects to have full recourse to a public entity).

For these reasons project financings may be impacted by sovereign debt restructurings. Where additional political risk cover is provided and a covered event occurs after completion of a project, there may also at that point be claims which could be brought into a sovereign debt restructuring but that will depend on the arrangements agreed between the Project Hosting Country and any ECA (or their applicable host country) providing such political risk cover.

The documentary approach used in most project financings is complex. Further, ECAs themselves may reinsure or otherwise enter into risk amelioration techniques with third parties (thereby in practice requiring the ECA to discuss any restructuring with the reinsurer or other risk amelioration provider). Most commercial bank lenders would expect to enjoy capital relief under the Basel Framework for their ECA backed exposure and may enter into other unrelated risk amelioration arrangements in relation to (a portion of) any non ECA backed exposure; those arrangements tend to be private and may be partial or layered with separation for first loss and subsequent loss levels. The position with respect to the ultimate risk takers in the context of a sovereign debt restructuring process can therefore also be complex.

In multi-sourced financings involving multiple creditor groups, including ECA backed lenders, commercial lenders, bondholders and hedging providers, the applicable intercreditor arrangements (including any Common Terms Agreement and Intercreditor Agreement) will be of particular importance in determining:

(i) voting thresholds and decision-making processes;

(ii) enforcement rights and standstill arrangements; and

(iii) the allocation of recoveries.

In drafting these provisions, it would be helpful to have regard to how a sovereign debt restructuring (where circumstances mean that is necessary) may affect the potential workability of such intercreditor arrangements given that creditor groups may be subject to different restructuring frameworks (e.g. official bilateral creditors vs private sector creditors).

1.8 Paradigm Transaction

Clearly, the actual structure of ECA involvement in any one instance will directly affect the issues likely to arise in circumstances where a sovereign debt restructuring occurs. In order to allow the main points arising in connection with ECA support in that context to be appropriately highlighted, it is helpful to adopt a simplified paradigm transaction and for the purposes of this Practice Note that is described in broad terms below:

- The exporter of goods/services is based in an OECD country (the OECD-based paradigm transaction is illustrative only, as similar restructuring issues can arise in transactions involving non-OECD ECAs and other official financing arrangements).
- The importer of those goods/services is a public sector entity based in a low income, Common Framework eligible country.
- The lender based in the OECD country makes a loan to the Ministry of Finance of the host government at the request of the importer to finance 85% of the transaction, while the 15% downpayment is funded from the importer's existing own funds, from another commercial lender (without ECA cover), or from the same lender (without ECA cover).
- The lender has the benefit of ECA insurance or a guarantee from the ECA for the OECD country in which the Exporter is based.
- The transaction is subject to the OECD Arrangement on Officially Supported Export Credits.
- ECA cover of 95% of the 85% ECA backed portion of the export contract value is provided by the ECA to the lender.
- The loan is fully drawn.
- As a result of financial distress, the debtor country goes into general payment default and publicly announces a moratorium.
- The debtor country signals that it wishes to have an IMF-supported programme and to enter into a sovereign debt restructuring with its external creditors, including official bilateral creditors, utilising the Common Framework approach.
- The country within which the ECA is located is a Permanent Paris Club member.

2. How IMF Policies interact with ECA backed loans

2.1 Classification of ECA backed loans where debt is being serviced

Under normal circumstances where a sovereign debtor is servicing its debt, the IMF relies on the sovereign debtor's categorisation of debts. In practice, ECA backed debt held by the private sector is often recorded by the sovereign debtor as being commercial in nature, unless and until the ECA cover/guarantee is called.

2.2 Classification in a restructuring scenario

Should the ECA backed claim fall into arrears and the ECA cover is called[8], most claims would be treated as official bilateral debt for IMF purposes (including for purposes of the DSA and application of the arrears policies), if either the ECA is within the ECA host country's budgetary process or the coverage was extended on behalf of the ECA host country.[9] For the latter, the IMF relies in the first instance on the creditor authority's representation.[10]

2.3 The IMF's Financing Assurances and Lending into Arrears Policies

An IMF-supported programme may not be approved, nor any subsequent review completed, unless it is assessed to be fully financed. Any financing gaps need to be filled and the sovereign debtor needs to be in a position to repay the IMF during the applicable period after the end of the IMF-supported programme. In most cases, financing gaps are filled by new financing from the official or private sector. However, where that is not the case, the IMF requires assurances that creditors' claims will be restructured on sufficiently deep terms to restore medium-term viability. These assurances will include ECA backed loans.

