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Legal Policy Gaps in Export Credit Guarantee Corporation of India (ECGC)

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Abstract

Exports are considered as the life blood of the Indian economy. The export sector in India has immense potential for growth. There are various risks associated with exports Export Credit Guarantee Corporation which is wholly owned and managed by the Government of India, plays an important role in covering the risks faced by the exporters by providing them with insurance and guarantee. However, exporters face tremendous problems in availing the policies offered by ECGC. The following papers discusses some of the gaps in the workings of ECGC. This research can benefit the exporters who aspire to gain more knowledge in the field of exports.

Introduction

Export Risks Insurance Corporation (ERIC) was set up by the Government of India in 1957 to make available export credit insurance support to exporters in India. Export Risks Insurance Corporation (ERIC) was later renamed in 1964 as Export Credit & Guarantee Corporation Limited (ECGC). Export Credit & Guarantee Corporation Limited (ECGC) was once again renamed into Export Credit Guarantee Corporation of India Limited in 1983. ECGC is an organisation owned by the Government of India. ECGC is also managed by a board of directors comprising mainly of from representatives of the Government of India, Reserve Bank of India, Banking Sector, Insurance Sector and also members from the exporting community. ECGC also happens to be the fifth largest credit insurer in the world in terms of coverage of national exports. The present paid up capital of the company is Rs. 2500 Crores against authorised capital of Rs. 5000 Crores.

ECGC primarily provides insurance cover to exporters for non-payment of goods proceeds due to commercial or political risks and guarantee to banks to enable for them to provide credit facilities to exporters. Some of the guarantees offered by ECGC to banks and other financial institutions are Packing Credit Guarantee, Post-Shipment Credit Guarantee, Export Production Finance Guarantee, Export Finance (Overseas Lending) Guarantee Export Finance Guarantee, etc. The banks availing of these schemes then offer credit facilitates to Indian exporters.

Objectives

1. Protect exporters against Commercial and Political Risks in realizing export proceeds.
2. Protecting banks against risk of default and insolvency in export credit by exporters.
3. Providing trade related services to exporting community

Export Credit Risk

New comers in the Export Industry. For new comers they cannot ask for advance payment of the goods. The only option they're left with is to offer credit to the buyer. They naturally run a risk of they're getting paid or not getting paid. Some of the risks faced are

1. Commercial Risk: Commercial Risk is prevalent in domestic markets as well. But the impact is greater in international markets in comparison to the commercial risk that exists in domestic market. Commercial Risk is directly related to the credit worthiness of the buyer. Majority of the commercial risks are borne by the exporters. The seller is not aware of the circumstances in international markets as he is aware of the domestic markets. Causes of Commercial Risks is usually lack of knowledge about international markets, longer transit time, situations not anticipated before export.

2. Exchange Risk: Fluctuations in home currency affects the profits. If the home currency dips then the competitive strength of the exporter is increased. The rate of per dollar fluctuates daily. Example before export the rate of one dollar is Rs. 74 and later it drops down to Rs. 70, then the exporter is losing money.

3. Transfer Risk: In some countries particularly African countries where there is political unrest. Even though the buyer is making payment of the goods imported in local currency to the bank, but the country is not having sufficient foreign currency and the amount is not being received by the exporters bank.

4. Economic Risk: If a trade is done on credit and after the delivery of goods, due to economic reasons the market demand for the product is decreased and the importer is not able to sell the goods imported. Therefore, the importer could choose not to make to payment.

5. Political Risk: Changes in political parties give rise to Political Risks. Political Risks can arise due to the following reasons:

   1. Changes in the Ruling party
   2. Wars with other countries
   3. Coups

   Political Risks can be avoided by researching the political situation in the respective country. If the importer's country imposes a ban on the product the seller is exporting then that would be defined as political risk. Example the product exported is a chemical after the goods have been shipped or are in the process of being shipped and the importer's country imposes a ban on the chemical. This situation would be termed as a Political Risk.

Risks Covered by ECGC

ECGC covers only one kind of cover which is Credit Insurance Cover. For credit insurance there are multiple policies. The one thing common in all policies is that the risks covered remains the same, being the risk of non-payment. Non-Payment by either the buyer or the country. Buyer risk is termed as commercial risk and country risk is termed as political risk.

Commercial Risks Covered by ECGC

1. Bank's lack of ability to honour its responsibility

2. Buyer's failure pertaining to payment due to financial limitations

3. Risk of insolvency of the Buyer

4. Risk of non-acceptance under special circumstances

5. Risk of protracted default i.e., the failure of the buyer to pay off the due amount after four months of the due date

Political Risks Covered by ECGC

1. Risks due to war

2. Risk of the imposition of an import ban after the delivery of the goods

3. Surrendering of political sovereignty

4. Changes in the policies of the government

5. Exchange control regulations

6. Lack of foreign currency

7. Trade embargos

Risks Not Covered by ECGC

1. Commercial disputes/ Counter claims

2. Causes inherent in the nature of goods

3. Buyer's failure to obtain import license

6. General Insurance Risks

7. Exchange Rate Fluctuation

8. Failure of the exporter to fulfil terms of contract

ECGC Financials in the recent years

The net worth of ECGC as of 31/03/2020 was Rs. 5214.92 crores. ECGC has earned a gross premium income of Rs. 1248 crores during 2018-2019 as compared to Rs. 1075 crores of the previous year of 2019-20 amassing a growth of over 14%.

Besides the premium income ECGC also has investment income. So whatever premium is earned is being invested in government securities and different areas. So, a substantial amount is earned through the investments. Therefore, ECGC has not required government funds in claim payments. Every claim payment is honoured by the capital earned by ECGC.

ECGC Business Performance

Year	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21 (up to 30.09.2020)
Premium Earned	1321	1268	1240	1248	1075	452
Claims Paid	1123	885	1283	1013	388	410

Policy Gaps in ECGC

Legal Risks: ECGC encourages litigation. At times buyers receive the goods, keep them in their possession and at a later date raise issues with goods. ECGC encourages the seller to counter their claims. Even then if the buyer is not convinced, ECGC advises the seller to pursue litigation. If the sales proceeds in question is a small amount, the cost of litigation in the buyer country could outweigh the sales proceeds.

Cover Fraud as a Commercial Risk: Instances of fraud in international trade have become a common sighting in the export sector. ECGC does not cover fraud as a commercial risk and therefore does a disservice to their customers.

Quick settlement of claims: The ECGC has a significant downside that it delays the settlement of cases to the exporters. Accordingly, claims can be settled faster to assist the exporters to help them cope up or sometimes break even with the losses.

Increasing the credit limit: The credit limit is extensively low in ECGC because of which it, at specific occasions obstructs production and manufacturing. Increasing the credit limit will ideally decrease the burden of the exporters.

Conclusion

Export is an important sector for the fast-paced growth of the economy where ECGC is a vital tool for backing exporters with security. For new exporters their business is totally dependent on credit system of payment where the risk is higher. Availability of adequate and timely support can increase the ease of doing business for exporters. The problems exporters encounter include delay in filing the application, prolonged process and delay in acquiring the schemes. The study also suggests various ways through which the ECGC Schemes can be made user friendly settling the claims quicker, increasing the credit limit and covering instances of fraud under commercial risks.

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