

58/1995 Coll.

ACT

of 14 March 1995

on Insurance and Financing of Exports with State Support and on Supplement to Act No. 166/1993 Coll., on the Supreme Audit Office, as amended

Amendment: 60/1998_Coll.
Amendment: 188/1999 Coll.
Amendment: 282/2002 Coll.
Amendment: 377/2005 Coll.
Amendment: 23/2006 Coll.
Amendment: 293/2009 Coll.
Amendment: 230/2013 Coll.
Amendment: 220/2015 Coll.

The Parliament has passed the following Act of the Czech Republic:

PART ONE

INSURANCE AND FINANCING OF EXPORTS WITH STATE SUPPORT

Section 1

Title deleted

(1) This Act regulates the state support of exports provided in the form of an export credit risk insurance, officially supported financing and interest make-up in accordance with the law of the European Union¹⁾ and the commitments arising from the membership of the Czech Republic in the World Trade Organization¹⁾.

(2) For purposes of this Act, the export credit risk insurance is understood to mean activities carried out by Exportní garanční a pojišťovací společnost, a. s. (hereinafter only as "Export Insurance Company") which are related to export and are carried out on the basis of authorization awarded by Czech National Bank under Section 3a, namely:

- a) insurance of short-term export credits against non-payment resulting from territorial or combined territorial and non-marketable commercial risks,
- a) insurance of long-term export credits and credits for investments against non-payment resulting from territorial or combined territorial and non-marketable commercial risks, or non-payment resulting from non-marketable commercial risks,
- c) insurance of investments in foreign countries against territorial risks, in particular against the risk of prevention of transfer of returns on investment, expropriation, or politically motivated violent damage,
- d) insurance against losses of exporters and investors related to the preparation and the performance of business activities,
- e) insurance of credits provided to a producer or to an exporter to finance production designated for an export against the risk of non-payment of the credit resulting from inability of the producer or the exporter to comply with the conditions of the export contract,
- f) insurance of bank guarantees or other services provided by the bank of an exporter on behalf of the exporter to a foreign entity against the risk of the exporter's non-performance of its contractual obligations under the export

contract,

g) insurance of risks of exchange rate loss of the Czech crown against foreign currencies arising at the time of payment of an insurance benefit due to the difference in the exchange rate valid at the time of conclusion of the insurance contract and the exchange rate valid at the time of payment of the insurance benefit,

h) reinsurance activity consisting out of undertaking of risks from insurance under clauses a), b) and f) underwritten by foreign credit insurance companies,

i) reinsurance activity vis-à-vis credit insurance companies in relation to the insurance of export against non-marketable territorial and non-marketable commercial risks,

j) insurance and reinsurance of credits to small- and medium-sized entrepreneurs with permanent residence or registered office in the territory of the Czech Republic.

(3) For purposes of this Act, officially supported financing is understood to mean short-term and long-term financing and providing of export credits, credits to finance production for export, credits for investments and project financing and short-term and long-term provision of export-related financial services under the conditions hereof in the form of

a) a refinancing credit

1. to the bank of an exporter and to the bank of an importer to finance export,
2. to the bank of an exporter and to the bank of a producer to finance production for export,
3. to the bank of an investor to finance investments,
4. to the bank of an exporter for project financing,

b) a direct credit

1. to an exporter, to a foreign company or to a foreign entity to finance export,
2. to an exporter and to a producer to finance production for export,
3. to an investor to finance an investment,
4. to an exporter for project financing,
5. to a non-bank company for purchase of exporter's export-related receivables,

c) export-related financial services which include, in particular

1. bank guarantees,
2. opening of letters of credit and system of payments and clearing,
3. hedging transactions,
4. financing of local costs in the country of the importer's registered office or permanent residence.

(4) For purposes of this Act, the interest make-up system is understood to be topping up the difference between the interest determined by the fixed interest rates for export credits provided by the exporter's bank in accordance with the law of European Union and the international rules regulating governmentally supported export credits (hereinafter only as "international rules") with maturity of at least 2 years and the interest determined on the basis of the six-month IBOR interest rate for the currency in which the export credit is provided as announced by Reuters agency two business days prior to the beginning of the period for which the equalization is provided increased by the system margin of the exporter's bank. The level of the system margin of the exporter's bank is determined by the decree of the Ministry of Finance.

Section 2

Definitions of Terms

For the purposes of this Act, it is understood that

a) the investor's bank is the bank, the branch of a bank or the financial institution subject to the authorization regime of the home state and to the supervision by the home supervisory authority regardless of its registered office or place of registration according to a directly applicable regulation of the European Union¹⁵⁾ which provides a credit to an investor or to a foreign entity for the investment,

b) the producer's bank is the bank, the branch of a bank or the financial institution subject to the authorization

regime of the home state and to the supervision by the home supervisory authority regardless of its registered office or place of registration according to a directly applicable regulation of the European Union¹⁵⁾ which provides a credit to a producer in relation to the production of goods or the provision of services designated for subsequent export,

c) the exporter's bank is the bank, the branch of a bank or the financial institution subject to the authorization regime of the home state and to the supervision by the home supervisory authority regardless of its registered office or place of registration according to a directly applicable regulation of the European Union¹⁵⁾ which provides a credit related to export to an exporter or to a foreign entity,

d) a supplier credit is granting a time deferral between performance of an exporter's obligation and the obligation of an importer to pay to the exporter for his performance provided to the importer in accordance with the terms of an export contract,

e) an importer is a foreign entity that carries out import from the Czech Republic,

f) financing the production for export is financing the development or production of goods and services before their export has been carried out,

g) financial services connected with export are activities carried out by Česká exportní banka, a.s. (hereinafter only as "Export Bank") on the basis of a banking license issued in accordance with the special law^{1b)} which relate to the export,

h) financial markets are domestic and foreign money and capital markets,

i) financial resources are funds obtained primarily through the issuance of bonds, sale of bonds or under credit contracts,

j) export value is the price agreed upon in an export contract,

k) an investment means funds or values appraisable in money, or ownership rights expended for a period of at least 3 years by a legal person with the registered seat in the territory of the Czech Republic and who is an entrepreneur pursuant to the Civil Code, or a foreign company in order to establish, acquire or increase its ownership interest in a legal person with its registered seat outside the territory of the Czech Republic or in order to expand the business activities of such legal person,