Where claims are not in arrears, this requirement is satisfied through the provision of assurances to this effect[11] from the official bilateral creditors and/or through a judgment by the IMF that a credible process for a private-sector debt restructuring is underway.

If the sovereign debtor is in arrears, the application of the IMF's arrears policies provides the requisite assurances that the programme is fully financed.[12]

2.4 Information Related Issues

The IMF information related guidelines will be relevant in this context, particularly in relation to DSA matters[13]. The IMF guidance acknowledges the benefits of information sharing with creditor groups whilst describing in broad terms applicable required consents and confidentiality constraints. The guidance is available through the following link (see Annex VIII):

https://www.imf.org/-/media/files/publications/pp/2024/english/ppea2024053.pdf

[8] In practice following a call on ECA cover, the ECA will effectively become entitled to the underlying debt which has been the subject of the call through mechanisms such as subrogation or assignment.

[9] Please see the IMF's Guidance Note on the Financing Assurances and Sovereign Arrears Policies and the IMF's role in Debt Restructuring dated November 2024 (the "IMF November 2024 Guidance Note").

[10] Please see paragraph 34 of the IMF November 2024 Guidance Note.

[11] The form could be "specific and credible" or through a credible official creditor process – see paragraphs 15 – 18 of the IMF November 2024 Guidance Note.

[12] See the IMF November 2024 Guidance Note; and see paragraph 82 of IMF Policy Paper, Reviews of the Fund's Sovereign Arrears Policies and Perimeter, May 2022.

[13] Whilst the LIC-DSF is conducted jointly between the IMF and the World Bank, information sharing is governed by the separate policies of each institution. The World Bank has its own policies in this area, which are broadly similar to those of the IMF.

3. Approach of the Paris Club and the OCC for Common Framework countries to the restructuring of ECA backed Loans

3.1 Linkage with IMF-Supported Program

Generally, any borrowing country who would like to conclude a debt treatment with its Paris Club creditors or under the Common Framework needs to have an Upper Credit Tranche quality programme with the IMF. If a country does not have such a programme with the IMF, it will need to request one. The country also must have a need for a debt treatment, in the context of the above-mentioned IMF-supported programme. The need for debt treatment and the restructuring envelope required, will be based on an IMF (or, for low-income countries, joint IMF/World Bank) DSA and the participating official creditors' collective assessment, and will be consistent with the parameters of the IMF-supported programme.

Generally, the IMF classifies most ECA covered portions of commercial loans as official bilateral debt in the DSA during a sovereign debt restructuring (but please see section 2.2 for a fuller description)[14]. For Paris Club and Common Framework purposes, it is assumed that the guarantees/insurance will be called and that the official sector will bear the exposure; in many cases, these covered portions under ECA backed financings are ultimately treated alongside other official bilateral claims, while in other cases, they are treated alongside with commercial claims.

3.2 Covered and Uncovered Portions of ECA Backed Loans

When the ECA guarantee/insurance is called, the ECA compensates the insured/guaranteed lender on the covered portion, and the ECA is then usually subrogated to the entirety of its rights, and conducts all recovery actions on behalf of the insured/guaranteed lender. Thus, the covered portions of ECA backed commercial loans are in many cases treated in accordance with the norms for official bilateral creditors for example, through the Paris Club or pursuant to the Common Framework.

In relation to the Residual Uncovered Portions of the 85% Amounts, the debt treatment is often aligned with the public sector treatment. In practice this involves the ECA taking the entire loan through the official bilateral creditor process and distributing the restructured and recovered debt service pro rata to the insured/guaranteed lender.

This can complicate the analytical distinction between official bilateral and private sector debt, as the treatment in restructurings may extend beyond the formally covered share of the ECA backed loan.