l) an investor is a person carrying out an investment who is a legal person with the seat in the territory of the Czech Republic and who is an entrepreneur pursuant to the Civil Code or a foreign company,

m) capital markets are domestic and foreign markets on which the maturity of provided financial resources exceeds 1 year,

n) commercial risk is the risk of non-payment of a receivable from an export credit by a foreign private debtor due to his insolvency or unwillingness to pay,

o) local costs are expenses for services and goods which are necessary to be expended in the country of the final destination of an export in accordance with an export contract or a contract between an importer and a foreign entity either in order to carry out an export or to complete the project or the work in which an exporter is participating in connection with an export contract and which expenses shall not be financed under conditions that are more favorable than those under which the export contract shall be financed,

p) a buyer credit is a credit provided for financing of an export contract under a credit contract made between a bank, a branch of a bank or a financial institution^{1b)} subject to the authorization regime of the home state and to the supervision by the home supervisory authority regardless of its registered office or place of registration as a creditor and a debtor the drawing of which is provided to an exporter or to the debtor,

r) other transactions are transactions related to obtaining financial resources to ensure liquidity of the Export Bank, including hedging transactions,

s) outstanding exposure is an aggregate of values of the insured export credit risks from concluded insurance

contracts at their nominal value, including the interest and contractual fees, and from reinsurance activities reduced by the value of risks which had expired and of values of insurance commitment contracts in the amount of 50% of their nominal value,

t) project financing is the provision of a credit which is repaid from revenues and incomes from activities of a foreign entity established for the purpose of implementation of a project,

u) a direct credit is a credit provided by the Export Bank to the producer, exporter, investor or to a foreign entity,

v) a refinancing credit is a credit provided by the Export Bank to the bank of a producer, the bank of an exporter or the bank of an investor,

w) an export contract is a contract concluded by and between the exporter and the importer on export of goods or services, or on export of goods and services,

x) territorial risk is the risk of non-payment of a receivable from an export credit due to extraordinary and accidental events occurred in the country of destination of supplies or in the country from which the settlement of the receivable is to be made, or in a third country, such as unwillingness to pay of a public debtor, a decision of a third country, prohibition of payments (moratorium), impossibility of or a delay in the transfer of funds, a decision of authorities in the country of the debtor, a decision of authorities in the country of an insurer or of an insured and events constituting Force Majeure,

y) non-marketable commercial risks are commercial risks, which cannot be reinsured on the market for private commercial credit reinsurance under the terms offered usually on the international markets,

z) a public debtor is a person who has been authorized to exercise the state power or public administration who cannot be legally declared as being incapable of fulfilling his obligations, other persons are deemed to be private debtors,

aa) a producer is a person who produces goods or provides services designated for a subsequent export, who is either a natural person with the permanent residence in the territory of the Czech Republic or a legal person with the registered seat in the territory of the Czech Republic and who is an entrepreneur pursuant to the Civil Code or a foreign company,

bb) an exporter is a person carrying out export who is either a natural person with the permanent residence in the territory of the Czech Republic or a legal person with the registered seat in the territory of the Czech Republic, who is an entrepreneur pursuant to the Civil Code or a foreign company,

cc) an export means a delivery of goods or provision of services or a delivery of goods and provision of services to an importer pursuant to the export contract for the purpose of their use outside the territory of the Czech Republic,

dd) an export credit is a supplier credit and a buyer credit,

ee) a foreign entity is a natural person who has no permanent residence in the territory of the Czech Republic or a legal person who has no registered seat in the territory of the Czech Republic,

ff) a foreign credit insurance company is a foreign entity providing credit insurance with the support of a member state of the Organization for Economic Cooperation and Development,

gg) hedging transactions are transactions leading particularly to the reduction of currency, interest and other risks,

hh) a bank guarantee is a guarantee issued by a bank or by a savings and credit cooperative societies,

ii) a foreign company is a legal person with the registered seat abroad who is controlled by a legal person having its registered seat in the territory of the Czech Republic and who is an entrepreneur pursuant to the Civil Code, and who participates - directly or indirectly - in the registered capital of such company by more than 50%, or who controls the majority of voting rights attached to the participation in the registered capital of the company, or who can appoint a majority of members of the Board of Directors, Supervisory Board or other similar

managing body of the company,

jj) a credit for the investment is a credit for acquisition of the investment or a credit for operation of the foreign company provided by the investor's bank,

kk) the importer's bank is a foreign bank or other foreign entity which provides to the importer a credit related to an export contract,

ll) a non-banking company is a financial institution as defined in point (26) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 which buys exporter's export-related receivables due in the future.

Section 2a

Provisions of this Act related to banks apply similarly to savings and credit cooperative societies.

Section 3

Conditions for Export Credit Risks Insurance and for Provision of Officially Supported Financing

(1) When insuring export credit risks and providing officially supported financing, the risk of repayment of the export credit is assessed with regard to the creditworthiness of the foreign entity having the position of a debtor and of the country from which the settlement of the receivable is to be made or to which the investment is directed; when providing credits and issuing bank guarantees, the risk of repayment is assessed, in particular, the creditworthiness of a debtor and the ability of an exporter to meet the terms of the export contract.

(2) Provision of officially supported financing is subject to arranging a reinsurance in accordance with Section 8(5), unless the insurance of export credit risks insurable by Export Insurance Company has been undertaken in accordance with Section 1(2).

Section 3a

Awarding of authorization to conduct activity

(1) The provisions of the special law regulating insurance industry regarding the awarding of authorization to perform insurance and reinsurance activities to a domestic insurance company or to a domestic reinsurance company shall apply accordingly to the awarding of authorization to insure and reinsure export credit risks as awarded by the Czech National Bank on the basis of an application, unless otherwise stipulated by this Act.

(2) The Czech National Bank shall decide on the application for authorization under par. 1 within 6 months of the date of its receipt.

(3) The authorization under par. 1 cannot be awarded for performance of insurance and reinsurance activities in a scope other than insurance and reinsurance of export credit risks under this Act.

Section 4

Insurance of Export Credit Risks

(1) The provision of insurance of export credit risks is assigned to the Export Insurance Company. A precondition for the provision of insurance of export credit risks is that the State is the sole shareholder of the Export Insurance Company and shall exercise its shareholder rights through the ministries. Unless otherwise stipulated by this Act, the provisions of the special law regulating insurance industry regarding the provision of non-life insurance and reinsurance and the Czech National Bank's supervision of those activities apply to the Export Insurance Company; for the purposes of supervision under the special law regulating activities of the Czech National Bank, the Export Insurance Company shall be considered an insurance company. Apart from the requirements stated in the Business Corporations Act, the Articles of Association of the Export Insurance Company must contain the prohibition on granting consent to employees with carrying out business or other

form of gainful activities identical with the business activities of the Export Insurance Company.

(2) The Export Insurance Company must not establish any legal persons or acquire any ownership interest in legal entities, with the exception of

a) the Export Bank,

b) an acquisition of an interest in a legal person which is a debtor, however only for the period necessary to ensure recovery of receivables from the debtor,

c) a legal person having as its line of business insurance and reinsurance activity in the class credit insurance and activities connected with the insurance or reinsurance activity pursuant to the special law regulating insurance industry ³⁾, with the exception of insurance pursuant to this Act; a prior consent of the Ministry of Finance is required for establishment of such legal person. The official support of export pursuant to this Act shall not apply to this legal person.

(3) Funds for export credit risk insurance shall be made up of allocations from the distribution of profits of the Export Insurance Company and by subsidies from the State budget designated for the creation of such funds. The subsidies from the State budget shall be provided in dependence on the development of outstanding insurance exposure and they shall become a permanent part of these funds. Reserves shall be created in accordance with special legal regulations governing the creation of reserves for insurance companies and for the purpose of determining the basis for income tax ^{5a)}, where the Export Insurance Company shall create a separate equalization reserve for insurance of export credit risks according to Section 1 (2). The Export Insurance Company shall manage these funds and reserves separately from other provisions and funds.

(4) When insuring export credit risks, the Export Insurance Company shall submit the basic economic parameters of individual newly introduced types of export credit risk insurance to the Ministry of Finance for approval, particularly their business plans; while at the same time it shall ensure an economically efficient use of subsidies from the State budget and of the State guarantee.

(5) The Export Insurance Company must not accept for insurance export credit risks which would exceed its insurance capacity. The insurance capacity is understood to be the upper limit of outstanding insurance exposure from concluded insurance contracts and insurance commitment contracts, by which the Export Insurance Company can be contractually bound for the period ending at the end of a given calendar year. The State budget for the given year shall set out the amount of the insurance capacity of the Export Insurance Company, as well as the amount of the subsidy from the State budget for topping up the insurance funds. The Ministry of Finance shall set out in a legal regulation the procedure for calculating insurance capacity, which shall be based on the total value of export credit risks covered by valid and by processed insurance contracts and insurance commitment contracts, on the expected additions to the insurance funds from the distribution of profits, on changes in the technical reserves of the Export Insurance Company and from breakdown of the insurance contracts and insurance commitment contracts already in existence and those being processed by the risk rate.

(6) The Export Insurance Company may insure individual export credit risks for up to 20% of the insurance capacity as it was set for the year, in which the insurance of the given risk is undertaken. With the consent of the Minister of Finance and the Minister of Industry and Trade, the Export Insurance Company may insure an individual export credit risk for up to 40% of the insurance capacity. Individual credit risks exceeding 40% of the insurance capacity may be insured by the Export Insurance Company with the consent of the Government.

(7) The Ministry of Finance shall set out in a legal regulation the procedure for the creation of the funds mentioned in paragraph 3, the ratio between the amount of reserves and funds mentioned in the par. 3 and the size of outstanding insurance exposure, and the Export Insurance Company's share in the insurance benefits paid with the use of such reserves and funds. For insurance transactions with an extraordinary high insurance risk, the Ministry of Finance shall stipulate by a legal regulation differently from the determination of the ratio mentioned in the first sentence, the ratio between the amount of reserves and funds as mentioned in paragraph 3 and the amount of outstanding insurance exposure and the Export Insurance Company's share in the claims paid from these provisions and funds. The extraordinary high insurance risk for the purposes of this Act is understood to be normally uninsurable insurance risk ^{5b)} arising from territorial and combined commercial and territorial risks and the risk of non-payment of the credit as a result of inability of a producer or exporter to fulfill the terms and

conditions of an export contract in which there is national economy interest of the state in its fulfillment.

(8) Annually, the Export Insurance Company shall submit information regarding export credit risk insurance to the Chamber of Deputies of the Parliament of the Czech Republic. This information shall contain, in particular:

- a) data on the Export Insurance Company, primarily its registered capital, changes in the composition of ministries exercising shareholder rights of the State, changes in the composition of its Board of Directors and Supervisory Board, and, further, the balance sheet of the Export Insurance Company,
- b) data on providing export credit risk insurance, primarily an analysis of this insurance, including a breakdown by territory and sector, the use of funds received from the State budget, further, data on the relationship between demand for this insurance and the insurance capacity of the Export Insurance Company, as well as data on the expected development of this insurance.

Section 4a

Conditions of Activities of the Export Insurance Company

(1) The Export Insurance Company may perform insurance and reinsurance activities only within the scope of the authorization awarded by the Czech National Bank under Section 3a.

(2) The provisions of the special law regulating insurance industry shall not apply to the activities of the Export Insurance Company regarding

- a) assessment of persons with a participation in the Export Insurance Company and its changes,
- b) assessment of the origin and sources of assets or other financial resources of the Export Insurance Company,
- c) insurance of the insurance risk in non-life insurance beyond the scope of the awarded authorization,
- d) establishment of a branch on the territory of another member state or on the territory of another member state and the freedom to provide services on a temporary basis.

(3) Shortage of capital available for fulfilment of the solvency capital requirement is replaced with a state guarantee for obligations of the Export Insurance Company. The amount of the primary capital under the special law regulating insurance industry must allow permanent fulfilment of its obligations and its amount must not fall below 30% of the value of the solvency capital requirement; the minimum capital requirement under the special law regulating insurance industry shall not exceed 30% of the solvency capital requirement of the Export Insurance Company.