In other cases, recovery actions in relation to the Residual Uncovered Portions of the 85% Amounts would be conducted by the commercial lender and thus treated as private sector debt. Accordingly, this would be subject to comparability of treatment (as explained in section 3.7).

3.3 Non-ECA Covered Elements of the ECA Supported Transaction

In relation to the 15% Downpayment Amounts, there is no Paris Club doctrine or Common Framework required approach. In practice two broad approaches have been used:

(i) debt treatment is negotiated separately between the sovereign debtor and the private creditor. In this context, comparability of treatment would apply; and

[14] Classification of ECA backed claims by the Paris Club or under the Common Framework and classification by the IMF of ECA backed claims may not always be aligned (please see paragraph 29 of the IMF November 2024 Guidance Note). The IMF's classification of a claim depends, inter alia, on representations by the ECA host country authorities (as creditor) on whether the claim was extended on behalf of the ECA host country. Classification is also claim by claim, so some ECA guarantees/insurance may be 'official' and others may be 'private'. Please also see the GSDR Compendium available through: https://documents1.worldbank.org/curated/en/099255041526393 92/pdf/IDU-31e1ee4a-13d7-4459-a327-318df5e52762.pdf noting that a one-to-one mapping is not necessary and that differences at the margins have not caused any material complication.

(ii) where the lender of the ECA backed loan for the 85% transaction value is also the commercial lender for the 15% Downpayment Amount, the corresponding commercial loan might be considered similarly to the Residual Uncovered Portions of the 85% Amounts, with its debt treatment potentially being aligned with the public sector treatment (if the public sector treatment is also applied to the Residual Uncovered Portions of the 85% Amounts). This would require coordination with and consent from the commercial lender.

The approach taken in any one case will be determined by the applicable ECA, whose own policies and procedures will be relevant in this context.

In considering the approaches described in sections 3.2 and 3.3, lenders should have regard to:

- the potential for differing recoveries within a single facility;
- the implications for comparability of treatment; and
- the operational complexity of implementing parallel restructuring processes.

In market-based documentary terms, there is currently no uniform market approach to the treatment of Residual Uncovered Portions of the 85% Amounts and the 15% Downpayment Amounts and so early clarification of the intended approach in a restructuring is advisable.

3.4 Timing for Triggering ECA Cover

Whilst the exact contractual framework may vary amongst ECAs, as the sovereign debtor is required to comply with the comparability of treatment principle, guarantees are either triggered at each original maturity date or for the full amount of the guaranteed loan. To ensure that all potential claims are addressed within the official bilateral restructuring, both called and uncalled guarantees can be included in the treatment of official bilateral claims, in anticipation of future calls.

Accordingly, there are two options for the treatment of uncalled guarantees in debt stock treatments. These are (i) the individual instalment restructuring option; and (ii) the acceleration option. The choice of options aims to balance ECA liquidity constraints and the need for comprehensive debt treatment. Under the individual instalment restructuring option, uncalled guarantees remain contingent (at least initially) and are restructured as they are called. The result is to reschedule each future principal and contractual interest instalment individually at the time they are due. Each contractual instalment (including lender margin and, if relevant, default interest) thereby becomes part of the relevant principal on its original due date at the time it is due, to be rescheduled according to the amortisation rate and interest rate defined in the official bilateral restructuring terms, starting from its original due date. Where the acceleration option is adopted, the result is to reschedule the corresponding relevant principal effectively replacing the terms of the contract (amortisation schedule, interest rates, maturity, etc.) with the official bilateral restructuring terms.

The acceleration option may create immediate liquidity pressures for ECAs. In the individual instalment restructuring option, the inclusion of both principal and interest in the debt treatment effectively prevents ECAs from bearing losses on due interest. In some cases, acceleration may be the more attractive option for ECAs looking to reduce long-term costs associated with the payment of the interest rate margin in continuing claims to covered lenders. The objective is to ensure that ECAs are not penalised for providing guarantees while taking into account their liquidity constraints.

In practice, the timing of any call on ECA cover may also have implications under the financing documentation for:

- the identity of the creditor of record;
- the allocation and exercise of voting rights; and
- the applicability of any transfer restrictions or lender eligibility criteria.

3.5 Practical Challenges

The following practical issues may arise in relation to ECA supported financing:

(i) Classification and timing: If a claim has not yet been paid by the ECA, technically the lender remains the creditor of record. In most instances, the ECA would effectively swiftly acquire rights to that claim through subrogation or assignment or some similar process once the ECA has paid the lender under the ECA guarantee or insurance for that claim. This can give rise to the debt claim shifting from categorisation as a private claim (before it is paid by the ECA) to categorisation as an official bilateral creditor claim (once it is paid by the ECA). For DSA purposes, the IMF will regard the ECA backed claim as official bilateral debt as discussed in paragraph 2.2 above. Also, assuming the claim becomes official if and when it becomes a claim of the ECA, (please again see paragraph 2.2 above) it will then become a claim of the ECA which would benefit from IMF's LIOA (as described in paragraph 2.3 above).

(ii) Split treatment of the same facility: A single ECA supported facility can be treated partly as official bilateral debt (with respect to the ECA backed portion, e.g. 85%) and partly as private sector debt (with respect to the Residual Uncovered Portions of the 85% Amounts and/or the 15% Downpayment Amounts).

Where a single financing comprises both ECA covered and uncovered exposures, commercial lenders will need to consider the intercreditor implications arising from differential treatment of such exposures in a sovereign debt restructuring. In particular:

- the potential for differing economic outcomes as between covered and uncovered portions;
- the allocation and exercise of voting rights where part of a lender's exposure is subrogated or assigned to an ECA; and
- the extent to which any existing intercreditor or common terms arrangements adequately address such split treatment.

Early engagement between lenders, facility agents and ECAs is encouraged to mitigate the risk of inconsistent outcomes within a single facility.

(iii) Implementation mechanics: Paris Club and OCC terms are agreed in a multilateral Agreed Minute or MoU but are implemented through bilateral agreements. In many instances the bilateral agreements between the sovereign debtor and individual sovereign creditors give rise to amendments to the underlying loan documentation. This last step is to ensure that ECA subrogation/assignment mechanics and lender rights are respected and that can be important in relation to facilities which are not fully drawn or where later maturities of debt claim (beyond the IMF-supported programme window) are not restructured. Such amendment processes in these instances may also seek to remove potential events of default which have not been called. The amendment process in relation to multi sourced ECA backed project financings can be complex, particularly in relation to the associated security package where issues such as hardening periods and perfection requirements may arise under local law.

From a documentation perspective, such split treatment may require careful analysis of:

- whether voting is to be exercised collectively or separately in respect of covered and uncovered portions; and
- whether any lender consent thresholds are impacted.

3.6 Information Sharing

With the objective of facilitating negotiations and ensuring comparability of treatment between private and official creditors, the Paris Club recognises that the sovereign debtor, if it meets its negotiation strategy, should be allowed to share with its other creditors the main terms of the official bilateral debt treatment and

the three criteria against which comparability of treatment will be assessed during the negotiations (see section 3.7), as soon as it has reached an Agreement in Principle ('AIP') with the Paris Club: (i) to facilitate negotiations on the unfunded portion, to ensure clarity and alignment where the treatment of such amounts is negotiated separately between the sovereign debtor and the private creditor; (ii) to enable the commercial counterpart to anticipate future inflows relating to the uncovered amounts of the ECA backed loan where the treatment of such amounts is taken by the ECA through the official bilateral creditor groups.

The relevant lenders and ECAs should always consider the extent to which confidentiality provisions in financing documents and ECA cover arrangements permit participation in creditor coordination processes, including steering committees, and the sharing of information with other creditor groups, subject to appropriate confidentiality arrangements. For member ECAs, the Paris Club or OCC for the Common Framework is the main vehicle for collective information sharing. ECAs that participate in the Paris Club or OCC for the Common Framework themselves are constrained on how much they can share on these multilateral negotiations with financial counterparties before they are finalised and centrally socialised.