Section 4b

Exercise of Supervision

(1) The object of the Czech National Bank's supervision of the Export Insurance Company's activities is the fulfilment of the conditions of the authorization awarded under Section 3a and of the conditions imposed on performance of insurance and reinsurance activities by the special law regulating insurance industry and by other legal regulations in the extent under par. 3, Section 4(1) and Section 4a.

(2) When exercising supervision of the Export Insurance Company's activities, the Czech National Bank follows the applicable provisions of the special law regulating insurance industry regarding the supervision of activities of a domestic insurance company and of a domestic reinsurance company, unless otherwise stipulated by this Act.

(3) The provisions of the special law regulating insurance industry regarding introduction of receivership, transfer of an insurance portfolio or of its part, transfer of a portfolio of reinsurance contracts or of its part, withdrawal of the authorization from a domestic insurance company and from a domestic reinsurance company, transformation of a domestic insurance company or of a domestic reinsurance company, and the provisions on co-insurance within member states shall not apply to the activities of the Export Insurance Company.

Section 4c

Exclusion of Applicability of the Act on Financial Conglomerates

The special law regulating additional supervision of banks, savings and credit cooperatives, insurance companies and dealers in securities in financial conglomerates shall not apply to the activities of the Export Insurance Company.

Section 5

Particulars of an Application for Export Credit Risk Insurance

(1) An application for export credit risk insurance related to a particular export transaction shall be submitted to the Export Insurance Company by an exporter, producer, investor, bank of the producer, Export Bank, or by the exporter's bank (hereinafter only as the "Applicant").

(2) The Applicant is obligated to specify in the application for insurance of export credit risks at least

a) own identification data ⁶⁾,

b) the value of own net business assets and the composition of business associates,

c) the characteristics of the export and its volume, the expected share of the value of the export, which shall be produced in the Czech Republic, the expected amount of the export credit, payment terms and the schedule of drawings and repayment of the provided credit, and the extent of any bank guarantee or of other banking services, which are being provided in connection with the export,

d) data on the foreign entity, to which the export credit is being provided, especially its identification data ⁶⁾, data on its economic standing and credit history,

e) other data specified in the insurance conditions of the Export Insurance Company.

(3) On the basis of the submitted application for export credit risk insurance, the Export Insurance Company and the Applicant may conclude an insurance contract ⁷⁾, and if no export contract has been negotiated yet, an insurance commitment contract ⁸⁾.

(4) There is no legal entitlement to export credit risk insurance.

Section 6

Officially Supported Financing

(1) The provision of officially supported financing is assigned to the Export Bank. It is the condition for the provision of officially supported financing that at least two thirds of the shares of the Export Bank be owned by the State. The State exercises its shareholder rights through the relevant ministries. Unless otherwise stipulated in this Act, the provisions of the special laws regulating bank industry ⁹⁾ shall apply to the Export Bank. Apart from requirements stated in the Civil Code, the Articles of Association of the Export Bank must contain

a) provisions on preferential use of profits for additions to funds for ensuring the operations of the Export Bank,

b) prohibition on granting consent to employees with carrying out business or other gainful activities identical with the business activities of the Export Bank.

(2) The Export Bank shall provide officially supported financing pursuant to Section 1 (3) and carry out related activities in accordance with the banking license awarded pursuant to the special law ^{1b)}. The Export Bank shall provide officially supported financing under the terms and conditions which are standard on international markets for officially supported export credits and for export-related financial services ^{8a)}. The Export Bank shall acquire funds needed for officially supported financing primarily on financial markets. The

Export Bank shall cover the costs connected with providing officially supported financing primarily from a part of the interest income remaining at its disposal in the amount equal to the fixed margin of 100 basis points from the interest rate used for the provision of officially supported financing.

(3) The Export Bank must not hold any interest in legal persons with the exception of

a) legal persons whose line of business is to provide and transfer inter-bank payments and transmit inter-bank information,

b) interest in legal persons which the Export Bank acquires and holds for a period of no more than 1 year from the date of acquisition in connection with the realization of security negotiated in accordance with Section 8 (5),

c) a legal person established for a fixed period of time for the purpose of providing officially supported financing and obtaining financial resources, in which the Export Bank is or shall be a majority partner at the time of acquisition of its interest; a prior approval of the Ministry of Finance is required for the acquisition of the interest in such legal persons.

(4) Losses of the Export Bank resulting from the provision of officially supported financing shall be subsidized from the State budget. The losses consist of the differences between the cleared interest income related to the provision of long-term officially supported financing ^{8a)} reduced by the interest income in accordance with par.2, by the interest income from the temporary use of financial resources available for the officially supported financing and cleared interest expenses incurred in order to acquire such resources, fees agreed in writing between a creditor and the Export Bank related to obtaining such financial resources, the costs of creating reserves and allowances pursuant to special legal regulations governing the creation of reserves and allowances by banks, the differences between revenues and expenses from financial derivatives transactions, exchange rate differences and other costs demonstrably incurred by the Export Bank in acquiring financial resources. Application for a subsidy to compensate its losses shall be submitted by the Export Bank to the Ministry of Finance. The Ministry of Finance shall specify in a decree the forms and procedures for submitting the application for a subsidy to compensate losses and the form of reimbursement of such subsidy.

(5) The Ministry of Finance audits correctness of the determined amount of a subsidy required by the Export Bank to compensate its losses resulting from the provision of officially supported financing. For the purpose of carrying out the audit, the Export Bank shall submit, at the request of the Ministry of Finance, data and documents related to specific business transactions, including data concerning creation of allowances, and to operations on the financial market, or grant the Ministry of Finance access to the documents kept only in the electronic form, as well as provide assistance to the Ministry of Finance within the audit as necessary. Persons carrying out the audit shall maintain the confidentiality of all facts they learn in connection with performance of their audit activity.

(6) If, under exceptional circumstances, the Export Bank exceeds credit exposure limits set forth in special laws governing banking industry ⁹⁾ and immediately reports this fact to the Czech National Bank, the Czech National Bank may, in justified cases, grant the Export Bank a limited period of time to achieve the compliance with these limits.