3.7 Comparability of Treatment

The principle of comparability of treatment is applicable in both Paris Club and Common Framework contexts. It requires of the sovereign debtor that private creditors provide debt relief on financial terms which are at least as favourable to the sovereign debtor as the debt treatment terms agreed by official bilateral creditors. For Common Framework requirements see: https://clubdeparis.org/en/sites/clubdeparis/accueil/dettes-traitements/traitements/reechelonnement-et-annulations/cadre-commun-et-lecons-tirees.html

For information on the three criteria used by the Paris Club to assess comparability of treatment (i) change in net present value, (ii) change in duration before and after treatment, and (iii) change in nominal debt service before and after the treatment, see https://clubdeparis.org/en/sites/clubdeparis/accueil/club-de-paris/methodologie.html

4. Issues for Private Sector lenders where ECA backed loans are subject to a sovereign debt restructuring

Against the backdrop described in the preceding sections of this Practice Note, this section 0 is intended to address a number of the practical issues which private sector lenders involved in ECA backed financings may encounter in the context of a sovereign debt restructuring.

4.1 Steps the lender needs to take with respect to ECA cover on announcement of sovereign payment default

The contractual terms of the applicable ECA cover will need to be reviewed. Lender could conduct an analysis of the ECA cover terms, claims procedures and confidentiality restrictions before a default or restructuring materialises to increase preparedness and reduce delays.

For some ECAs, the contractual terms already contemplate the possibility of a sovereign debt restructuring within a Paris Club or Common Framework context, without requiring a case-by-case reassessment.

As for the debt treatment negotiations, some ECAs have clear guidelines to follow which may result in the involvement of other departments within the ECA (e.g. the legal department) or the Ministry of Finance of the host country. Other ECAs adopt the approach used in the Paris Club and co-ordinate with fellow Paris Club members and OCC members. Some ECAs pursue a case-by-case approach. A process to validate the claim often begins (under which the ECA follows applicable internal requirements before making payment).

New ECA cover is typically suspended at this point.

The lenders should consider engaging with the facility agent and other syndicate members at an early stage to assess the implications for facility-level decision making and coordination (as specified in the original loan documentation).

4.2 Review applicable confidentiality provisions in loan agreement and under the terms of ECA cover to determine the extent to which information may be shared by the lender with the ECA

Individual contract review will most likely result in a highly heterogeneous position and may differ where the importer is a state-owned enterprise ('SOE') with or without an express sovereign debtor guarantee.

Where a lender has entered into other (non ECA related) risk amelioration arrangements, those will need to be reviewed as they often contain confidentiality restrictions.

Lenders and ECAs should be encouraged to consider this upfront when entering into risk amelioration arrangement terms. Optional language in the confidentiality provisions could be built in to cater for sharing of information in these circumstances, with provisions in the ECA documents to dovetail.

4.3 Seek to understand in conjunction with the ECA the immediate next steps in terms of payments to the lender under the ECA cover

Practices across ECAs vary. For example, for some ECAs this will be part of their guidelines which would be triggered upon a payment delay and result in a structured claims process. Some ECAs do not have a specific process or guidelines, and approach matters on a case-by-case basis. For some ECAs, the process is set out in the terms of the cover or transaction documentation. Some ECAs contact the importer directly or adopt different approaches. Where the sovereign debtor is approaching the IMF for an IMF-

supported programme and seeking a debt restructuring many ECAs (through their host country Ministry of Finance) will proceed at a multilateral level with other official creditors.

Some ECAs require the lender to take all reasonable measures to mitigate losses.

4.4 Would any payment made by the ECA match the original payment schedule only or could swifter payment from the ECA be made if the lender accelerates the loan?

Practices across ECAs vary. Some ECAs will only pay on terms matching the original payment schedule whereas some ECAs will pay on an accelerated basis. Clearly, budgetary factors will be relevant to the exercise of any such discretion; any reinsurance arrangements which the ECA may have in place are also likely to be relevant in this context.

In some instances, payments from the ECA are made only after a specified waiting period (e.g. 3 months) (as per agreed internal policy) and as set out in the cover terms.