(7) When providing officially supported financing, the Export Bank shall proceed in accordance with the General Business Conditions. Where the General Business Conditions cover the provision of refinancing credits, they must also contain the maximum interest margin which the banks which receive the refinancing credits may add to interest expenses at which they have obtained refinancing credits and loans from the Export Bank.

(8) Annually, the Export Bank shall submit the information on officially supported financing to the Chamber of Deputies of the Parliament of the Czech Republic. This information shall contain, in particular:

a) data on the Export Bank, primarily its registered capital, changes in the composition of ministries exercising shareholder rights of the State, changes in the composition of its Board of Directors and Supervisory Board, and, further, the balance sheet of the Export Bank,

b) data on provision of officially supported financing, primarily an analysis of such financing, including a breakdown by territory and sector, the use of funds received from the State budget, further, data on the relationship between demand for the officially supported financing and the ability of the Export Bank to satisfy

the demand, as well as data on expected development of the officially supported financing.

(9) The provisions of the special law restricting the acquisition and holding of interests in legal persons by banks^{1b)} shall remain unaffected by the application of the exceptions set forth in the par. 3.

Section 7

Particulars of an Application for Officially Supported Financing

(1) An application for officially supported financing for a particular export shall be submitted to the Export Bank by the Applicant. The Applicant for the officially supported financing may only be the exporter's bank, producer's bank, investor's bank, a foreign entity, an exporter, an investor or a producer.

(2) In the application for the officially supported financing, the Applicant is obligated to specify:

a) requirements mentioned in Section 5 (2) letters a) through d),

b) other data given in the General Business Conditions of the Export Bank,

c) identification data⁶⁾ on the exporter's bank, investor's bank or producer's bank, unless they are the Applicants for officially supported financing, who are to receive the officially supported financing.

(3) The Applicant for the officially supported financing, who is to receive this financing, shall be obligated to provide the Export Bank with the information regarding its registered capital, balance sheet and further information relevant for the assessment of his ability to ensure the repayment of the provided officially supported financing.

(4) On the basis of the submitted application for the officially supported financing, the Export Bank may conclude a credit agreement, an agreement for the provision of other export-related financial services or a commitment agreement for the provision of a credit or for the provision of export-related financial services.⁸⁾

(5) There is no legal entitlement to officially supported financing.

Interest Make-up System

Section 7a

Inclusion into the System

(1) An application for inclusion of the export credit in the system of the interest make-up related to such export credit shall be submitted by the exporter's bank for decision of the Ministry of Finance through the Export Insurance Company. In the application for inclusion in the system of the interest make-up the exporter's bank shall specify

a) identification data of the exporter's bank, the exporter, the importer and the importer's bank, if the credit is to be received by the importer's bank; for legal entities identification data means commercial name or name, identification number, if assigned, the line of business (activity), place of residence and place of business,

b) item exported and its value and the country of destination,

c) the amount of the export credit and time schedule of its drawdown and repayment and the information on whether the credit is to be received by the importer, the importer's bank or the exporter,

d) interest margin by which the interest rate agreed in the export credit agreement exceeds the fixed reference interest rate announced on a monthly basis by the Organization for Economic Cooperation and Development valid on the day of signing the export credit agreement or valid on the day of fixation of the interest rate by the exporter's bank and the credit recipient during the period no longer than 120 days before the export credit agreement is signed and increased by 0.20% p.a.,

e) declaration that the export credit is in accordance with the international rules.

(2) To the application for inclusion in the system of the interest make-up, the exporter's bank shall attach an original or authenticated copy of

a) exporter's statement that he has complied and shall comply with the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,

b) exporter's statement that he is not listed in publicly available lists of excluded parties kept by the group of the World Bank, the European Bank for Reconstruction and Development, the Asian Development Bank and the Inter-American Development Bank,

c) statement of the exporter's bank that it has complied and shall comply with the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions,

b) statement of the exporter's bank that it is not listed in publicly available lists of excluded parties kept by the group of the World Bank, the European Bank for Reconstruction and Development, the Asian Development Bank and the Inter-American Development Bank,

e) documents proving identification data pursuant to paragraph 1 letter a) and

f) indicative offers and the exporter's statement that he has studied the indicative offer; the indicative offer means an offer of the exporter's bank addressed to the exporter, the importer or the importer's bank that contains at least the item and the value of the export and the country of destination, the amount of export credit, its form and time schedule or its drawdown and repayment and the amount of interest margin pursuant to paragraph 1 letter d).

(3) Annexes to the application for inclusion of the export credit in the system of the interest make-up must be processed in Czech or English or accompanied with an authenticated sworn translation to Czech language. The documents according to paragraph 2 letters a) through d) and the documents proving identification data of entities with registered office abroad pursuant to paragraph 1 letter a) may be submitted by the exporter's bank as late as with an export credit agreement; the exporter's bank shall inform the Ministry of Finance to this effect in the application for inclusion of the export credit in the system of the interest make-up.

(4) After the Export Insurance Company examines the application it shall remit it to the Ministry of Finance within 15 days after the receipt thereof, along with its statement regarding the compliance with the requirements set forth in paragraphs 1 through 3 and the conditions set forth in the international rules and regarding the inclusion of the export credit in the system of the interest make-up. The Export Insurance Company or the Ministry of Finance through the Export Insurance Company may request the exporter's bank to supplement the incomplete application, with the exception of the statement pursuant to paragraph 2 letters a) through d) and the documents proving identification data of entities with registered office abroad pursuant to paragraph 1 letter a).

(5) The Ministry of Finance shall decide on the application within 30 days after it has received from the Export Insurance Company the application complying with the requirements set forth in paragraphs 1 through 3. There is no legal entitlement to include the export credit in the system of the interest make-up. The decision on the inclusion of the export credit in the system of the interest make-up shall come into effect upon delivery of original or authenticated copies of the export credit agreement, the export credit insurance agreement, the statements pursuant to paragraph 2 letters a) through d) and the documents proving identification data of entities with registered office abroad pursuant to paragraph 1 letter a), unless these have been attached to the application, to the Ministry of Finance.

(6) Should the original or authenticated copies of the export credit agreement and the export credit insurance agreement be not delivered to the Ministry of Finance within 6 months from the day of delivery of the decision on the inclusion of the export credit in the system of the interest make-up to the exporter's bank, the decision on the inclusion of the export credit in the system of the interest make-up may not come into effect.

(7) The exporter's bank submits the export credit agreement to the Export Insurance Company within 15 days from the conclusion thereof. The Export Insurance Company shall remit the export credit agreement to the Ministry of Finance without undue delay after it concludes the export credit insurance agreement along with

such export credit insurance agreement and its statement regarding the compliance with the requirements for an entry into effect of the decision on the inclusion of the export credit in the system of the interest make-up. The export credit agreement must be made in Czech or English language. At the request of the Ministry of Finance the exporter's bank shall submit without undue delay an authenticated sworn translation of the export credit agreement in Czech language.

(8) The Ministry of Finance shall send the application for inclusion in the system of the interest make-up to the exporter's bank and to the Export Insurance Company. After the decision on the inclusion in the system of the interest make-up enters into effect the Ministry of Finance shall inform the exporter's bank and the Export Insurance Company accordingly. The exporter's bank shall inform the Ministry of Finance through the Export Insurance Company of the first drawdown of the export credit no later than within 7 days from the day of the first drawdown.

(9) The procedure of decision-making by the Ministry of Finance on the inclusion in the system of the interest make-up shall not be subject to the Rules of Administrative Procedure, with the exception of the provisions on computing of time and on delivery of notices.

(10) The application for the inclusion in the system of the interest make-up pursuant to paragraph 1, the statement pursuant to paragraph 2 letter f), the statement of the Export Insurance Company pursuant to paragraph 4 and the statement of the Export Insurance Company pursuant to paragraph 7 may be presented only on the official form issued by the Ministry of Finance or on the printout from the computer printer with the data, contents and layout identical with such official form. In the official forms the data necessary for the inclusion in the system of the interest make-up may only be requested.

Section 7b

Procedure of Interest Make-up System

(1) A condition for the interest make-up is

- a) compliance of the export credit with international rules,
- b) agreement on fixed interest rate of the export credit,
- c) insurance of export credit risks by the Export Insurance Company and
- d) the fact that the exporter is not a foreign company.

(2) The function of a payment and clearing agent in the system of interest make-up is exercised by the Export Bank. The Ministry of Finance provides the Export Bank each year with the funds for the interest make-up system in the form of an advance payment in the amount of CZK 250 000 000. If the amount of the advance payment decreases due to the payments of interest make-up under the amount of CZK 100 000 000, the Export Bank is entitled to request the Ministry of Finance to top up the payment up to the original level of CZK 250 000 000. The Ministry of Finance shall increase the advance payment within 20 days after the receipt of the Export Bank's request. The Export Bank shall transfer the amount in excess of CZK 250 000 000 by virtue of a surplus of interest differences to the Ministry of Finance within 20 days from the day when the balance of the advance payment exceeds the amount of CZK 500 000 000. The amount transferred to the Ministry of Finance by virtue of a surplus of interest differences is the income of the State budget.

(3) The exporter's bank shall present to the Export Insurance Company an application for the interest make-up or a notification of the transfer of an interest surplus within 15 days after the expiration of 6 months from the day of the first drawdown of the export credit and further in regular six-month intervals of drawing or after completing the drawdown of the export credit and during the repayment in regular six-months intervals from the first day of the repayment period of the export credit until the full repayment of the export credit.

(4) In case of an interest surplus, the exporter's bank is obligated to transfer such surplus to the payment and clearing agent pursuant to paragraph 2 each time within 15 days from the day of sending the notification on the transfer of the interest surplus. In case the exporter's bank becomes entitled to the interest make-up, the Export Insurance Company shall instruct the Export Bank to effectuate the payment of interest differences so as the interest differences were paid within 30 days from the delivery of the application for the interest make-up.

(5) The Export Insurance Company shall inform the Ministry of Finance no later than by the end of the following calendar month on applications of the exporter's bank for the interest make-up, on notifications of the exporter's bank on transfers of a surplus of interest differences and on the filed payment orders for payment of interest make-up for the previous calendar quarter.

(6) In case the exporter's bank fails to meet the deadline for the transfer of the interest surplus, it is obligated to pay to the special account pursuant to paragraph 2 a late payment penalty in the extent of 1 per mille of the amount due for each day of such delay but no more than the amount due.

(7) The Ministry of Finance shall specify in a decree the method of calculation of interest make-up. The application for the interest make-up and the notification of the transfer of interest surplus pursuant to paragraph 3 and the notification of the Export Insurance Company pursuant to paragraph 5 may be presented only on the official form issued by the Ministry of Finance or on the printout from the computer printer with the data, contents and layout identical with such official form. In the official forms the data necessary for the inclusion of the export credit into the system of interest make-up may only be requested. In the official forms the data necessary for the interest make-up may only be requested.

Section 7c

Changes and Inspection

(1) The exporter's bank shall notify the Ministry of Finance through the Export Insurance Company of any change in the conditions for drawing or repayment of the export credit and in the facts stated in the application for the inclusion of the export credit in the system of the interest make-up within 15 days from the effectiveness of such change.

(2) After the Export Insurance Company examines the notification it shall remit it, simultaneously with its statement regarding the change, to the Ministry of Finance within 15 days from the receipt thereof. If the Ministry of Finance agrees with the change, it shall issue within 30 days after the receipt of the remitted notification from the Export Insurance Company a new decision on the inclusion of the export credit in the system of the interest make-up and, at the same time, it shall revoke the existing decision on the inclusion of the export credit in the system of the interest make-up. The Ministry of Finance shall send the new decision on the inclusion in the system of the interest make-up to the exporter's bank and to the Export Insurance Company. If the Ministry of Finance disagrees with the change, it shall notify the exporter's bank of its disagreement within the same time limit. In case of a change which consists only in reduction in the credit amount, an approval of the Ministry of Finance shall always be assumed, and the Ministry of Finance shall issue within 30 days after the receipt of the remitted notification from the Export Insurance Company a new decision on the inclusion of the export credit in the system of the interest make-up and, at the same time, it shall revoke the existing decision on the inclusion of the export credit in the system of the interest make-up. The Ministry of Finance shall send the new decision on the inclusion in the system of the interest make-up to the exporter's bank and to the Export Insurance Company.