These practical issues and their potential consequences will be relevant in circumstances where a lender may have voting rights associated with acceleration of the loan.

The approach taken may also affect the lender's incentives and decision-making in relation to acceleration and enforcement and may require coordination with other lenders under the financing documents.

4.5 Once a payment has been made to the lender, what rights does the ECA acquire under the Loan?

Generally, ECAs acquire (or can acquire) rights under the loan through subrogation, through express assignment or a corresponding statutory process. Some ECAs require the lender to continue to front the loan (or to take actions specified by it – e.g. voting) on its behalf.

In this overall context it is prudent for lenders to consider the impact on future administration under the loan in conjunction, where applicable, with any syndicate agent. Specifically, the position in respect of: (i) unmatured principal; (ii) interest; (iii) other rights including any rights associated with any collateral or security and the enforcement thereof; and (iv) implications of subrogation/assignment including voting rights (it being expected that in respect of any uncovered parts voting rights would be preserved as per the original arrangements).

Decisions on the prospect of post cut-off date or post consolidation date drawings would also be relevant in this context. In all instances the position with respect to amounts which have been paid by the ECA to the lender and the position with respect to amounts which have not yet been paid by the ECA will need to be considered.

Particular attention should be given to:

- the treatment of voting rights following any subrogation or assignment;
- whether the ECA assumes full lender-of-record status or acts through the originating lender; and
- the interaction with any provisions in the financing documents relating to transfers, disenfranchisement or replacement of lenders.

4.6 What is the process for uncovered amounts under the ECA backed loan?

Practices across ECA vary. There seem to be three broad models: (i) uncovered amounts are entirely separate and need to be dealt with by the lender; (ii) uncovered amounts are dealt with on a case-by-case basis; (iii) the ECA (or the applicable host country) may lead the restructuring negotiations in conjunction with the applicable official creditor committee with respect to both covered and uncovered portions. Each

approach raises different consequential issues. Where (i) or (ii) applies, in practice, comparability of treatment with Paris Club and official bilateral creditors will be relevant.

The OECD Arrangement also requires the 15% Downpayment Amounts to be paid in advance before delivery or disbursement of the loan. This approach then raises the issue of how any such downpayment amounts are financed in practice and, if through the use of loans, where the ultimate risk is likely to fall on a payment default.

Lenders should consider whether the applicable approach is clearly reflected in the financing documentation and whether any amendments are required to ensure consistency of treatment and avoid unintended outcomes.

4.7 Sharing of information in the period prior to OCC/Paris Club MoU being reached, namely in relation to key IMF-supported Programme parameters and during the OCC/Paris Club negotiation phase

In this context, the perimeter of the debt to be restructured as well as the restructuring envelope emanating from the IMF (or, for low-income countries, joint IMF/World Bank) debt sustainability analysis are key and particularly so where the importer is an SOE without an express sovereign debtor guarantee. Further, the IMF information related guidelines are relevant in this context.

Contractual provisions dealing with confidentiality and information sharing in the ECA cover and the loan are also relevant here, and should ideally dovetail at the outset of the financing transaction.

Subject to the above, practices across ECAs seem to vary. Approaches include: (i) no information during the negotiation phase; (ii) a case-by-case evaluation; (iii) information only on a need to know basis during this phase, sometimes extending to a general overview of the status of negotiations upon request; and (iv) information sharing under a structured framework on a strictly confidential basis.

Generally, after official bilateral creditor restructuring terms are agreed, more information can be shared but greater information sharing should lead to better outcomes and less drawn out restructurings.

4.8 Where the ECA backed loan repayments extend over many years (e.g. 15 years), what is the process following a payment default where the ECA does not pay out against any accelerated amounts?

Practices across ECAs vary - often for covered amounts the contractual provisions (and guidelines) of the ECA cover will deal with the position.

The position may differ in relation to covered amounts as compared with uncovered amounts (unless the ECA (or the applicable host country) leads the restructuring negotiations with respect to both covered and uncovered portions).

4.9 Where the Importer is an SOE and there is no express sovereign debtor guarantee can the SOE obligation be replaced with an obligation owed by the sovereign debtor?

The IMF (or, for low-income countries, joint IMF/World Bank) DSA policies will define the restructuring envelope necessary to restore debt sustainability; where the DSA includes an SOE's debt, it will add to the amount of relief needed to restore sustainability. However, the perimeter of a restructuring is determined by the authorities, and may differ from the one in the DSA. The exclusion of claims from the restructuring will increase the effort required on the claims being restructured.

Where SOE debt is restructured, the outcome is typically one in which the restructured debt represents an obligation of the sovereign debtor.

4.10 Following a multilateral official bilateral agreement on restructuring terms (e.g. through an MoU) what is the process for consummating the bilateral agreements?

Practices vary across ECAs (or their applicable host country).

In many instances, the process of finalising the bilateral agreements after an MoU is agreed can be time consuming, partly because of the underlying complexity of what needs to be achieved at the level of individual contracts (please see for example the response in section 4.11 below).

From a documentation perspective, the implementation of restructuring terms may require amendments to financing agreements, including to payment schedules, interest provisions and covenant packages, and may necessitate lender consents in accordance with the applicable voting thresholds. To the extent it may be possible to consolidate such financing agreements, where the parties are the same, consideration could be given to this to quicken the documentation implementation process.

4.11 What is the mechanism used in the bilateral agreements to alter rights and obligations under individual loan agreements or other debt contracts. These will include individual loan agreements or other debt contracts where the ECA has subrogation rights or an express assignment of rights following payment under the ECA cover in favour of the lender?

Practices are likely to vary across ECAs (or their applicable host country).

In some cases, it may be necessary to preserve certain rights under individual loan agreements or other debt contracts (e.g. principal maturities owed to the lender which fall due in 10 years after consummation of the bilateral agreements).

In practice, where an individual loan agreement or other debt contract has existing debt claims owed under it which are restructured and others which are not restructured, the resulting position could give rise to complexity or ambiguity unless specifically addressed. This would be the case for example where an individual loan agreement or other debt contract has later maturities which do not fall within the restructuring perimeter. The position in relation to any post cut-off date or post consolidation date drawings and collateral or security generally would also need to be considered carefully.

4.12 Where an MoU has provisions under which specified sovereign debt obligations arising from the agreed restructuring terms may be altered upon the occurrence of potential future events (e.g. through a debt reinstatement provision) how are those revised payment obligations made to feed through into the lender's position where the ECA (or the applicable OECD country) leads the restructuring negotiations with respect to both covered and uncovered positions?

We would expect ECA practices to vary in this respect.

4.13 Will debt reconciliation be necessary?

Yes. The debtor country and its advisers, the ECA and the lenders should work on debt reconciliation throughout to enable timely negotiation and implementation of the terms of the restructuring agreed by the relevant parties including the treatment of interest.

5. Transparency in connection with ECA backed financings

The benefits of improved transparency and information sharing relating to financial transactions are well known and, in recent years, there have been a number of well-regarded public-sector initiatives designed to enhance transparency in sovereign debt markets. Improved transparency can assist sovereign debtors, creditors and the official sector in assessments of debt dynamics and debt sustainability.

Currently, there is limited publicly available information on ECA backed loans. There is also very little publicly available information on the Residual Uncovered Portions of the 85% Amount. At present, it can be challenging to ascertain, other than voluntarily from the sovereign debtor, the true level of official sector debt levels versus private sector debt levels in any one country case. Consideration could therefore be usefully given to enhancing transparency in relation to ECA backed loans.

6. Documentation and market practice considerations

In the light of the issues outlined above, commercial lenders may wish to consider the following when entering into ECA backed financings:

- inclusion of provisions addressing the consequences of ECA payments, including subrogation and assignment mechanics;
- clarity as to voting rights where exposures are partially covered;
- information sharing practices;
- flexibility to permit amendments required to implement sovereign debt restructuring terms;
- confidentiality provisions that permit participation in creditor coordination processes; and
- alignment of intercreditor arrangements to address potential divergence in treatment between creditor groups.

These considerations may assist in mitigating complexity and facilitating more efficient restructuring outcomes.

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