(3) Any change in the conditions for repayment of the export credit shall not be reflected during the procedure of the interest make-up without a previous approval or a subsequent approval by the Ministry of Finance.

(4) Section 7a shall apply to the particulars of the notification of the exporter's bank pursuant to paragraph 1 and to the procedure of the Export Insurance Company and the Ministry of Finance as appropriate.

(5) The Ministry of Finance inspects the compliance with the requirements and obligations stipulated in this Act, international rules and the decision on the inclusion of the export credit in the system of the interest make-up. At the request the exporter's bank shall submit to the Ministry of Finance documents proving the compliance with such requirements and obligations.

(6) The notification of the exporter's bank pursuant to paragraph 1 and the statement of the Export Insurance Company pursuant to paragraph 2 may be presented only on the official form issued by the Ministry of Finance or on the printout from the computer printer with the data, contents and layout identical with such official form. In the official forms the data necessary for the interest make-up may only be requested.

Section 7d

Exclusion from the System

(1) The Ministry of Finance may decide within the proceedings on the exclusion of the export credit from the system of interest make-up if

a) the exporter's bank has materially breached the obligations stipulated in this Act, international rules or the decision on the inclusion of the export credit in the system of the interest make-up; a material breach of obligations shall mean in particular the non-compliance with the obligations pursuant to Section 7c (1),

b) the export credit fails to fulfill the requirements of this Act or international rules; in case of a change in international rules the Ministry of Finance first request the exporter's bank to align the export credit with the international rules within a reasonable period of time determined by the Ministry of Finance for this purpose;

c) at least 50% of the export credit has not been drawn down within the time limit specified in the application for the inclusion of the export credit in the system of the interest make-up,

d) the exporter's bank stated incomplete or false data in the application for the inclusion of the export credit in the system of the interest make-up, in the application for interest make-up or in the notification of the transfer of interest surplus, or

e) a material change has occurred in the requirements for drawing or repayment of the credit without a previous approval by the Ministry of Finance.

(2) The proceedings are initiated on the day when the Ministry of Finance has notified the exporter's bank of the initiation. Such notification shall contain the description of the fact in which the Ministry of Finance sees the grounds to exclude the export credit from the system of interest make-up. The exporter's bank is the sole party in the proceedings.

(3) The exporter's bank and its representative are entitled to examine the file even if the decision has entered into legal effect. The Ministry of Finance shall give an opportunity to the exporter's bank to express its opinion on the underlying documents and on the method of finding the facts, or to propose the supplementation thereto before the decision is issued. The documents for the issue of a decision may include, in particular, filings of the exporter's bank, evidence, facts known to the Ministry of Finance by virtue of its official activities, documents from other administrative bodies or public authorities, as well as generally available facts. The scope and the method of finding the documents and information for issuing a decision are determined by the Ministry of Finance.

(4) Should the Ministry of Finance not find any grounds to exclude the export credit from the system of interest make-up, it shall issue the resolution to suspend the proceedings.

(5) The Ministry of Finance decides on the exclusion from the system of interest make-up by a decision. Such decision shall contain statement, substantiation and an advice on remonstrance. The statement contains the decision in the matter with the reference to the provisions of the legal regulation according to which the decision has been made. In the substantiation of the decision the Ministry of Finance shall specify on which facts the decision is based and which considerations have been weighed when the Ministry assessed the evidence and applied the legal regulations according to which it eventually decided. The advice on remonstrance shall contain the information that the exporter's bank may file a remonstrance against the decision, the time limit in which the remonstrance may be filed, with which authority and where the remonstrance may be filed.

(6) The decision enters into effect after it has been announced to the exporter's bank and cannot be contested by the remonstrance. The decision which entered into effect is binding on the exporter's bank and on all administrative bodies. The Ministry of Finance shall send the final and conclusive decision to the Export Insurance Company.

(7) The decision may be contested by the remonstrance filed with the Ministry of Finance within 15 days after the announcement thereof. A decision on the remonstrance is made by the Minister of Finance. The day of delivery of the decision is not included in the time limit. The time limit for filing the remonstrance is complied with if the remonstrance is filed with the Ministry of Finance on the last day of the time limit or if the

letter containing the remonstrance has been demonstrably handed over for postal delivery. Timely filed remonstrance shall have suspensory effects. Due to the suspensory effect of the remonstrance the decision shall not come into legal effect.

(8) New facts and motions to prove new facts described in the remonstrance or in the course of the remonstrance proceedings shall only be considered provided that the exporter's bank could not produce them earlier. If the exporter's bank objects that it has not been allowed in the proceedings conducted by the Management to perform certain action, such an action must be made simultaneously with the remonstrance.

(9) If the Minister of Finance concludes that the contested decision is in conflict with legal regulations or is incorrect, he shall revoke the decision and refer the case to the Ministry of Finance for new proceedings. In the substantiation of such decision the Minister of Finance shall specify his legal opinion by which the Ministry of Finance shall be bound during the new proceedings.

(10) Should the Minister of Finance not find any grounds to apply the procedure according to paragraph 9, he shall dismiss the remonstrance and uphold the contested decision.

(11) The decision of the Minister of Finance shall enter into effect after it has been announced to the exporter's bank.

(12) After the export credit is excluded from the system of interest make-up the Ministry of Finance may impose on the exporter's bank the duty to a payment and clearing agent set forth in Section 7b (2) to pay the penalty up to the amount paid to the exporter's bank to make-up interest differences from the day when any of the grounds laid down in paragraph 1 has occurred. This shall not apply if the export credit is excluded because it no longer complies with international rules due to an amendment thereto adopted after the inclusion of the export credit in the system of the interest make-up.

(13) The procedure of decision-making on the exclusion of the export credit from the system of the interest make-up shall not be subject to the Rules of Administrative Procedure, with the exception of the provisions on time computing and on delivery of notices.

Section 8

Title deleted

(1) The State guarantees the obligations

a) of the Export Insurance Company from export credit risk insurance according to Section 1 (2); if the value of the Export Insurance Company's primary capital falls below the amount under Section 4a(3) or below the amount of the minimum capital requirement, the Ministry of Finance shall top up the Export Insurance Company's assets so that coverage of the solvency capital requirement under Section 4a(3) or of the minimum capital requirement is ensured and it shall do so within 6 months of the date on which it receives a written request of the Export Insurance Company to top up the capital,

b) of the Export Bank for the repayment of financial resources obtained by the Export Bank and for obligations from other transactions of the Export Bank on the financial markets.

(2) Relationships arising between the State and the foreign entity which is a beneficiary of the guarantee issued pursuant to the paragraph 1 are governed by the provisions of the special law.^{12a)}

(3) Unless it is contrary to the legislation of another state, the State guarantees pursuant to the paragraph 1 unconditionally and irrevocably. The Ministry of Finance is authorized to confirm the State guarantee in a written form.

(4) An approval of the Ministry of Finance is required for raising the financial resources on capital markets by the Export Bank, unless otherwise stipulated by the special law¹³⁾.

(5) In order to secure the repayment of officially supported financing, with the exception of refinancing credits, the Export Bank shall be obligated to arrange for security.

(6) In the event of payment by the State resulting from a provided State guarantee, the Export Insurance Company and the Export Bank shall be obligated to settle their obligations to the State arising from such payment by assigning to the Ministry of Finance the receivables assumed by them in connection with export credit risk insurance or with officially supported financing to the extent corresponding to the State's share in the repayment of obligations under the issued State guarantee, provided the Export Bank arranged for the provision of security.

(7) The Export Insurance Company shall ask the Ministry of Finance to increase the primary capital under par. 1 letter a) without undue delay after it ascertains that the amount of the primary capital for coverage of the solvency capital requirement under Section 4a par. 3 or of the minimum capital requirement is not observed, or if the Czech National Bank orders the Export Insurance Company to submit a recovery plan or a short-term financing plan for approval. To its application, the Export Insurance Company shall enclose explanation of the decrease of its primary capital, including the estimated future development of the solvency capital requirement or of the minimum capital requirement over the next 3 years and proposed measures resulting in the lowering of its risk profile.

Section 9

Title deleted

State support provided pursuant to this Act must be in compliance with the special law regulating state support.¹⁴⁾

PART TWO

SUPPLEMENT TO ACT NO. 163/1993 COLL., ON THE SUPREME AUDIT OFFICE, AS AMENDED.

Section 10

The Act No. 166/1993 Coll., on the Supreme Audit Office, as amended by the Act No. 331/1993 Coll., Act No. 117/1994 Coll., and the Act No. 224/1994 Coll., has been amended as follows:

The dot shall be deleted at the end of the Section 3 paragraph 5 and the following words shall be added:

"and management of Exportní garanční a pojišťovací společnost (the Export Guarantee and Insurance Corporation), joint-stock company, Prague of funds provided from the State budget for the operation of insurance of export credit risks and of Česká exportní banka (the Czech Export Bank), joint-stock company, Prague, of funds provided from the State budget for the operation of the officially supported financing according to the special law, as well as management by these two companies of funds for which the State accepted the guarantee."

PART THREE

Section 11

This Act shall become effective on the day of its promulgation.

Uhde (undersigned)

Havel (undersigned)

Klaus (undersigned)

Selected provisions of amendments

Art. II of the Act No. 220/2015 Coll.

Transitional provisions

1. Authorization awarded to the Export Insurance Company, for purpose its activities under current legal regulations shall be deemed an authorization awarded in accordance with Section 3a of the Act no. 58/1995 Coll., as amended, effective from the date of entry into force of this Act.

2. The Czech National Bank shall, within 6 months from the effective date of this Act, award the Export Insurance Company with a certificate stating the extent of the authorisation for performance of insurance and reinsurance activities awarded to this insurance company. This certificate is considered as an instrument of facts to be entered in the Commercial Register.

3. Proceedings commenced prior to the effective date of this Act and to this day unfinished, are to be completed and the rights and obligations related thereto are to be assessed under the existing legal regulations.

4. The Export Insurance Company shall reach the limit of primary capital pursuant to Section 4a par. 3 by the end of 2020 the latest in successive annual increments. The minimum capital requirement under the law regulating the insurance industry amounted to 31 December 2016 of 12.5 % and to 31 December 2017 25% of the solvency capital requirement.

1) Council Directive 98/29/EC of 7 May 1998 on Harmonization of the Main Provisions Concerning Export Credit Insurance for Transactions with Medium and Long-term Cover.

Council Decision 2001/76/EC of 22 December 2000 replacing the Decision of 4 April 1978 on the Application of Certain Guidelines in the Field of Officially Supported Export Credits - Arrangement on Guidelines for Officially Supported Export Credits.

Agreement on Subsidies and Countervailing Measures Published in the Communication of the Ministry of Foreign Affairs published in the Collection of Laws under No. 191/1995 Coll.

1b) Act No. 21/1992 Coll., on Banks, as amended.

5a) Act No. 593/1992 Coll., on Reserves for Determining of the Income Tax Base, as amended.

Decree No. 75/2000 Coll., implementing Act No. 363/1999 Coll., on Insurance and on Amendment to Some Related Acts (the Insurance Act).

5b) Section 3 letter m) of the Act No. 37/2004 Coll., on Insurance Contract and on Amendments to Related Acts (the Insurance Contract Act).

6) Section 28(1)(a) through (e) of the Commercial Code.

7) Section 788 et seq. of the Civil Code.

8) Section 289 et seq. of the Commercial Code.

8a) e.g. Council Decision 2001/77/EC of 22 December 2000 on the Application of Principles of a Framework Agreement on Project Finance in the Field of Officially Supported Export Credits.

Council Decision 2001/76/EC of 22 December 2000 replacing the Decision of 4 April 1978 on the Application of Certain Guidelines in the Field of Officially Supported Export Credits - Arrangement on Guidelines for Officially Supported Export Credits.

⁹⁾ Act No. 21/1992 Coll., on Banks, as amended.

Act of the Czech National Council No. 6/1993 Coll., on the Czech National Bank, as amended by Act No. 60/1993 Coll.

^{12a)} Section 11 of Act no. 97/1963 Coll., on International Private and Procedural Law, as amended

¹³⁾ Section 45 et seq of Act No. 591/1992 Coll., on Securities, as amended.

¹⁴⁾ Act No. 59/2000 Coll., on State Aid in the wording of Act No. 130/2002 Coll.

¹⁵⁾ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012